LAND DISPOSITION AND DEVELOPMENT AGREEMENT

by and between the

DISTRICT OF COLUMBIA

and

E STREET DEVELOPMENT GROUP, LLC

for the

DISPOSITION AND DEVELOPMENT OF

FOURTH/SIXTH & E STREET, S.W. PROJECT

(Square 495, Lot 102 & Square 494, Lot 36)

Dated December ___, 2010

LAND DISPOSITION AND DEVELOPMENT AGREEMENT

THIS LAND DISPOSITION AND DEVELOPMENT AGREEMENT (this "**Agreement**"), is made effective for all purposes as of the __ day of _____, 2010, between (i) DISTRICT OF COLUMBIA, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development and the Department of Real Estate Services ("**District**"), and (ii) E STREET DEVELOPMENT GROUP, LLC, a District of Columbia limited liability company ("**Developer**").

RECITALS:

R-1. District owns the parcels of land identified for assessment and taxation purposes as Lot 102 in Square 495 ("**Square 495 Land**") and Lot 36 in Square 494 ("**Square 494 Land**") located in the District of Columbia and more particularly described on Exhibit A hereto (collectively, "**Property**").

R-2. A District of Columbia fire station, known as Engine Company 13 is located on the Square 494 Land ("**Existing Fire Station**").

R-3. District desires to convey to Developer the Property in phases so as to ensure the continuous operation of a fire station on the Property. District intends to first convey the Square 495 Land to Developer, less certain air rights parcels which will be retained by the District as and other certain reserved rights ("**Reserved Property**"), and Developer intends to build a mixed-use commercial building (and related improvements) on the Square 495 Land, including a new fire station ("**New Fire Station**") to replace the Existing Fire Station in accordance with plans and specifications ("**New Fire Station Plans and Specifications**") approved by the Chief of the Fire and Emergency Medical Services Department ("**Chief**").

R-4. Subsequent to the New Fire Station becoming fully operational on the Square 495 Land, and the satisfaction of all other conditions to conveyance of the Square 494 Land as set forth in this Agreement, District intends to convey the Square 494 Land to Developer, and Developer intends to build a mixed-use commercial building (and related improvements) on the Square 494 Land pursuant to approved design and development plans consistent with as-of-right zoning on the Square 494 Land. The development of the Square 495 Land and the Square 494 Land as contemplated by this Agreement may be referred to as the "**Project**".

R-5. Notwithstanding the intention of the parties to proceed with the development and construction of the New Fire Station on the Square 495 Land as detailed in this Agreement, the District acknowledges that Developer may continue to explore an alternative off-site location for the New Fire Station, provided that such exploration does not cause any delay in Developer's fulfillment of all obligations contained in this Agreement and provided that the location of the New Fire Station on any property other than the Square 495 Land, as contemplated by this Agreement, shall be subject to District approval in its sole and absolute discretion.

R-6. The disposition of the Property to Developer was approved on November 3, 2009 by the Council of the District of Columbia pursuant to the Fourth/Sixth and E Street, S.W. Property Disposition Approval Resolution of 2009, Resolution 18-290 ("**Resolution**"), subject to the terms and conditions incorporated in the Resolution and herein.

R-7. The Property has a unique and special importance to District. Accordingly, this Agreement makes particular provision to assure the excellence and integrity of the development, 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 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:

"**ANC**" is defined in Section 7.10.

"**Approved Mortgagee**" is defined in Section 8.1.3(c).

"**Approved Plans and Specs**" is defined in Section 4.2.

"Architect" means Beyer, Blinder, Belle and Nelson Architects, or another 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.

"**Bonds**" is defined in Section 2.2.4.

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

"CBE" has the meaning given to it in Section 7.6 hereof.

"CBE Agreement" is that agreement, in customary form, between the Developer and the DSLBD governing certain obligations of Developer under D.C. Law 1-95 and D.C. Law 12-268 regarding contracting and employment of local, small businesses in the pre-construction and construction of the Project.

"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 Improvements.

"**Chief**" shall have the meaning set forth in Recital R-3.

"**Closing**" is the consummation of the lease of the Property by execution of the Ground Leases as contemplated by this Agreement.

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

"**Closing Letter of Credit**" is defined in Section 2.2.2.

"**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 excavation, and (iv) obtained the Permits and commenced excavation upon the Property pursuant to the Approved Plans and Specs. 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. Commencement of Construction on the Square 495 Land shall not constitute Commencement of Construction on the Square 494 Land and Commencement of Construction on the Square 494 Land shall have been deemed to occur when (i)-(iii) have been satisfied for the portion of the Project on the Square 494 Land.

"**Commitment Letters**" shall mean the binding letters, or equivalent documents, of commitment for the funding of the Debt Financing and Equity Investment, which shall comply with the requirements contained in Section 8.1.

"**Community Participation Plan**" is defined in Section 7.10.

"**Compliance Form**" is defined in Section 7.11.

"**Concept Plans**" are the design plans, submitted by Developer and approved by the District, which serve the purpose of establishing the major direction of the design of the Project.

"**Construction Covenants**" are the covenant agreements between District and Developer, containing materially similar terms and conditions to those contained in the draft document attached hereto as Exhibit D-1 (Square 495 Land) and Exhibit D-2 (Square 494 Land), to be recorded in the Land Records, which shall include the Schedule of Performance and such other provisions negotiated between the Parties, including without limitation those covenants included in Section 7.1.

"**Construction Consultant**" is defined in Section 7.9.

"**Construction Contract**" means the contracts with the Contractor for the construction of the Project in accordance with this Agreement.

"**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 Improvements in accordance with the approved Design Development Plans and that are used to obtain Permits, detailed cost estimates, to solicit and receive construction bids, and to direct the actual construction of the Improvements. The Construction Plans and Specifications shall include the New Fire Station Plans and Specifications.

"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 closed receptacles containing any Hazardous Materials) of any Hazardous Materials.

"**Contingent Exclusivity Period**" is defined in Section 6.1.4.

"**Contractor**" means Clark Construction.

"**Debt Financing**" shall mean the financing to be obtained by Developer from an Institutional Lender to fund the costs set forth in the Project Budget and Funding Plan, other than the Equity Investment.

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

"Design Development Plans" are the design plans produced after review and approval of Schematic Plans that reflect refinement of the approved Schematic Plans, showing all aspects of the Improvements at the correct size and shape. The Design Development Plans shall include: (i) the refined Schematic Plans supplemented with material and design details, including size and scale of façade elements, which are presented in detailed illustrations and 3-dimensional images and (ii) responses to and revisions based on comments, concerns, and suggestions of District relating to the Schematic Plans.

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

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

"Development and Completion Guaranty" is that guaranty (or guarantees), attached hereto as Exhibit E, to be executed by Guarantors, which shall bind the Guarantors to develop and otherwise construct the Improvements in the manner and within the time frames pursuant to the terms of this Agreement and the Construction Covenants. The Development and Completion Guaranty shall be executed by the Guarantor(s) prior to Closing on the Property for those portions of the Project to be developed and constructed on the portion of the Property being conveyed at Closing.

"Development Plan" means Developer's detailed plans for developing, constructing, financing, using, and operating the Project, in accordance with the Concept Plan, this Agreement and all Related Agreements. Specifically, the Development Plan anticipates the following, subject to final District approvals and all regulatory approvals required by applicable Laws:

> Medium high density development, including office, commercial, hotel, retail, civic/municipal and mixed use development. There will be at least 3,000 square feet of space available for use by community organizations such as D.C Central Kitchen or Kid Power, Inc., the allocation of such space between the Square 494 Land and the Square 495 Land to be determined by the Developer pursuant to final governmental approvals and final negotiations between the Developer and the applicable community service organizations. It is anticipated thatthe New Fire Station shall be located on the Square

495 Land and ground floor retail space shall be located on the Square 494 Land as required by zoning together with accessory parking and related improvements.

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

"**District**" means the District of Columbia, acting by and through the Office of the Deputy Mayor for Planning and Economic Development, except as otherwise specified in this Agreement.

"**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.

"**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.

"**Equity Investment**" shall mean all funding that is required for the development and construction of the Project in excess of any Debt Financing, but specifically excluding funding in the form of a mezzanine loan; provided, however, that the source of any Equity Investment shall not be a Prohibited Person.

"**Existing Fire Station**" is defined in the Recitals.

"**Final Certificate of Completion**" shall have the meaning as defined in the Construction Covenants.

"**Final Project Budget and Funding Plan**" is defined in Section 8.1.1.

"**Fire Station Air Rights**" is defined in the definition of "**Reserved Property**".

"First Source Agreement" is that agreement, in customary form, between the Developer and DOES, entered into in accordance with Section 7.7 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 the 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 the Developer, Developer's Agents, or its Members or District in the event the 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 the definition of Force Majeure shall specifically exclude (A) shortage or unavailability of funds or financial conditions, or (B) changes in market conditions such that construction of the Project as contemplated by this Agreement and the Approved Plans and Specs 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.

"Ground Leases" means the unsubordinated, "triple net" ground leases conveying a leasehold interest in the Property to Developer at Closing in the form of Exhibit B-1 (Square 495 Land) and Exhibit B-2 (Square 494 Land) attached hereto and incorporated herein by reference.

"Ground Rent" is defined and established in the Ground Leases.

"**Guarantor(s)**" are Potomac Investment Properties, Inc. pursuant to the Development and Completion Guaranty.

"**Guarantor Submissions**" shall mean the current tax returns and unaudited but reviewed financial statements (unless Guarantor has audited financial statements, in which Guarantor shall provide its most recently audited financial statements) and other financial reports and other financial information of a proposed guarantor as District may reasonably request and which guarantor may prepare on a regular basis together with a summary of such proposed guarantor's other guaranty obligations and the other contingent obligations of such proposed guarantor (in each case, certified by such proposed guarantor or an officer of such proposed guarantor as being true, correct and complete).

"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.

"**HUD**" means the United States Department of Housing and Urban Development.

"**Improvements**" mean landscaping, hardscape, and improvements to be constructed or placed on the Property in accordance with the Development Plan and Approved Plans and Specs; 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.

"**Initial Project Budget and Funding Plan**" shall mean the Project Budget and Funding Plan attached hereto as Exhibit G which may be amended pursuant to Section 8.1.1.

"**Institutional Lender**" means a Person that is not an Affiliate of Developer or a Prohibited Person and is (i) a commercial bank, savings and loan association, trust company or national banking association, acting for its own account; (ii) a finance company principally engaged in the origination of commercial mortgage loans; (iii) an insurance company, acting for its own account; (iv) a public employees' pension or retirement system, or any other governmental agency supervising the investment of public funds; (v) a pension, retirement, or profit-sharing, or commingled trust or fund for which any bank, trust company, national banking association or investment adviser registered under the Investment Advisors Act of 1940, as amended, is acting as trustee or agent; (vi) a publicly traded real estate investment trust; (vii) a governmental agency; (viii) a charitable organization regularly engaged in making loans secured by real estate or (viii) any other source of funding, public or private, which is not an Affiliate of Developer or a Prohibited Person and is otherwise acceptable to District in its sole discretion.

"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.

"**Lease Payment**" means the payment due from Developer, in cash, to District in consideration of entering the Ground Leases, as specified in Section 2.1.2

"**Letters of Credit**" is defined in Section 2.2.

"**Local Retail Marketing Period**" is defined in Section 7.5.

"**Local Retailer Requirement**" is defined in Section 7.5.

"**Material Change**" means (i) any change in size or design from the Construction Plans and Specifications substantially affecting the general appearance or structural integrity of exterior walls and elevations, building bulk, coverage or floor area ratio or number of floors; (ii)

any changes in exterior color or use of exterior finishing materials substantially affecting architectural appearance from those shown and specified in the Construction Plans and Specifications; (iii) any change in number of parking spaces by ten percent (10%) or more from the Construction Plans and Specifications, (iv) any substantial change in landscape planning and design or changes in size or quality of exterior pavement, exterior lighting and other exterior site features from the Construction Plans and Specifications; (v) any change in square footage of the office or retail space by ten percent (10%) or more from the Construction Plans and Specifications. Changes to substitute material of equal or greater quality and minor field changes required to correct errors in measurement or construction shall not constitute a Material Change.

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

"**Monthly Status Report**" in defined in Section 4.6.

"**Mortgage**" means a mortgage, deed of trust, mortgage deed, or such other classes of documents as are commonly given to secure advances on real estate and leasehold estates under the laws of the District of Columbia.

"**New Fire Station**" shall have the meaning set forth in Recital R-3.

"**New Fire Station Budget**" is defined in Section 8.2.1.

"**New Fire Station Plans and Specifications**" shall have the meaning set forth in Recital R-3.

"**Notice**" has the meaning set forth in Article 12 hereof.

"**Operating Agreement**" means the agreement defined in Section 8.4 and attached hereto as Exhibit H.

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

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

"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 Improvements in accordance with the Development Plan and this Agreement.

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

"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 controlled by a Person) who has been convicted of or has pleaded

guilty in a criminal proceeding for a felony or who has been publicly identified as an on-going target of a grand jury investigation convened pursuant to applicable Laws 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 been publicly identified as having 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 has been publicly identified as conducting any business or engaging 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 with whom District is prohibited from doing business by District law; or (F) Any Affiliate of any of the Persons described in paragraphs (A) through (E) above.

"Project" shall have the meaning set forth in Recital R-4, subject to such development and construction being in accordance with the Construction Drawings and this Agreement.

"**Project Budget and Funding Plan**" means that plan that includes (a) a description of the sources and uses of funds for the Project and the methods for obtaining such funds (including lending sources and equity sources) and (b) Developer's budget for construction of the Project that includes a cost itemization prepared by Developer specifying all costs (direct and indirect) by item, including (i) the costs of all labor, materials, and services necessary for the construction of the Project and (ii) all other expenses anticipated by Developer incident to the Project (including, without limitation, anticipated interest on all financing, taxes and insurance costs) and the construction thereof, as may be modified from time to time in accordance with this Agreement. The Project Budget and Funding Plan shall be segregated between those portions of the Project to be constructed on the Square 495 Land and those portions of the Projects to be constructed on the Square 494 Land.

"**Property**" means all right, title, and interest of District in and to the parcels of land located in Washington, D.C. described in Recital R-1, together with all appurtenances and improvements located thereon as of the Effective Date. As used herein in reference to all right, title and interest in real property that will be conveyed to Developer in accordance with the terms and conditions of this Agreement, the term "Property" shall be understood to mean the Property less and except the "Reserved Property".

"**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 Improvements in accordance with the Approved Plans and Specs.

"**Reciprocal Easement Agreement**" means an agreement, substantially in the form attached hereto as Exhibit N, subject to final review of the New Fire Station Plans and Specifications, providing for such easements, covenants and other rights on the Square 495 Land and governing the use, maintenance and operation of the Improvements on the Square 495 Land and common areas.

"**Related Agreements**" means:

(1) with respect to the Square 494 Land, the Ground Lease, Construction Covenant, Development and Completion Guaranty, CBE Agreement and First Source Agreement pertaining to the Square 494 Land (also referred to as the "**Square 494 Related Agreements**").

(2) with respect to the Square 495 Land, the Ground Lease, Construction Covenant, Development and Completion Guaranty, Reciprocal Easement Agreement, CBE Agreement and First Source Agreement pertaining to the Square 495 Land (also referred to as the "**Square 495 Related Agreements**").

"**Reserved Property**" shall mean (i) the air rights necessary to construct the New Fire Station in accordance with the New Fire Station Plans and Specifications ("**Fire Station Air Rights**"), and (ii) such easements, covenants and other rights ("**Reserved Rights**") in the Property as are necessary or convenient for the support and operation of the New Fire Station as contained in the Reciprocal Easement Agreement, including without limitation an easement to provide parking for the New Fire Station and SUBJECT TO such easements, covenants and other rights in, to, under or over the Fire Station Air Rights respectively, as are necessary or convenient for the support and operation of the Project.

"**Reserved Retail Space**" is defined in Section 7.5.

"**Reserved Retail Space Unit**" is defined in Section 7.5.

"**Reserved Rights**" is defined in the definition of "**Reserved Property**".

"**Resolution**" shall have the meaning set forth in Recital R-5.

"**Retail Plan**" is defined in Section 4.4.3.

"**Right of Entry**" or "**ROE**" means the agreement(s) defined in Section 2.3.1 and attached hereto as Exhibit I-1 and Exhibit I-2.

"Schedule of Performance" means that schedule of performance, attached hereto as Exhibit F and incorporated herein, setting forth the timelines for milestones in the design, development, construction, and completion of the Improvements (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 Covenants.

"**Schematic Plans**" are the design plans that present a developed design based on the approved Concept Plans, and illustrate the development of building facades, scale elements, and materials. The Schematic Plans shall include: (i) a site plan (1/32' = 1') that illustrates revisions and further development of ideas presented in Concept Plans; (ii) street-level floor plans, a roof plan, and other relevant floor plans (1/16" = 1'); (iii) illustrative elevations and renderings sufficient to review the Improvements (minimum 1/8" = 1'); (iv) 3-dimensional massing diagrams or models and perspective sketches sufficient to review the Improvements; (v) one set of 24" x 36" presentation boards with the foregoing items shown thereon; (vi) illustrations and wall sections of façade design elements and other important character elements (½" – 1" = 1'); (vii) exterior material samples; (viii) a summary chart showing floor area, building coverage of the site, building height, floor area ratios, and number of parking spaces and loading docks, and the amount of space dedicated to recreational use; and (ix) such other drawings or documents as District may reasonably request related to the foregoing.

"**Second Request**" is defined in Section 4.2.1.

"**Settlement Agent**" means Eric Taylor of Chicago Title Insurance Company, 2000 M Street NW, Washington, DC, 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.

"**Stabilization Date**" means:

(1) with respect to the Square 494 Land, the date on which (a) a Certificate of Occupancy has been issued for the Improvements on the Square 494 Land and (b) one hundred percent (100%) of the Reserved Retail Space is leased and occupied (also referred to as the "**Square 494 Stabilization Date**").

(2) with respect to the Square 495 Land, the date on which (a) the New Fire Station is fully operational, as certified in writing by the Chief, (b) a Certificate of Occupancy has been issued for the remainder of the Improvements on the Square 495 Land (also referred to as the "**Square 495 Stabilization Date**").

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

"**Square 494 Land**" is defined in the Recitals.

"**Square 495 Land**" is defined in the Recitals.

ARTICLE 2
CONVEYANCE; PURCHASE PRICE; CONDITION OF DISTRICT PROPERTY

2.1 CONVEYANCE BY GROUND LEASE; LEASE PAYMENT

2.1.1 Conveyance. Subject to and in accordance with the terms of this Agreement, District shall ground lease the Property to Developer and Developer shall ground lease the

Property from District for a period of ninety-nine (99) years. At Closing, the Property shall be leased to Developer pursuant to the Ground Leases.

2.1.2 Lease Payment. The Lease Payment payable by Developer to District prior to entering the Ground Leases shall be as follows:

(a) For the Square 495 Land, the Lease Payment shall be Two Million Five Hundred Thousand Dollars ($2,500,000).(b) For the Square 494 Land, the Lease Payment shall be Fourteen Million One Hundred Forty One Thousand Three Hundred Forty Two Dollars ($14,141,342).

The Lease Payment for the entire ninety-nine (99) term of the Ground Leases shall be due and payable at Closing in accordance with the terms of this Agreement. Ground Rent due under the Ground Leases shall include the Lease Payment along with any additional costs, expenses or charges as specified in the Ground Leases.

2.1.3. New Fire Station. Subject to applicable Laws and the terms and conditions of this Agreement, Developer shall construct the New Fire Station in accordance with the New Fire Station Plans and Specifications, based on a fixed cost determined in accordance with Section 8.2.

2.2 DEPOSIT AND CLOSING LETTERS OF CREDIT; BONDS

2.2.1 Deposit Letter of Credit. Prior to the Effective Date, Developer has delivered to District irrevocable standby letter(s) of credit in the amount of Seven Hundred Thousand Dollars ($700,000.00) (the "**Deposit Letter of Credit**"). The Deposit Letter of Credit shall be used as security to ensure Developer's compliance with this Agreement and may be drawn on by District in accordance with the terms hereof. The Deposit Letter of Credit is not payment on account of the Lease Payment or the Ground Rent and shall not be applied towards payment of the Lease Payment or the Ground Rent.

2.2.2 Closing Letter of Credit. At Closing on both the Square 495 Land and on the Square 494 Land Developer shall deliver to District an additional Six Hundred Fifty Thousand Dollars ($650,000.00) (the "**Closing Letter of Credit**"), in the form of one or more irrevocable standby letters of credit, which letter(s) of credit shall be in the form attached hereto as Exhibit D and reasonably satisfactory to District in all respects (the Deposit Letter of Credit and the Closing Letter of Credit being collectively referred to as the "**Letters of Credit**"). District shall hold the Letters of Credit to secure Developer's performance of the obligations, covenants and conditions contained in this Agreement and the Construction Covenants.

2.2.3 Transfer and Release of the Letters of Credit. Provided no Developer Default exists under this Agreement or any Related Agreement and provided, as applicable, Developer has demonstrated to the reasonable satisfaction of District that all the conditions for such release has been satisfied, the Letters of Credit shall be released or transferred by District as follows:

(a) The Deposit Letter of Credit (i.e. Seven Hundred Thousand Dollars ($700,000.00)) shall be released on the Square 495 Stabilization Date;

(b) Also upon the Square 495 Stabilization Date, the Closing Letter of Credit (i.e. Six Hundred Fifty Thousand Dollars ($650,000.00)) may be transferred and used as the Closing Letter of Credit for the Square 494 Land;

(b) The Closing Letter of Credit (i.e. Six Hundred and Fifty Thousand Dollars ($650,000.00) shall be released on the Square 494 Stabilization Date.

2.2.4 Payment and Performance Bonds. On or before Closing, Developer shall cause its general contractor to obtain the following bonds: (a) a labor and materials payment bond or bonds for the Project, which shall be equal to one hundred percent (100%) of all hard costs indicated on the Final Project Budget and Funding Plan (the "**Bonds**"). The Bonds shall (a) be issued by entities satisfactory to District, (b) be in a form and substance satisfactory to District, and (c) name District as co-obligee. The Bonds shall only be required for the development of the improvements on Square 495 which shall include the New Fire Station Budget and related costs.

2.3 CONDITION OF PROPERTY

2.3.1 Feasibility Studies; Access to Property.

(a) Developer hereby acknowledges that, prior to the Effective Date, it has had the right to perform Studies (as hereinafter defined) on the Property using experts of its own choosing and to access the Property for the purposes of performing Studies. 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 pursuant to the terms, conditions and agreements of this Agreement and those certain Right-of-Entry Agreements (the "**ROEs**"), by and between the Developer and District, (i) dated August 14, 2009 and attached hereto as Exhibit I-1 for the Square 495 Land and (ii) dated October 26, 2009 and attached hereto as Exhibit I-2 for the Square 494 Land, and incorporated herein, as if such terms, conditions and agreements were expressly set forth herein.

(b) In the event Developer or Developer's Agents disturbs, removes or discovers any materials or waste on or 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 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 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 DDOE 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 Applicable Law; 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. In the event of a termination of this Agreement, neither Developer nor any of Developer's Agents shall have any continuing liability or obligations regarding the Disposal Plan or the removal or remediation of any Hazardous Materials on the Property not caused by Developer or Developer's Agents; provided, however, notwithstanding such termination, Developer shall complete any disposal actions it had begun prior to such termination and to take such other actions so as to render the Property safe and secure and this obligation shall survive termination of this Agreement until such completion. The parties hereto acknowledge and agree that prior to the Effective Date, Developer has identified certain contaminants on both parcels. Developer and District have agreed upon a credit against the purchase price of each parcel for the actual cost to remove and dispose of the contaminants on each parcel up to maximum of Three Million Five Hundred Thousand Dollars ($3,500,000.00). The credit shall be implemented as follows:

At closing on the Square 495 Land, Developer and District shall escrow from the Purchase Price the estimated cost of remediation provided by Developer and approved by District, such approval not to be unreasonably withheld. Upon completion of the remediation work, Developer shall submit the invoices for such work to District for approval and the approved costs shall be released from the escrow account. Any excess funds remaining in escrow after completion of the work shall be released to the District. Any short fall shall be offset against the Purchase Price for the Square 494 Land. The District shall be deemed to have approved a release of funds from escrow if it fails to respond to a request within 30 days of receipt. The Settlement agent shall serve as escrow agent. The same procedure shall be used to address the remediation costs for the Square 494 Land.

(c) If any lien is filed for any labor performed or for any materials furnished as a result of any Studies done on the Property, Developer shall notify District of such lien or notice promptly after learning of the filing of such lien (or, if District learns of such lien other than through Developer, District shall promptly notify Developer) and shall, within thirty (30) days after such learning of the filing of such lien, either discharge and cancel such lien of record or post a bond sufficient under the laws of the District of Columbia to release the lien. If Developer fails to so discharge or bond such lien within such thirty (30) days, District shall thereafter have the right to notify Developer that it intends to pay the full amount of such lien without inquiry into the validity thereof, and if District makes such payment at any time after five (5) days of such notice, Developer shall reimburse District for all amounts so paid by District, including expenses, interest and attorneys' fees, court costs and costs of collection within five (5) Business Days after demand. Any sums not paid by Developer within five (5) Business Days after demand shall bear interest at the Default Rate until paid. The obligations contained in this Section 2.3.1(c) shall survive Closing or the earlier termination of this Agreement.

(d) Developer hereby covenants that, at its sole cost and expense (as between District and Developer, provided that the foregoing shall not prohibit Developer from the pursuit of any third party responsible for non-compliance with Environmental Laws), when entering the Property pursuant to this Agreement and the ROE, it shall comply with all provisions of Environmental Laws applicable to the Property and all uses, improvements, and appurtenances of and to the Property, and shall perform all investigations, removal, remedial actions, cleanup and abatement, corrective action, or other remediation for Hazardous Materials disturbed during its Studies or otherwise brought onto the Property by Developer during its entry of the Property that may be required pursuant to any Environmental Law, and District and its officers, agents, and employees (collectively, the "**Indemnified Parties**") shall have no responsibility or liability with respect thereto. Developer shall indemnify, defend, and hold District harmless from and against any and all losses, costs, claims, damages, liabilities, and causes of action of any nature whatsoever (including, without limitation, the reasonable fees and disbursements of counsel and engineering consultants) incurred by or asserted against any Indemnified Parties in connection with, arising out of, in response to, or in any manner relating to (i) Developer's violation of any Environmental Law, (ii) any Contaminant Release or threatened Contaminant Release of a Hazardous Material after the Effective Date, or (iii) any condition of pollution, contamination, or Hazardous Material-related nuisance on, under, or from the Property subsequent to the Effective Date ("**Environmental Claims**"); provided, however, that Developer shall not be required to indemnify District or any of the other Indemnified Parties if and to the extent that any Environmental Claims arise in connection with the violation of any Environmental Law in relation to the Property by District or any of District's agents, officers, directors, contractors or employees, as determined in District's reasonable discretion upon review and consultation of a third party consultant's written report. Such third party consultant shall be jointly selected by District and Developer, but such third party's services shall be conducted at Developer's sole cost and expense.

(e) Developer shall not have the right to object to any condition that may be discovered after the Effective Date, offset any amounts from the Lease Payment, 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.

(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.

(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. The indemnification obligations contained herein shall survive Closing or the earlier termination of this Agreement.

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 (Ub). Developer acknowledges that, for further soil information, Developer may contact a soil testing laboratory, the D.C. Department of the Environment 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 D.C. 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 informs 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 the 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. The District's knowledge for purposes of this Section shall mean and be limited to the actual knowledge of the Deputy Mayor for 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. The parties acknowledge that during its due diligence, Developer has identified a UST on the Square 495 parcel, the cost of removal or remediation to be credited as set forth in Section 2.3.1 (b) above.

2.3.4 AS-IS. DISTRICT SHALL CONVEY THE PROPERTY TO DEVELOPER IN "AS IS" CONDITION AND THE 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) any

easements, rights-of-way, exceptions, and other matters of record as of the Effective Date and any 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; and (v) 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 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, District 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 and (ii) 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 2.3.1 and Article 11 hereof.

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. However, District agrees that it shall not commence any taking of the Property at any time.

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, 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 Deposit, and District and Developer 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 either be paid to Developer at Closing or, if paid to District, such amount shall be credited against the Lease Payment and treated as part of the Lease Payment already paid;

provided, however, that if no compensation has been actually paid on or before Closing, Developer shall accept the Property without any adjustment to the Lease Payment and subject to the proceedings, in which event, District shall assign to Developer at Closing all interest of District in and to the condemnation proceeds that may otherwise be payable to District, and Developer shall receive a credit at Closing in the amount of any condemnation proceeds actually paid to District prior to the Closing Date. 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 the Parties elect to proceed to Closing, District agrees that Developer shall have the right to participate in all negotiations with the condemning authority, and District shall not settle or compromise any claim to the condemnation proceeds without Developer's consent. 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. A list of the current contracts applicable to the Square 495 Land is attached hereto as Exhibit "O". District will not hereafter enter into any such contracts or agreements or modify or extend the contracts shown on Exhibit "O" that will bind the Property or Developer as successor-in-interest with respect to the Property, without the prior written consent of Developer, which may be withheld in Developer's sole and absolute discretion.

ARTICLE 3
REPRESENTATIONS, WARRANTIES AND COVENANTS

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 is valid and binding and the transactions contemplated hereby between the 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 the 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 period of one (1) year. District shall have no liability or obligation hereunder for any representation or warranty that becomes untrue because of reasons beyond District's control.

3.3 REPRESENTATIONS AND WARRANTIES OF DEVELOPER

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

(a) Developer is a District of Columbia 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. The parties listed in the attached Operating Agreement of Developer are the Members of Developer and are the only Persons with an ownership interest in Developer.

(b) 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.

(c) 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.

(d) 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.

(e) 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 the Developer.

(f) Developer's leasing 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 and Construction Drawings and not for speculation in land holding.

(g) 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.

3.3.2 Survival. The representations and warranties contained in Section 3.2.1 shall survive Closing for a period of one (1) year. Developer shall have no liability or obligation hereunder for any representation or warranty that becomes untrue because of reasons beyond Developer's control.

3.4 DISCLAIMER OF REPRESENTATIONS AND WARRANTIES

Except as otherwise expressly provided herein, District make no warranty or representation, express or implied, as to the title, value, design, condition, merchantability or fitness for a particular purpose or fitness for use of the Property or any portion thereof or any other warranty with respect thereto. In no event shall District be liable for any incidental, indirect, special or consequential damages in connection with or arising out of this Agreement or the Project.

ARTICLE 4
SUBMISSION AND APPROVAL OF CONSTRUCTION DRAWINGS

4.1 CONSTRUCTION DRAWINGS

4.1.1 Developer's Submissions for the Project and Improvements. Developer will submit to the District for the District's review and approval the Concept Plan for the Project, or portions thereof, within the timeframes set forth on the Schedule of Performance. Developer shall submit to District for review and approval, the Schematic Plans, Design Development Plans, and Construction Plans and Specifications (collectively, the "**Construction Drawings**") for the Improvements within the timeframes specified in the Schedule of Performance. All Construction Drawings shall be prepared and completed in accordance with this Agreement, and 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 for an Improvement, Developer shall cause the Construction Drawings applicable to such Permit to become Approved Plans and Specs prior to application. All of the Construction Drawings shall conform to and be consistent with applicable 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 are 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 District of Columbia and federal Laws relating to accessibility for persons with disabilities. No person or entity debarred by HUD or by the District of Columbia government 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 Delay Caused By District. The dates set forth in Sections 4.1.1 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 thirty (30) day period set forth in Section 4.2.1 shall control, such that the day-for-day extension shall commence as of the 31st 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 relating to Improvements on the Property. District's right to review and approve or disapprove all or any part of the Construction Drawings related to the New Fire Station shall be in District's sole and absolute discretion, whereas District's right to review and approve or disapprove all or any part of the Construction Drawings unrelated to the New Fire Station shall be not be unreasonably withheld or conditioned. Said rights are more particularly allocated to specific offices, agencies, or instrumentalities of the District in Section 4.2.5. District, meaning the particular office, agency or instrumentality having the right to approve or disapprove in the particular instance, shall use good faith efforts to complete its review of each submission by Developer and provide a written response thereto, within thirty (30) days after its receipt of the same. If the particular office, agency or instrumentality does not respond in writing within the thirty (30) days, Developer may provide to District a written notice (a "**Second Request**") requesting that District approve or disapprove the Construction Drawing that was submitted. After a Second Request, District shall have an additional ten (10) days to notify Developer in writing of District's approval or disapproval of the applicable Submission. In the event District fails to respond to a Second Request submitted by Developer to District, the submitted Construction Drawing, except for any Construction Drawing related to the New Fire Station, shall be deemed approved by District, provided that (i) the Second Request contains, in capitalized bold face type, the following statement: "A FAILURE TO RESPOND TO THIS NOTICE WITHIN TEN (10) DAYS SHALL CONSTITUTE APPROVAL OF THE [NAME OF CONSTRUCTION DRAWING] ORIGINALLY SUBMITTED ON [DATE OF DELIVERY OF COMPLETE CONSTRUCTION DRAWING TO DISTRICT]," and (ii) such Construction Drawing is in compliance with the terms of this Agreement, the Related Agreements, applicable Laws and any other Construction Drawings approved by District prior to the date of such Second Request.

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 Specs 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. District shall respond to any re-submittal by Developer following a Disapproval Notice within ten (10) days. If the particular office, agency or instrumentality does not respond in writing within the ten (10) days, Developer may provide to District a Second Request, which shall be governed by the same process set forth in Section 4.2.1.

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 applicable 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.

4.2.5 District Agency, Office, or Instrumentality Responsible for Article IV Reviews. For purposes of this Article 4, the Chief will approve Construction Drawings related to the design, development, and construction of the New Fire Station, and the Deputy Mayor of Planning and Economic Development will approve Construction Drawings related to the design, development, and construction of all other commercial improvements on the Property. Any Construction Drawings approved (or any approved portions thereof) pursuant to this Section 4.2 shall be "**Approved Plans and Specs**."

4.3 CHANGES IN APPROVED PLANS AND SPECS

No changes to the New Fire Station Plans and Specifications shall be made without District's prior approval. No Material Changes to any other portion of the Approved Plans and Specs shall be made without District's prior written approval. If Developer or the District desires to make any changes to the New Fire Station Plans and Specifications or any Material Changes to any other portion of the Approved Plans and Specs, Developer or the District shall submit the proposed changes to the other party for approval, which approval shall be granted or withheld in District's sole and absolute discretion with regards to the New Fire Station Plans and Specifications and in District's reasonable discretion for any other portion of the Approved Plans and Specs, such approval to be obtained and processed in the manner set forth in Section 4.2.1. above. Notwithstanding the foregoing, if design changes are required to the New Fire Station Plans and Specifications so that the cost of the New Fire Station will not exceed the amount budgeted for the construction of the New Fire Station, the design changes proposed by the Developer will be approved unless, within the response period set forth in Section 4.2, the District offers alternative design changes that permit the work to be performed within the

budgeted amount. The Developer will consult with the District in formulating the proposed design changes. This Section shall survive Closing.

4.4 ADDITIONAL SUBMISSIONS

Developer shall submit to District for District's information or review and approval, as applicable, the items listed below (including any and all modifications, amendments or other changes made to any of same). Each submission shall be made by Developer to District at the time required for such submission on the Schedule of Performance, and shall be in accordance with the requirements of this Agreement, the Related Agreements, all other approved submissions and all applicable Laws.

4.4.1 Bonds. At least sixty (60) days prior to Closing, Developer shall provide to the District copies of the Bonds, as specified in Section 2.2.4, so that District may make the determination as to whether such Bonds are in a form and substance satisfactory to District.

4.4.2 Organizational Documents. Prior to execution of this Agreement, Developer has provided to District, Developer's organizational documents (including, without limitation, a listing of all of the Members of Developer and confirmation of compliance with the requirements of the CBE Agreement) and organizational structure, including a certified resolution and incumbency certificate, indicating Developer's authority to enter into this Agreement and perform hereunder. Developer shall provide to District any revisions or amendments to such organizational documents, which shall be in accordance with this Agreement, the Related Agreements and applicable Laws.

4.4.3 Retail Marketing Plan. At least sixty (60) days prior to any Closing, Developer shall submit to District its proposed plan for marketing and leasing the retail space in the Project, including adherence to the Local Retailer Requirement ("**Retail Plan**"). The proposed Retail Plan shall be subject to District's review and approval, which approval shall not be unreasonably withheld, delayed or conditioned. Once approved by District, Developer shall not materially modify or amend the Retail Plan without District's prior approval, which approval shall not be unreasonably withheld, delayed or conditioned. District shall approve such plan prior to Closing of shall be deemed to have approved same if District fails to respond prior to closing.

4.4.4 District's Approval of Professionals; Contracts

(1) Any Person that Developer proposes for any of the following shall be subject to District's approval, which approval shall not be unreasonably withheld, delayed or conditioned: (i) all design consultants for public spaces; (ii) all community outreach consultants; (iii) all design architects and Architects; (iv) the Contractor and (v) any replacement of any of the foregoing. The District's review of any proposed Person under this Section 4.4.5(1) shall be limited to whether the Person (a) reasonably has the experience and technical qualifications to provide the services required, and (ii) is not a Prohibited Person. Notwithstanding the provisions of Section 4.4, the review of any professional required pursuant to this Section 4.4.4(1) shall be completed by District within five (5) Business Days of the District's receipt of Developer's

approval request. In the event District fails to approve or disapprove Developer's request within such five (5) Business Day period, the request shall be deemed approved by District.

(2) No Person that is a Prohibited Person shall be engaged as Contractor or a subcontractor or otherwise provide materials or services with respect to the Project.

(3) Upon District's request, Developer shall provide to District the contracts with any Person required to be approved by the District pursuant to the foregoing provisions of this Section 4.4.4.]

4.4.5 Construction Contract. Following District's approval of a Contractor pursuant to Section 4.4.4 and prior to Commencement of Construction, Developer shall provide District with a copy of the executed Construction Contract for the construction of the Project. The Construction Contract shall be a fixed price or guaranteed maximum price contract and shall provide for the development and construction of the Project in accordance with the Project Budget and Funding Plan.

4.4.6 Construction Schedule. At least 60 days prior to Closing, Developer shall provide to District for District's review and approval a schedule for construction, which schedule shall be consistent with the Schedule of Performance and shall be updated as part of Developer's Monthly Status Report (or more frequently, as District may request from time to time) until the issuance of the Final Certificate of Completion for the Project. District shall approve such schedule prior to Closing or shall be deemed to have approved same if District fails to respond to same prior to Closing.

4.5 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.

4.6 MONTHLY STATUS REPORTS

Developer shall submit to District no later than the 15th day of each calendar month, a report ("**Monthly Status Report**") setting forth the current status of the Project. Each Monthly Status Report shall be in form and substance satisfactory to District, and shall include such matters with respect to the Project as District may require from time to time. The Developer shall in good faith work cooperatively with the District to address all the requirements of this Agreement.

4.7 APPROVAL OF GUARANTOR(S); FORM OF GUARANTY

4.7.1 Approval of Guarantor. The Development and Completion Guaranty required pursuant to this Agreement shall be from one or more Persons approved by District in District's sole discretion, which approval shall include District's determination as to whether such Person

has sufficient net worth and 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. The Development and Completion Guaranty shall be delivered to District no later than Closing.

4.7.2 Updated Guarantor Submissions. At any time upon District's request, but in any event no later than sixty (60) days prior to Closing, each Guarantor shall submit to District updated Guarantor Submissions. In the event District determines, in its sole discretion, that a material adverse change in the financial condition of the Guarantor(s) has occurred that impacts, or could threaten to impact, the Guarantor's ability to perform under the Development and Completion Guaranty, Developer shall, within five (5) Business Days after notice from District, identify a proposed substitute guarantor and request District's approval of the same, which request shall include delivery of the Guarantor Submissions for such proposed substitute guarantor.

4.7.3 Institutional Lender Form. Notwithstanding any other provision of this Agreement, the obligation to provide the Development and Completion Guaranty will be satisfied if Developer executes and delivers to the Institutional Lender providing the Debt Financing a guaranty required by the Institutional Lender that satisfies the terms and conditions set forth in Exhibit E attached hereto, which guaranty names the District as an additional obligee or beneficiary.

4.7.4 Additional Obligee or Beneficiary. Developer shall use best efforts to have the District added as an additional obligee or beneficiary under the guaranty which it executes and delivers to the Institutional Lender providing the Debt Financing, provided that such form is acceptable to the District. If such efforts are not successful, then Developer shall make the District the beneficiary of a the Development and Completion Guaranty attached hereto as Exhibit E.

4.7.5 Subordination. The rights of the District and the Institutional Lender providing the Debt Financing with regard to the enforcement of the Development and Completion Guaranty shall be governed by a subordination agreement between the District and such Institutional Lender. The District's right to enforce the Development and Completion Guaranty shall be subordinate to the rights of such Institutional Lender; provided, however, that from and after any default under this Agreement or the Construction and Use Covenant, the District shall have the right to enforce the Development and Completion Guaranty if such Institutional Lender shall not have done so within a reasonable period of time after written notice by the District to such Institutional Lender.

ARTICLE 5
CONDITIONS TO CLOSING

5.1 CONDITIONS PRECEDENT TO DEVELOPER'S OBLIGATION TO CLOSE

5.1.1 Developer's Conditions Precedent. The obligation of Developer to consummate Closing on the Closing Date shall be subject to the following conditions precedent. Because conveyance of the Property will occur in multiple Closings, unless expressly and specifically

stated herein, the following conditions shall be construed to pertain only to that portion of the Project to be constructed on the portion of the Property being conveyed:

(a) District shall have performed all obligations hereunder required to be performed by District prior to the Closing Date.

(b) 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.

(c) 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.

(d) This Agreement shall not have been previously terminated pursuant to any other provision hereof.

(e) 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.

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

(g) Between the Effective Date and the Closing Date, there shall have been no material adverse change in the title of the Property.

(h) District's authority, pursuant to the Resolution, to proceed with the disposition, as contemplated in this Agreement, shall have not previously expired without being extended, renewed or reinstated.

(i) Council has enacted the Bill or Bills described in Section 7.13 of this Agreement, as necessary.

(j) Funds in the amount specified pursuant to Section 8.2.1 are lawfully available for the design, development, and construction of the New Fire Station.

(k) District shall have delivered (or caused to be delivered) the original, executed documents required to be delivered pursuant to Section 6.2.1 herein.

5.1.2 Additional Conditions Precedent to Closing on Square 494 Land. The obligation of Developer to consummate the Closing of the Square 494 Land on the Closing Date shall be subject to the following additional conditions precedent:

(a) The Property currently occupied by the Existing Fire Station is in the condition described in Section 7.13.4.

5.1.3 Failure of Condition.

5.1.3.1 If all of the conditions to Closing set forth above in Section 5.1.1 and Section 5.1.2, as applicable, 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 (excepting items (h), (i), and (j)) 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 and subject to Section 6.1.3) to permit District to satisfy the conditions to Closing set forth in Section 5.1.1 and/or Section 5.1.2. 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 and Section 5.1.2, as applicable, 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 the Developer hereunder, the Developer may again proceed under clause (i), (ii) or (iii) above. The foregoing notwithstanding, Closing shall not occur after the expiration of the authority granted in the Resolution in accordance with Section 6.1.

5.2 CONDITIONS PRECEDENT TO DISTRICT'S OBLIGATION TO CLOSE

5.2.1 District's Conditions Precedent. 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. Because conveyance of the Property will occur in multiple Closings, unless expressly and specifically stated herein, the following conditions shall be construed to pertain only to that portion of the Project to be constructed on the portion of the Property being conveyed:

(a) Developer shall have performed all obligations hereunder required to be performed by Developer prior to the Closing Date.

(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) This Agreement shall not have been previously terminated pursuant to any other provision hereof.

(d) District's authority, pursuant to the Resolution, to proceed with the disposition, as contemplated in this Agreement, shall have not previously expired without being extended, renewed or reinstated.

(e) Council has enacted the Bill or Bills described in Section 7.13 of this Agreement, as necessary.

(f) Funds in the amount specified pursuant to Section 8.2.1 are lawfully available for the design, development, and construction of the New Fire Station.

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

(h) 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 Improvements in accordance with the Approved Plans and Specs.

(i) 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 and to achieve Commencement of Construction by the time set forth in the Schedule of Performance.

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

(k) Developer shall have provided satisfactory evidence of its authority to acquire the Property and perform its obligations under this Agreement.

(l) Developer shall have obtained from the District of Columbia, or other authority having jurisdiction over the District Property, approval of any zoning changes, lot consolidations or subdivisions, or other similar land use/land development right or approvals (this condition may be waived by Developer if it so elects and District shall be obligated to close in such case).

(m) Developer shall have applied for all Permits for the Improvements required under Section 105A of Title 12A of the D.C. Municipal Regulations, provided, however, if the Disposition Resolution is extended under Section 6.1.4 below, Developer shall have obtained all such Permits;

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

(o) Developer shall have been able to secure the Equity Investment and, as applicable, Debt Financing for Developer's development and construction of the Project, as shown in the Final Project Budget and Funding Plan, as evidenced by Developer's delivery of the Commitment Letters for the same (and any other evidence as required by Section 8.1.3(d)) to District and any documents required to close on all of the Equity Investment and Debt Financing, and shall be prepared to close on the same.

(p) There shall be no changes to the Final Project Budget and Funding Plan, except to the extent such changes have been previously approved by District

(q) If applicable, the Developer shall have caused the Fire Station Air Rights to be created as a separate assessment and taxation lot in accordance with the laws of the District of Columbia (not sure this is possible-we are checking on this).

(r) Developer shall have executed, and not be in default of, a First Source Agreement and a CBE Agreement.

(s) Developer shall have provided satisfactory evidence that it has completed or achieved all milestones on the Schedule of Performance required to be completed or achieved prior to Closing.

(t) There shall have been no material adverse change in the financial condition of any Guarantor, determined in accordance with the provisions of Section 4.7.2 or, if a material adverse change has occurred, District has approved a substitute guarantor pursuant to Section 4.7.2.

5.2.2 Additional Conditions Precedent to Closing on Square 494 Land.

(a) The Square 495 Stabilization Date has been achieved.

5.2.2 Failure of Condition. (a) If all of the conditions to Closing set forth above in Section 5.2.1 and Section 5.2.2, as applicable, have not been satisfied by the Closing Date, and such failure continues for ten (10) business days after Developer's receipt of written notice specifying the failure, then provided the same is not the result of District's failure to perform any obligation of the District hereunder, District shall have the option, at its sole discretion, to (i) waive such condition (excepting items (d), (e), and (f)) and proceed to Closing hereunder; (ii) terminate this Agreement by written notice to Developer and draw on the Letters of Credit in their 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 and subject to Section 6.1.3), to permit Developer to satisfy the conditions to Closing set forth in Section 5.2.1 and/or Section 5.2.2. 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 and Section 5.2.2, as applicable, 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), (ii) or (iii) above, in its sole discretion. The foregoing notwithstanding, Closing shall not occur after the expiration of the authority granted in the Resolution in accordance with Section 6.1.

ARTICLE 6
CLOSING

6.1 CLOSING DATE

6.1.1 Closing Date. The conveyance of a leasehold interest in the Property from District to Developer is scheduled to occur in two Closings, one for the Square 495 Land and one for the Square 494 Land (each a "**Closing**" as defined in this Agreement). Developer shall close on the Property upon satisfaction of all conditions to Closing, but no later than the Closing dates shown in the Schedule of Performance, except as a result of Force Majeure or as otherwise expressly provided herein (each a "**Closing Date**"). After District and Developer consummate the Closing on the Square 495 Land, this Agreement shall continue in full force and effect as to the Square 494 Land.

6.1.2 Extension of Closing Date. Except for extension rights granted to the Parties under Sections 5.1 or Section 5.2, the dates 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 therefore) or (ii) Developer's failure to timely submit any Construction Drawing, which failure is due exclusively to the delay of the government of the District of Columbia (or to another authority with jurisdiction over the District Property) in issuing a Permit or other approval, then the Closing Date shall be extended day-for-day during the period of such delay, subject to Section 6.1.1.

6.1.3 Outside Closing Date; Extension. Notwithstanding any provision in this Agreement to the contrary, pursuant to the Resolution and D.C. Official Code Section 10-801(d) (2006 Supp.), Closing on any portion of the Property shall not be held after November 3, 2011 ("**Outside Closing Date**"), without first obtaining authority from the Council of the District of Columbia. Provided no Developer Default exists at the time and provided Developer is proceeding in good faith to fulfill its commitments and obligations hereunder and under any Related Agreement, the District will seek, as necessary, approval from the Council of the District of Columbia to extend its disposition authority prior to the expiration of the Resolution in order to permit Developer the opportunity to acquire both parcels hereunder in accordance with the terms and conditions of this Contract and the development schedule attached hereto and incorporated herein. Upon approval of the extension of District's disposition authority, the Outside Closing Date shall be simultaneously extended until the expiration of such extended authority.

6.1.4 Expiration of the Resolution; Contingent Exclusivity. If either (i) Closing on the Property or (ii) approval of an extension to District's disposition authority as set forth in Section 6.1.3 has not occurred by the Outside Closing Date, provided no Developer Default exists at the time and provided Developer is proceeding in good faith to fulfill its commitments and obligations hereunder and under any Related Agreement, District agrees not to negotiate with any party other than Developer any sale, lease or other conveyance or disposition of the Property for a period of two (2) years following expiration of the Resolution ("**Contingent Exclusivity Period**"), unless earlier terminated in accordance with this Agreement. During the Contingent Exclusivity Period, District will seek approval from the Council of the District of Columbia to obtain, extend, renew or reinstate District's disposition authority for the Property and District and Developer shall continue to fulfill all commitments and obligations hereunder and under any Related Agreements. District and Developer acknowledge that the continuance of Contingent Exclusivity Period depends on the continued fulfillment of all commitments and obligations hereunder and under any Related Agreement and that failure to do so by either party shall provide a basis to terminate the Contingent Exclusivity Period and this Agreement. Notwithstanding anything to the contrary in this Section 6.1.4, District shall not be obligated to proceed to Closing during the Contingent Exclusivity Period and the terms "Closing Date" and "Outside Closing Date" shall be suspended and have no meaning until District's disposition authority is obtained, extended, renewed or reinstated. Notwithstanding the stated term of the Contingent Exclusivity Period, the Contingent Exclusivity Period shall terminate upon (i) approval by the Council of the District of Columbia of District disposition authority for the Property, upon which all Closing and Closing-related obligations contained in this Agreement shall be reinstated in their entirety, or (ii) termination of this Agreement by either District or Developer in accordance with the terms and conditions of this Agreement. In the event that the

Council of the District of Columbia has not approved, extended, renewed or reinstated District's disposition authority at the end of the Contingent Exclusivity Period, this Agreement shall automatically terminate and be of no further force and effect. This Section 6.1.4 shall survive any termination of this Agreement.

6.1.5 Closing. Immediately upon the satisfaction (or waiver by the Party for whose benefit the condition has been established) of the conditions set forth in Article 5, the Parties hereto shall agree to a date and time for the Closing and shall proceed to Closing consistent with the terms of this Agreement.

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, the District shall execute, notarize, and deliver, as applicable, to Settlement Agent the following. Because conveyance of the Property will occur in multiple Closings, unless expressly and specifically stated herein, the following deliveries shall mean only those such deliveries that pertain to that portion of the Project to be constructed on the portion of the Property being conveyed:

(a) the Ground Lease, in recordable form to be recorded in the Land Records against the Property;

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

(c) the Reciprocal Easement Agreement, as applicable;

(d) a certificate, duly executed by District, stating that all of District's representations and warranties set forth herein are true and correct as of and as if made on the Closing Date; 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 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 the following. Because conveyance of the Property will occur in multiple Closings, unless expressly and specifically stated herein, the following deliveries shall mean only those such deliveries that pertain to that portion of the Project to be constructed on the portion of the Property being conveyed:

(a) the Ground Lease, in recordable form to be recorded in the Land Records against the Property;

(b) the Lease Payment in full and any funds in excess of the Lease Payment, if so required by the Settlement Statement to be executed at Closing;

(c) the Closing Letter of Credit and the Bonds required under Section 2.2.4 above;

(d) the fully executed Development and Completion Guaranty;

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

(f) the Reciprocal Easement Agreement;

(g) any documents required to close on the Debt Financing for Developer's construction of the Improvements;

(h) a certification of Developer's representations and warranties executed by Developer stating that all of Developer's representations and warranties set forth herein are true and correct as of and as if made on the Closing Date;

(i) to the extent obtained, copies of the Permits ;

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

(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 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 Improvements;

(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 the District of Columbia 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 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 Closing Instructions. 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 the Ground Lease, the Construction Covenant and the [Reciprocal Easement Agreement].

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 IMPROVEMENTS; COVENANTS

7.1 OBLIGATION TO CONSTRUCT IMPROVEMENTS

7.1.1 Obligation to Construct. Developer hereby agrees to develop, construct, use, maintain and operate the Improvements in accordance with the Development Plan, the Approved Plans and Specs, this Agreement, the Schedule of Performance and the Construction Covenants. The Improvements shall be constructed in compliance with all Permits and applicable Laws and in a first-class and diligent manner in accordance with industry standards. As further assurance of the above and of the Construction Covenants, Developer shall cause the Development and Completion Guaranty to be executed by Guarantors and forward the original executed version of the same to District at Closing. Prior to Closing in accordance with Section 4.7.2, Guarantors shall each submit to District updated Guarantor Submissions. At any time prior to Closing, Guarantor shall submit 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.

7.1.2 Costs. The costs of developing the Improvements shall be borne by the Developer. The costs of developing the Improvements shall be reflected on the Project Budget and Funding Plan in accordance with Section 8.1.1 and Section 8.2.

7.2 SCHEDULE OF PERFORMANCE

Subject only to Force Majeure and certain delays caused by the District as specified in Section 4.1.3, Developer will be required to complete the Project in accordance with the Schedule of Performance. Developer shall notify the District upon completion of each key Project milestone contained in the Schedule of Performance. Except as expressly provided in this Agreement, the Schedule of Performance may only be modified with the District's approval in its sole discretion. Notwithstanding the foregoing, as to Square 495, as long as Developer posts the Bonds, the District's approval of a request by the Developer for a modification of the schedule shall not be unreasonably withheld except for requests related to the Fire Station, which approval the District may withhold in its sole discretion. As to Square 494, the District's approval of a request by the Developer for a modification to the schedule shall not be unreasonably withheld as to changes necessitated by matters outside the control of the Developer or matters not reasonably foreseeable by the Developer, including but not limited to the bankruptcy or going out of business of the Contractor. Developer shall provide, with any request for a modification of the schedule, supporting documentation for such request and shall endeavor to make such request as promptly as Developer becomes aware of the need for a modification to the schedule.

7.3 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 any necessary applications and documents for such Permits, or other approvals, 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 applications for Permits required for the Project in accordance with the 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 as part of the Monthly Status Report.

7.4 PRE-DEVELOPMENT; SITE PREPARATION

Developer, at its sole cost and expense, shall be responsible for all pre-development work preparation of the Property for development and construction in accordance with the Schedule of Performance, the Development Plan and Approved Plans and Specs, 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.

7.5 LOCAL RETAILERS

7.5.1 Developer shall reserve a minimum of 10% of the aggregate square footage ("**Reserved Retail Space**" and any specific retail space comprising the 10% being a "**Reserved Retail Space Unit**") of all retail space in the Project for retailers that are local or certified CBEs

at a rental rate that is no more than 75% of the market rental rate ("**Local Retail Requirement**"). The lease of any Reserved Retail Space Unit shall (a) contain similar material terms and conditions (except for the rental rate reductions required hereunder), (b) have no greater obligations, restrictions or liabilities on the tenant of the Reserved Retail Space Unit, and (c) offer comparable tenant amenities and services as the market-rate leases in the Project. In addition to the Reserved Retail Space Unit requirement, Developer shall endeavor to lease the retail space in the Project to neighborhood-serving retail establishments in accordance with the Retail Plan. The Local Retail Requirement shall be included in the Ground Leases and shall be maintained for no less than fifteen (15) years from the date of initial leasing. The Retail Plan shall require that Developer market and recruit qualified local and CBE retailers for a minimum of one hundred eighty (180) days ("**Local Retail Marketing Period**") following the issuance of a certificate of occupancy for the Project's retail space. Developer shall notify the District, specifically DMPED and DSLBD upon commencement of the Local Retail Marketing Period. If, after marketing the Reserved Retail Space to local and certified CBE retailers for the Local Retail Marketing Period in accordance with the Retail Plan, no local or certified CBE retailers have entered into an agreement to lease the Reserved Retail Space, Developer may request that the District waive this leasing restriction until the space is next vacant and the District's consent shall not be unreasonably withheld provided that the Developer shall submit a certification to the District affirming its compliance with the Retail Plan. If the District fails to approve or disapprove a waiver request from Developer within sixty (60) days of receipt, the request shall be deemed approved.

7.6 OPPORTUNITY FOR LOCAL, SMALL, OR DISADVANTAGED BUSINESS ENTERPRISES

In cooperation with District, Developer agrees that it will promote opportunities for businesses certified by DSLBD, or any successor governmental entity, as Certified Business Enterprises ("**CBEs**") in the development, construction, and operation of the Project consistent with Applicable Law and the CBE Agreement entered into between DSLBD and Developer and attached hereto as Exhibit K.

7.7 EMPLOYMENT OF DISTRICT RESIDENTS; FIRST SOURCE AGREEMENT

Pursuant to Mayor's Order 83-265, DC Law 5-93, as amended, and DC Law 14-24, Developer recognizes that one of the primary goals of the District of Columbia government is the creation of job opportunities for District of Columbia residents. Accordingly, Developer has entered into a First Source Agreement with DOES, attached hereto as Exhibit L, that, among other things, require the Developer to: (i) use diligent efforts to hire and use diligent efforts to require its architects, engineers, consultants, contractors, and subcontractors to hire at least fifty one percent (51%) District of Columbia residents for all new jobs created by the Project, all in accordance with such First Source Employment Agreement and (ii) use diligent efforts to ensure that at least fifty one percent (51%) of apprentices and trainees employed are residents of the District of Columbia and are registered in apprenticeship programs approved by the D.C. Apprenticeship Council.

7.8 APPLICATION OF THE GREEN BUILDING ACT AND DAVIS BACON ACT

Developer shall develop and construct the Project in compliance with (a) the Green Building Act of 2006, D.C. Official Code § 6-1451.01, *et seq.* (2007 Supp.), as amended, and the

regulations promulgated therewith; and (b) the provisions of the Davis-Bacon Act, 40 U.S.C. § 276(a), and the regulations promulgated therewith.

7.9 CONSTRUCTION CONSULTANT

Promptly after the Effective Date, the Developer shall retain a construction consultant (the "**Construction Consultant**"), which shall be subject to District's approval and otherwise on such terms as District may approve, to (a) review and report to District, during the predevelopment and construction of the Project, on the documents relating to the construction of the Project, the schedule for construction, and the conformity of such matters to the Construction Drawings, as applicable (b) report to District on a monthly basis whether the construction of the Project is on schedule and consistent with the Schedule of Performance, or if not, whether a reasonably satisfactory recovery plan has been adopted and is being implemented and (c) review and approve whether the construction of the Project is of the quality required in the Approved Plans and Specs. The Construction Consultant shall provide regular written status updates and promptly report, in writing, any issues to District and Developer. If the Construction Consultant determines there is a non-conformity with the Approved Plans and Specs or a variation from the construction schedule, District may request Developer to propose and adopt a recovery and modifications plan that is reasonably satisfactory to the Construction Consultant and District.

7.10 COMMUNITY PARTICIPATION PLAN

Within thirty (30) days after the Effective Date Developer shall submit to District, for District's prior approval, its plan to involve the community in the predevelopment and construction of the Project, that shall include the immediate Advisory Neighborhood Commissions ("**ANC**") and other community organization(s) with whom Developer proposes to discuss the Construction Drawings, a schedule for such discussions and the type of information to be provided the community ("**Community Participation Plan**"). As part of the Community Participation Plan, Developer shall be required to (a) document all ANC meetings to provide a narrative description of the events of each meeting that pertain to the Project, including the concerns raised by the ANCs and Developer's responses to those concerns; (b) provide documentation of these ANC meetings to District within thirty (30) days after the end of each calendar month; and (c) include a summary of each ANC meeting held during the preceding month with the documentation of each meeting that pertains to the Project. The documentation and summaries may be made available to the public by District. Developer shall comply with the Community Participation Plan and the requirements of this Section 7.9 upon approval of the Community Participation Plan by District until issuance of the Final Certificate of Completion.

7.11 PROJECT COMPLIANCE MONITORING SYSTEM

Pursuant to the Compliance Unit Establishment Act of 2008, D.C. Law 17-176, effective June 13, 2008, the 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 Closing and continuing each month thereafter through issuance of the Final 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 within twenty-four (24) hours following Developer's receipt of the report from District, but in no event later than the last day of the subject month.

7.12 PROVISIONS TO BE INCLUDED IN COVENANTS

The requirements contained in this Article shall be incorporated into the Construction Covenants and Ground Leases, as appropriate, which shall be recorded in the Land Records against the Property.

7.13 DISTRICT APPROVALS AND COVENANTS

7.13.1 Council Approval. The District will comply with the requirements of the Resolution and will seek, as necessary, such other Council approvals as may be required by applicable Laws to consummate the transactions contemplated in this Agreement.

7.13.2 Fire Department Approvals. All necessary approvals, including those from the Fire and Emergency Medical Services Department, will be granted or denied in accordance with all applicable Laws, regulations and procedures governing such approvals in addition to any requirements contained in this Agreement.

7.13.3 Exemption from Procurements Procedure Act. Prior to Closing, the District will present, as necessary, a Bill for Council enactment setting forth the following:

(i) exempting the design, development and construction of the New Fire Station from the Procurements Procedure Act, D.C. Official Code § 2-301, et seq., and the procurement regulations, if any, of Fire Emergency Medical Services.

(ii) authorizing the Chief to procure the services of Developer for the design, development and construction of the New Fire Station for a capped maximum amount to be specified per this Agreement and upon the terms specified in this Agreement.

7.13.4 Condition of Square 494 Land. At Closing on the Square 494 Land, District shall deliver the Square 494 Land the condition described in Section 2.3.4 and free and clear of any District agency users, operations or equipment.

ARTICLE 8
FINANCIAL PROVISIONS; NEW FIRE STATION BUDGET AND PAYMENTS; MEMBERSHIP

8.1 FINANCIAL PROVISIONS

8.1.1 Project Budget and Funding Plan.

(a) As of the Effective Date, Developer has provided to District the Initial Project Budget and Funding Plan, which is attached hereto as Exhibit G.

(b) Subject to District's approval, Developer shall modify the Initial Project Budget and Funding Plan (i) upon approval of the Approved Plans and Specs, (ii) upon receipt of the

Commitment Letters for the Equity Investment and Debt Financing for any portion of the Project and (iii) within sixty (60) days but no later than thirty (30) days prior to a Closing. Upon District's final approval of the modified Project Budget and Funding Plan submitted pursuant to clauses (i)-(iii), such modified Project Budget and Funding Plan shall be the "**Final Project Budget and Funding Plan**" and shall be attached as an exhibit to the Construction Covenants.

(c) Developer shall not modify the Final Project Budget and Funding Plan, without the prior approval of District, which shall not be unreasonably withheld, conditioned or delayed.

8.1.2 Equity Investment.

(a) On or before Closing, Developer shall have obtained, and there shall have been fully committed, funded or contributed the Equity Investment; provided, however, that the portion of the Equity Investment to be provided by the equity investors in Developer, to the extent not required as of Closing, may be deemed funded by the delivery to District of assurance of the payment of such portion of the Equity Investment, such as in the form of a note, a letter of credit, escrow account or third party guaranty, such assurance to be in form and substance, and from a Person, reasonably satisfactory to District. In furtherance of the foregoing, Developer shall deliver to District Commitment Letter(s) for the Equity Investment, which shall be subject to no material conditions or contingencies at least seven (7) days prior to Closing. Such Commitment Letter(s) shall be subject to District's review and approval for compliance with the requirements of this Agreement, which approval shall not be unreasonably withheld, conditioned or delayed.

(b) Developer shall be obligated to commit sufficient funds from the Equity Investment to pay for all of Developer's costs and expenses associated with its due diligence, predevelopment and all other activity for the Project prior to Commencement of Construction..

8.1.3 Debt Financing.

(a) Developer shall not obtain any Debt Financing or engage in any other transaction that shall create a Mortgage or other encumbrance or lien upon the Property, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attached to the Property without the prior written approval of District, which approval shall not be unreasonably withheld, conditioned or delayed.

(b) Any such Debt Financing or Mortgage shall (i) secure a bona fide indebtedness to an Institutional Lender, the proceeds of which shall be applied only to the costs identified in the Final Project Budget and Funding Plan; and (ii) the amount thereof, together with the Equity Investment and all other funds available to the Developer shall be sufficient to complete construction of the Project. Developer covenants that no proceeds of any such Debt Financing or Mortgage shall be used to fund distributions to equity holders or the acquisition, development, construction, operation or any other costs relating to any other real property, personal property or business operation with the exception of development fees and other applicable fees and expenses as set forth in Developer's Final Project Budget and Funding Plan.

(c) At least thirty (30) days prior to Closing, Developer shall submit to District, for the purpose of obtaining District's approval of any such Debt Financing or Mortgage, such

documents as District may reasonably request to evidence compliance with the requirements contained in Section 8.1.3(b), including, but not limited, copies of:

(i) The Commitment Letter(s) or agreement between Developer and the holder of such Debt Financing or Mortgage, certified by Developer to be a true and correct copy thereof;

(ii) A statement detailing the disbursement of the proceeds of the proposed Debt Financing, certified by Developer to be true and accurate; and

(iii) A copy of the proposed Mortgage, deed of trust or such other instrument to be used to secure the Debt Financing.

Once District approves the Debt Financing or Mortgage in favor of an Institutional Lender, such Institutional Lender may be referred to as an "**Approved Mortgagee**".

(d) If the Developer elects to construct the Project without obtaining Debt Financing from an Institutional Lender, no less than thirty (30) days prior to the Closing Date, the Developer shall notify the District of its election to proceed without Debt Financing and deliver evidence that it has located adequate funds and/or binding commitments subject only to commercially reasonable terms and conditions, and proof of the ability to perform from Equity Investment to achieve development and construction of the Project.

8.1.4 Commitment Letters. Upon Developer's receipt, Developer shall provide to District copies of all Commitment Letters. Any such Commitment Letter shall not contain any provisions requiring acts of Developer or District prohibited in this Agreement or prohibiting acts of Developer or District required in this Agreement, and shall be certified by Developer to be true, correct and complete. Any Commitment Letter shall be subject only to normal and customary market terms and conditions for funding of similar types of commercial projects contemplated under this Agreement. By Closing, Developer shall have timely performed any and all conditions to funding of such Commitment Letters other than those which are required to be performed on or after Closing. Developer covenants to use diligent, good faith efforts to perform any and all of its conditions to funding of the Commitment Letters. Developer shall not amend, modify, replace or otherwise alter such Commitment Letters or enter into any subsequent or new agreements relating thereto without the prior written approval of District, which approval shall not be unreasonably withheld, conditioned or delayed, provided the same shall be consistent with the Final Project Budget and Funding Plan.

8.2 NEW FIRE STATION BUDGET

8.2.1 New Fire Station Budget. After the Approved Plans and Specs have been completed, as part of its modifications to the Project Budget and Funding Plan, Developer shall submit to the District for review and approval, in District's sole and absolute discretion, a budget for completion of the New Fire Station, based upon bids from licensed general contractors or major subcontractors obtained by Developer ("**New Fire Station Budget**"). The New Fire Station Budget will include only those costs fairly allocated to the New Fire Station in accordance with Section 7.1.2 and generally accepted accounting principles. The District will approve or disapprove the New Fire Station Budget within thirty (30) days after submission. If

the District disapproves the New Fire Station Budget, the District will specify the reasons for disapproval.

8.3 NEW FIRE STATION CONSTRUCTION COSTS AND PAYMENTS

8.3.1 Monitoring of Costs. Developer shall provide District with monthly itemized reports of the design, development and construction costs for the New Fire Station including a to-date statement of expenses actually paid and approved by the District, actually paid and disputed by the District, and anticipated expenses in accordance with the New Fire Station Budget. Developer shall be responsible for all costs of constructing the New Fire Station that exceed those costs identified in the approved the New Fire Station Budget. In order to provide the foregoing reports, Developer shall break out the costs of the New Fire Station as an "add alternate" to its construction contract and separately account for and track all costs and expenses attributable to the New Fire Station.

8.4 MEMBERSHIP OF DEVELOPMENT TEAM

As of the Effective Date, Developer is comprised of the Members with the membership interests and respective rights, powers and obligations as indicated in the operating agreement, attached hereto as Exhibit H and incorporated herein, (the "**Operating Agreement**"). Prior to stabilization of the Improvements on the Square 495 Land, Developer shall not (i) alter the composition of its Members, except as provided in Section 10.2, without the prior written approval of District which may be granted or withheld in District's sole discretion or (ii) amend the Operating Agreement or otherwise modify the relationship between the Members (including, but not limited to, the Members' respective financial interests in Developer), without the prior written approval of District which shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Operating Agreement may be amended, subject to District's reasonable approval, if the purpose of the amendment is (a) for tax or financing reasons, provided such amendment shall not (i) affect Developer's interest in this Agreement or interest or control of the Property or any portion thereof, (ii) negatively impact Developer's financial capacity or viability, or (iii) potentially impede or otherwise affect the performance of Developer under this Agreement or the Related Agreements. Upon achieving stabilization of the Improvements on the Square 495 Land, the foregoing restrictions shall no longer apply to the Square 495 Land (but shall continue to apply to the Square 494 Land). Upon achieving stabilization of the Improvements on the Square 494 Land, the foregoing restrictions shall no longer apply.

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

9.2.1 Remedies. In the event of Developer Default under this Agreement, District may, as its sole remedies under this Agreement:

(a) Terminate this Agreement, in whole or in part, and, as liquidated damages, draw on the Letters of Credit in their 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, at the sole cost and expense of Developer, free and clear of all liens and claims for payment; or

(b) Subject to Section 13.16, cure such Developer Default, at Developer's sole cost and expense. Developer shall reimburse District its reasonable actual out-of-pocket costs for such cure within thirty (30) days after demand thereof and any such sums not paid by Developer within thirty (30) days after demand shall bear interest at the rate of fifteen percent (15%) per annum or the highest rate permitted by Laws, if less, until paid. If Developer fails to reimburse District's its reasonable actual out-of-pocket costs as provided above, District shall be entitled to draw on the Letters of Credit to cover such costs.

(c) Assuming (a) is not elected, pursue any and all other remedies that may be available at law and/or in equity.

9.2.2 Remedies Post-Closing on the Square 495 Land. In the event of Developer Default under any Square 495 Related Agreement, in addition to any remedies contained in any Square 495 Related Agreement, District may, after written notice to Developer and failure of Developer to cure such default within twenty (20) days after receipt of the notice, terminate this Agreement and, as liquidated damages, draw on the Letters of Credit in their 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, at the sole cost and expense of Developer, free and clear of all liens and claims for payment. In the event District exercises its remedies contained in this Section 9.2.2, Developer shall not be entitled to or make any claim for return of any portion of any Lease Payment previously tendered.

9.2.3 Attorneys' Fees and Costs. The prevailing party in any legal action or proceeding to enforce the terms of this Agreement, shall be entitled to recover the costs incurred by it in such action or proceeding and reasonable attorneys' fees. If District is represented by the Office of the Attorney General for the District of Columbia, reasonable attorneys' fees shall be calculated based on the then applicable hourly rates established in the most current *Laffey* matrix prepared by the Civil Division of the United States Attorney's Office for the District of Columbia and the number of hours employees of the Office of the Attorney General for the District of Columbia prepared for or participated in any such litigation.

9.3 DEVELOPER REMEDIES IN THE EVENT OF DEFAULT BY DISTRICT

In the event of District Default under this Agreement, Developer may, as its sole remedies under this Agreement, (i) 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 or (ii) have the right to sue for specific performance of District's obligations hereunder. If specific performance is not available, Developer may seek damages from a court of competent jurisdiction and in accordance with Section 13.7. Any monetary damages sought by Developer shall be limited to reasonable third-party out-of-pocket costs and expenses that are incurred by Developer in connection with (A) Developer's Studies, title and survey preparation and examination, and any work performed under Section 2.3.1(d) hereof; (B) the design, planning, permitting and financing of the Project; and (C) the negotiation and preparation of this Agreement and any documents to be delivered at Closing under this Agreement or in connection with the Debt Financing or Equity Investment, including, without limitation, reasonable attorney's and accountant's fees and related expenses, architectural and engineering fees and the fees of other professionals involved in the preparation of the Project Drawings, consulting fees, costs relating to Permits and Permit expediters, financing fees and points, and insurance. In no event, however, shall District be liable for any consequential, punitive or special damages. In the event the District pays monetary damages as provided in this Section 8.3.1(b), Developer shall promptly deliver to District any third party work product, such as plans, reports and studies, to which such damages relate; provided, however, that the District's use of such work product shall be subject to any reasonable and customary restrictions contained in any applicable vendor agreements.

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 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 to an entity, other than an affiliate of the Developer, without the District's prior written approval, which may be granted or denied in the District's sole discretion. The foregoing restrictions shall also be included in the Construction Covenants and Ground Leases.

10.2 TRANSFER

In addition to the restrictions contained in the foregoing Section 10.1, neither Developer nor any Member of Developer (including any successors in interest of Developer or its Members) shall cause or suffer to be made any assignment, sale, conveyance or other transfer, or make any contract or agreement to do any of the same, whether directly or indirectly, of the membership interests of Developer; provided, however, that no membership interest shall be held by a Prohibited Person. Notwithstanding the foregoing, the Developer or its Members (including any successors in interest of Developer or its Members) may assign, sell, convey or otherwise transfer, whether directly or indirectly, the membership interests of Developer, with District's prior written approval, which shall not be unreasonably withheld, conditioned, or delayed as part of a financing plan as long as control of Developer remains with its current Managing Members. In no event shall the foregoing restrictions be deemed to prohibit or otherwise restrict transfers in ownership interest to any Member, including, without limitation, transfer for estate planning purposes. Upon achieving stabilization of the Improvements on the Square 495 Land, the foregoing restrictions on transfer shall no longer apply to the Square 495 Land (but shall continue to apply to the Square 494 Land). Upon achieving stabilization of the Improvements on the Square 494 Land, the foregoing restrictions shall no longer apply.

10.3 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; INDEMNIFICATION

11.1 INSURANCE OBLIGATIONS

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

(a) 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 District Property is located in a flood zone, insuring the interests of Developer, District and any contractors and subcontractors as named insureds as their interests may appear.

(b) 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 of not less than one million dollars ($1,000,000.00) 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, which must be maintained as primary coverage, and general aggregate of not less than ten million dollars ($10,000,000.00); 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.

(c) 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.

(d) 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.

(e) Contractor's Pollution Legal 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 not remove, store, transport,

or dispose of demolition debris, hazardous waste or contaminated soil, without first obtaining (or causing its contractor to obtain) a Contractor's Pollution Legal Liability Insurance Policy covering Developer's liability during such activities. The policy shall include such coverage for bodily injury, personal injury, loss of, damage to, or loss of use of property, directly or indirectly arising out of the discharge, dispersal, release or escape of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquid or gas, waste materials, or other irritants, contaminants, or pollutants into or upon the land, the atmosphere, or any water course or body of water, whether it be gradual or sudden and accidental.

11.1.2 General Policy Requirements. Developer shall name District as an additional insured under all policies 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. All insurance policies required pursuant to this Section 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. 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.

11.1.3 Payment of Premiums; Renewal. All premiums and charges for all insurance policies required under this Article 11 shall be paid by Developer or Developer's contractors or subcontractors. At least fifteen (15) days prior to the expiration of each insurance policy required hereunder, Developer shall pay, or cause to be paid, the premiums for the renewal of such insurance and prior to said period shall deliver to District the original or a certified copy of such policy or a certificate or binder on and duplicate receipt (or other written documentation) evidencing the payment thereof. If Developer or Developer's contractors or subcontractors fail to make any such payment when due, or carry any such policies, and such failure shall continue for a period of five (5) Business Days after District's notice to Developer of such failure, in addition to those remedies contained in Section 9.2, District may, but shall not be obligated to, make such payment or carry such policies. The amount paid by District shall be reimbursed to District by Developer within ten (10) Business Days after District's demand therefor or shall bear interest at the Default Rate until paid. The obligations of Developer to reimburse District as provided in the immediately foregoing sentence shall survive Closing or the earlier termination of this Agreement.

11.2 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, 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.

ARTICLE 12
NOTICES

12.1 TO DISTRICT

Any notices given under this Agreement ("**Notice**") 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:

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

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 Notice 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:

Geoffrey H. Griffis
CityPartners, LLC
1817 Adams Mill Road, NW
Suite 200
Washington, DC 20009

With a copy to:
Barry A. Haberman, Esquire
51 Monroe Street
Suite 1507
Rockville, Maryland 20850

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 District Property for development, convey the District 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 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. Further, no employee, officer, director, member, manager 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 Lease transferring title to the District 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 AND MANNER OF PERFORMANCE AND CONSENT

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. Whenever the consent or approval of one party is requested by the other, that consent or approval will not, unless otherwise provided in this Agreement, be unreasonably withheld, conditioned or delayed.

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 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 the 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 the 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.

13.17 MAYOR'S APPROVAL

To the extent the Resolution requires this Agreement to contain certain provisions which the Mayor is authorized in the Resolution to vary, the Mayor has determined that it is the District's interest to approve the terms incorporated in this Agreement.

13.18 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.

13.19 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.

13.20 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.

13.21 PATRIOT ACT

Neither Developer nor any Person owning directly or indirectly any interest in Developer 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 District 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. Neither Developer nor any Person owning directly or indirectly any interest in Developer (a) is or will be conducting any business or engaging 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 (b) is a person described in Section 1 of the Anti-Terrorism Order.

[SIGNATURES ON FOLLOWING PAGE]

IN TESTIMONY WHEREOF, District has caused these presents to be signed, acknowledged and delivered in its name by Valerie-Joy Santos the Deputy Mayor for Planning + Economic Development its duly authorized representative.

WITNESS:

Matthew J. Troy

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

BY: _____
Name: Valerie-Joy Santos
Title: Deputy Mayor

APPROVED AS TO LEGAL SUFFICIENCY

BY: _____
Assistant Attorney General

IN TESTIMONY WHEREOF, District has caused these presents to be signed, acknowledged and delivered in its name by _____, the _____, its duly authorized representative.

WITNESS:

DISTRICT OF COLUMBIA, by and through the Department of Real Estate Services

BY: _____
Name: Robin-Eve Jasper
Title: Chief Property Management Officer

APPROVED AS TO LEGAL SUFFICIENCY

BY: _____
Assistant Attorney General

IN TESTIMONY WHEREOF, District has caused these presents to be signed, acknowledged and delivered in its name by Valerie-Jay Santos the Deputy Mayor for Planning, + Economic Development its duly authorized representative.

WITNESS:

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

Matthew S. Troya

BY: _____
Name: Valerie-Jay Santos
Title: Deputy Mayor

APPROVED AS TO LEGAL SUFFICIENCY

BY: _____
Assistant Attorney General

IN TESTIMONY WHEREOF, District has caused these presents to be signed, acknowledged and delivered in its name by _____, the _____, its duly authorized representative.

WITNESS:

DISTRICT OF COLUMBIA, by and through the Department of Real Estate Services

BY: _____
Name: Robin-Eve Jasper
Title: Chief Property Management Officer

APPROVED AS TO LEGAL SUFFICIENCY

BY: _____
Assistant Attorney General

Exhibits:

Exhibit A – Legal Description of Property
Exhibit B-1 – Square 495 Ground Lease
Exhibit B-2 – Square 494 Ground Lease
Exhibit C-1 – Square 495 Construction Covenant
Exhibit C-2 – Square 494 Construction Covenant
Exhibit D – Form Letter of Credit
Exhibit E – Development and Completion Guaranty
Exhibit F – Schedule of Performance
Exhibit G – Initial Project Budget and Funding Plan
Exhibit H – Operating Agreement
Exhibit I-1 – Square 495 Right of Entry
Exhibit I-2 – Square 494 Right of Entry
Exhibit J – Compliance Form
Exhibit K – CBE Agreement
Exhibit L – First Source Agreement
Exhibit M – Intentionally Omitted
Exhibit N – Reciprocal Easement Agreement
Exhibit O – Service Contracts and Leases

EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

Legal Description

Lot One hundred two (102) in Square numbered Four hundred Ninety-five (495) in the subdivision made by District of Columbia Redevelopment Land Agency of lots in Square 495, as per plat recorded in Liber 140 at folio 156 in the Office of the Surveyor for the District of Columbia

Legal Description

Lot Thirty-six (36) in Square numbered Four Hundred Ninety-four (494) in the subdivision made by the District of Columbia Redevelopment Land Agency as per plat recorded in Liber 203 at folio 36, of the Records of the Office of the Surveyor for the District of Columbia.

Property Address: 450 6th Street, Washington, D.C.

EXHIBIT B-1
SQUARE 495 GROUND LEASE

GROUND LEASE

among

DISTRICT OF COLUMBIA

as Landlord

and

E STREET DEVELOPMENT GROUP, LLC

as Tenant

Dated as of _____ ____, 201_

TABLE OF CONTENTS

GROUND LEASE

THIS GROUND LEASE (the "**Lease**"), dated as of _____ ____, 200___, is entered into by and among the **DISTRICT OF COLUMBIA** (the "**District**"), a public body municipal and corporate acting in its own name, and **E STREET DEVELOPMENT GROUP, LLC** ("**Tenant**"), a District of Columbia limited liability company.

RECITALS:

A. District is the fee simple owner of the parcel of real property located at 501 Fourth Street, S.W. in Washington, D.C., known for tax and assessment purposes as Lot 0102 in Square 0495, and further described in **Exhibit A**, attached hereto and incorporated herein ("**Land**").

B. Pursuant to D.C. Official Code § 10-801 (2008 Supp.) and to the Fourth/Sixth and E Street, S.W. Property Disposition Approval Resolution of 2009 (Resolution 18-290), the District is authorized to lease the Land in connection with the development on the Land of the Improvements (as defined below).

C. Tenant desires to lease the Land (including certain subsurface and air rights) less and except the Reserved Property from District, together with: (i) any and all improvements currently existing and located thereon; and (ii) all other appurtenances, rights, easements, rights-of-way, tenements and hereditaments incident thereto, including all development rights and entitlements (all of the foregoing rights and interests being further described in **Exhibit A-1** and hereinafter sometimes referred to as the "**Leased Premises**").

D. District will reserve and except from the Leased Premises certain portions of the Land, including the Fire Station Air Rights, as described in **Exhibit A-2** and certain other Reserved Rights as are necessary or convenient for the construction, support and operation of the New Fire Station ("**Reserved Property**").

E. District and Tenant entered into a Land Disposition and Development Agreement, effective _____, 2010 (the "**Agreement**"), pursuant to which District agreed to lease the Leased Premises, in accordance with terms and conditions of this Lease, the Construction Covenant and the Reciprocal Easement Agreement, as applicable.

NOW, THEREFORE, in consideration of the foregoing premises and the mutual representations, warranties, covenants and agreements set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the District and Tenant hereby agree as follows:

ARTICLE I
DEFINITIONS

As used herein, the capitalized terms set forth below have the following meanings and such meanings shall also apply to the plural form of any capitalized term as it my be used in this Lease:

Affiliate means with respect to any Person ("first Person") (i) any other Person directly or indirectly Controlling, Controlled by, or under common Control with such first Person, (ii) any officer, director, partner, shareholder, manager, member or trustee of such first Person, or (iii) any officer, director, general partner, manager, member or trustee of any Person described in clauses (i) or (ii) of this sentence.

Alterations shall have the meaning as described in Section 7.4.

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

Approved Plans and Specifications is as defined in the Construction Covenant.

Architect shall mean Beyer, Blinder, Belle and Nelson Architects.

Basic Rent shall have the meaning set forth in Section 4.1.

Building Index shall have the meaning as defined in Section 12.8.

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

Casualty Restoration shall have the meaning as defined in Section 12.12.

CBE shall mean a Person that has been issued a certificate of registration by DSLBD pursuant to the CBE Act.

CBE Act shall mean the *Small, Local, and Disadvantaged Business Development and Assistance Act of 2005*, D.C. Law 16-33, as amended (codified at D.C. Official Code §§ 2-218.01 et seq.).

CBE Agreement shall mean the agreement in customary form between Tenant and DSLBD regarding the utilization and participation of CBEs in connection with the development and operation of the Project.

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

Construction Covenant means that certain Construction Covenant dated as of even date hereof with respect to the Land and recorded among the Land Records.

Construction Work shall mean any construction work performed after District's issuance of the Final Certificate of Completion of the Project Improvements under any provision of this Lease, including, without limitation, a Casualty Restoration, Alteration or other construction work performed in connection with the use, maintenance or operation of the Leased Premises.

Control means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management and policies of a Person, whether through ownership of voting securities, membership interests or partnership interests, by contract or otherwise, or the power to elect fifty percent (50%) of, as applicable, the directors, managers, managing partners or Persons exercising similar authority with respect to the subject Person. The terms "**Control**," "**Controlling**," "**Controlled by**" or "**under common Control with**" shall have meanings correlative thereto.

CPI Index shall mean the Consumer Price Index for Urban Wage Earners and Clerical Workers, 2008 Base Period, All Items, Washington-Baltimore, DC-MD-VA-WV published by the United States Department of Labor, Bureau of Labor Statistics. If at any time the CPI Index shall be discontinued, District shall select a substitute index being an existing official index published by the Bureau of Labor Statistics or its successors or another, similar governmental agency, which index is most nearly equivalent to the CPI Index.

Default shall mean any condition or event, or failure of any condition or event to occur, which constitutes, or would after the giving of notice and lapse of time (in accordance with the terms of this Lease) constitute, an Event of Default.

Default Notice shall have the meaning set forth in Section 9.1.

Default Rate means the annual rate of interest that is the lesser of (i) twelve percent (12%) or (ii) the maximum rate allowed by Applicable Law.

Designee shall mean any Person (including, without limitation, an Affiliate of a Leasehold Mortgagee) that is not a Prohibited Person or an Affiliate of Tenant and that is the designee or nominee of a Leasehold Mortgagee for the purposes of a Foreclosure Transfer.

District shall mean the District of Columbia, a public body, municipal and corporate.

District Indemnified Parties shall mean, collectively, the District, including, without limitation, any agencies, instrumentalities and departments thereof, and its elected and appointed officials (including, without limitation, the Mayor and the Council), officers, employees (including contract employees), assigns, and Affiliates of any of them.

DOES shall mean the District of Columbia Department of Employment Services.

DSLBD shall mean the District of Columbia Department of Small and Local Business Development.

Environmental Condition shall mean any condition during the Lease Term with respect to the Environment on or off the Leased Premises, whether or not yet discovered, which could or does result in any Environmental Damages, including any condition resulting from the operation of the Project or that of any other property in the vicinity of the Leased Premises or any activity or operation formerly conducted by any Person on or off the Leased Premises.

Environmental Damages shall mean all claims, judgments, damages (including punitive damages), losses, penalties, fines, liabilities (including strict liability), encumbrances, liens, costs and expenses of investigation and defense of any claim, whether or not such is ultimately defeated, and of any settlement or judgment, of whatever kind or nature, contingent or otherwise, matured or unmatured, foreseeable or unforeseeable, any of which are incurred at any time as a result of the remediation or mitigation of an Environmental Condition, including, without limitation, fees incurred for the services of attorneys, consultants, contractors, experts, laboratories and all other costs incurred in connection with investigation and remediation, including the preparation of any feasibility studies or reports and the performance of any remedial, abatement, containment, closure, restoration or monitoring work.

Environmental Laws means any present and future federal, state or local law and any amendments (whether common law, statute, rule, order, regulation or otherwise relating to (a) the protection of health, safety, and the indoor or outdoor environment; (b) the conservation, management, or use of natural resources and wildlife; (c) the protection or use of surface water and groundwater; (d) the management, manufacture, possession, presence, use, generation, transportation, treatment, storage, disposal, release, threatened release, abatement, removal, remediation, or handling of or exposure to Hazardous Materials; or (e) pollution (including any release to air, land, surface water, and groundwater), and includes, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601 et seq.; the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, and subsequently amended, 42 U.S.C. § 6901 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. § 5101 et seq.; the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. § 1251 et seq.; the Oil Pollution Act of 1990, 33 U.S.C. § 32701 et seq.; the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, 7 U.S.C. § 136-136y, the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.; the Toxic Substances Control Act of 1976, as amended, 15 U.S.C. § 2601 et seq.; the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. § 300f et seq.; the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11001 et seq.; the Occupational Safety and Health Act of 1970, 29 U.S.C. § 651 et seq.; the National Environmental Policy Act of 1969, 42 U.S.C. § 4321 et seq.; and any similar, implementing or successor law, and any amendment, rule, regulatory order or directive issued thereunder.

Equity Interest shall mean with respect to any entity, (A) the legal (other than as a nominee) or beneficial ownership of outstanding voting or non-voting stock of such entity if such entity is a business corporation, a real estate investment trust or a similar entity, (B) the legal (other than as a nominee) or beneficial ownership of any partnership, membership or other voting or non-voting ownership interest in a partnership, joint venture, limited liability company or similar entity, (C) a legal (other than as a nominee) or beneficial voting or non-voting interest in a trust

if such entity is a trust, and (D) any other voting or non-voting interest that is the functional equivalent of any of the foregoing.

Event of Default shall have the meaning set forth in Section 9.1.

Expiration Date shall mean that date immediately preceding the ninety-ninth (99th) anniversary of the Commencement Date.

Final Certificate of Completion is that certificate issued by District pursuant to the Construction Covenant.

Final Completion is as defined in the Construction Covenant.

Final Project Budget and Funding Plan is as defined in the Construction Covenant.

Fire Station Air Rights is defined in the definition of "**Reserved Property**".

First Source Agreement shall mean the First Source Employment Agreement between DOES and Tenant entered into prior to the Commencement Date.

Force Majeure Event 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 Commencement Date, so long as such act or event (i) is not within the reasonable control of the Tenant, Tenant Agents, or its Members; (ii) is not due to the fault or negligence of Tenant, Tenant Agents, or its Members; (iii) the effect of which is not reasonably foreseeable and avoidable by the Tenant, Tenant 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 Tenant or District, as applicable; but specifically excluding (A) shortage or unavailability of funds or Tenant's financial condition, (B) changes in market conditions such that action as contemplated by this Lease is no longer practicable under the circumstances, or (C) the acts or omissions of a general contractor, its subcontractors, or any of Tenant's Agents or Members. 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 Tenant shall be extended for the period of the Force Majeure Event.

Foreclosure Transfer shall mean a transfer, sale or assignment occurring as a result of the foreclosure of, or other action in enforcement of, a Leasehold Mortgage, or any transfer, sale or assignment of any or all of the Leasehold Estate, or any other transfer, sale or assignment of all or any part of the Leasehold Estate by judicial or other proceedings under, pursuant or pertaining to a Leasehold Mortgage, or by virtue of the exercise of any power or right contained in a Leasehold Mortgage, or by assignment or other conveyance-in-lieu of foreclosure or other action in enforcement of a Leasehold Mortgage, or otherwise, or a transfer of all of the Equity Interests

in Tenant or a Controlling interest occurring as a result of, or pursuant to, or in connection with a pledge, hypothecation or other collateral assignment of such Equity Interests, or any sale, transfer or assignment of all of the Equity Interests in Tenant or a Controlling Interest, or in any Person holding, directly or indirectly, all of the Equity Interests in Tenant or a Controlling interest, or in any Person holding, directly or indirectly, all of the Equity Interests in Tenant or a controlling interest by virtue of, or pursuant to, any right or power contained in a Leasehold Mortgage or in any other document or instrument evidencing or securing a loan secured by a Leasehold Mortgage, or by deed, assignment or other conveyance of all of such Equity Interests or a Controlling Interest in lieu of a foreclosure, sale or other enforcement action, or otherwise (it being the intention of the Parties that the term "Foreclosure Transfer" shall be given the broadest possible interpretation to cover, reach, include and permit any sale, assignment or transfer whatsoever, and however effected or structured, of some or all of the Leasehold Estate, all of the Equity Interests in Tenant or in any Person holding, directly or indirectly, all of the Equity Interests in Tenant following an uncured default under a Leasehold Mortgage (including any document or instrument, whether or not recorded, that evidences or secures a debt secured by a Leasehold Mortgage)): (x) to a Leasehold Mortgagee or its Designee or Foreclosure Transferee; or (y) to any Person that is not a Prohibited Person and that purchases or otherwise acquires some or all of the Leasehold Estate, or all of the Equity Interests in Tenant or a Controlling Interest from a Leasehold Mortgagee after such Leasehold Mortgagee has purchased or otherwise acquired some or all of the Leasehold Estate, or all of the Equity Interests in Tenant or a Controlling interest in a Foreclosure Transfer described in the immediately preceding clause (x).

Foreclosure Transferee shall mean (x) any Person (including, where appropriate and without limitation, a Leasehold Mortgagee) that is not a Prohibited Person and that acquires some or all of the Leasehold Estate, or all of the Equity Interests in Tenant or in any Person holding, directly or indirectly, all of the Equity Interests in Tenant pursuant to a Foreclosure Transfer, or (y) any Person not already described in the immediately preceding clause (x) that is not a Prohibited Person and that purchases or otherwise acquires some or all of the Leasehold Estate or all of the Equity Interests in Tenant as a result of any action whatsoever in enforcement (or in lieu thereof) of any power or right granted by, or existing under, a Leasehold Mortgage.

Governmental Authority shall mean any national, federal, state, local or other government or political subdivision or any agency, authority, board, bureau, commission, department or instrumentality thereof, or any court, tribunal, grand jury or arbitrator.

Hazardous Materials means (a) asbestos and any asbestos containing material; (b) any substance that is then defined or listed in, or otherwise classified pursuant to, any Environmental Law or any other Applicable Law as a "hazardous substance," "hazardous material," "hazardous waste," "infectious waste," "toxic substance," or "toxic pollutant"; (c) any petroleum and drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources; and (d) any petroleum product, polychlorinated biphenyls, urea formaldehyde, radon gas, radioactive material (including any source, special nuclear or by-product material), medical waste, chlorofluorocarbon, lead or lead-based product and any other substance the presence of which could be detrimental to the

Property or hazardous to health or the environment.

Imposition or **Impositions** shall mean the following imposed by a Governmental Authority or any Person under any lien, easement, encumbrance, covenant or restriction affecting the Leased Premises: (1) real property taxes and general and special assessments (including, without limitation, any special assessments for business improvements or imposed by any special assessment district), or any payments in lieu of any taxes or assessments; (2) personal property taxes; (3) water, water meter and sewer rents, rates and charges; (4) excises; (5) levies; (6) license and permit fees; (7) any other governmental levies of general application, fees, rents, assessments or taxes and charges, general and special, ordinary and extraordinary, foreseen and unforeseen, now or hereafter enacted of any kind whatsoever; (8) service charges of general application with respect to police and fire protection, street and highway maintenance, lighting, sanitation and water supply; (9) fees, assessments or charges payable under any lien, encumbrance, covenant or restriction affecting the Leased Premises; and (10) any fines, penalties and other similar governmental or other charges applicable to the foregoing, together with any interest or costs with respect to the foregoing.

Improvement(s) shall mean any building (including footings and foundations) and other improvements and appurtenances of every kind and description now existing or hereafter erected, constructed, or placed, above or below grade, upon the Leased Premises (whether temporary or permanent), including, but not limited to, the Project Improvements, and any and all Alterations and replacements thereof, additions thereto and substitutions therefor.

Institutional Lender shall mean a Person that is not an Affiliate of Tenant or a Prohibited Person and is (i) a commercial bank, savings and loan association, trust company or national banking association, acting for its own account; (ii) a finance company principally engaged in the origination of commercial mortgage loans; (iii) an insurance company, acting for its own account; (iv) a public employees' pension or retirement system, or any other governmental agency supervising the investment of public funds; (v) a pension, retirement, or profit-sharing, or commingled trust or fund for which any bank, trust company, national banking association or investment adviser registered under the Investment Advisors Act of 1940, as amended, is acting as trustee or agent; (vi) a publicly traded real estate investment trust; (vii) a governmental agency; or (viii) a charitable organization regularly engaged in making loans secured by real estate or (ix) any other source of funding, public or private, which is not an Affiliate of Developer or a Prohibited Person and is otherwise acceptable to District in its reasonable discretion.

Land shall have the meaning set forth in the Recitals.

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

Lease shall mean this Ground Lease between the District and Tenant.

Lease Term shall have the meaning set forth in Section 3.1.

Leased Premises shall have the meaning set forth in the Recitals.

Leasehold Estate shall mean Tenant's interest in this Lease and the Project Improvements constructed on the Leased Premises.

Leasehold Mortgage shall mean any mortgage, deed of trust or other similar security instrument (including all extensions, spreaders, splitters, consolidations, restatements, replacements, modifications and amendments thereof) made for the benefit of a Leasehold Mortgagee in accordance with the terms and provisions of this Lease that secures a loan made to Tenant by and for the benefit of a Leasehold Mortgagee and constitutes a lien on the Leasehold Estate.

Leasehold Mortgagee shall mean an Institutional Lender who owns, holds or controls a Leasehold Mortgage.

Management Contract is that certain management agreement by and between Tenant and _____ and any successor approved by District (if applicable) pursuant to Section 6.4 that provides for the day-to-day operations and management of the Leased Premises.

Member shall mean any Person with an ownership interest in Tenant.

Net Insurance Proceeds shall mean the actual amount of insurance proceeds paid following a fire or other insured casualty.

New Fire Station shall mean the new fire station being constructed on the Land to replace the existing Engine Company 13 fire station in accordance with the Construction Covenant.

Notice shall have the meaning set forth in Section 16.8.

Operating Agreement means that certain Operating Agreement by and between the Members of Tenant dated _____2009.

Party or **Parties** shall mean the District and Tenant, either individually or collectively.

Permitted Materials means any Hazardous Materials that are reasonably and customarily required for the conduct of Tenant's operation of the Leased Premises as a use permitted under this Lease.

Permitted Uses shall mean (a) prior to Final Completion, the development and construction on the Leased Premises of a project as set forth in the Agreement and in accordance with the Approved Plans and Specifications and the approved final entitlements obtained for the Land and (b) subsequent to Final Completion, the use of the Project Improvements in accordance with this Lease and all Applicable Laws, including all zoning laws and regulations.

Person shall mean any individual, limited liability company, partnership, corporation, association, business, trust, 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 Laws 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 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 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.

Prohibited Uses means the uses of the Leased Premises by Tenant that are prohibited under Section 2.3.

Project Improvements means those improvements constructed on the Leased pursuant to the Construction Covenant.

Reciprocal Easement Agreement or "**REA**" means that agreement executed by the Parties of even date herewith providing for such easements, covenants and other rights on the Land and governing the use, maintenance and operation of the Improvements on the Land.

Release shall mean any releasing, seeping, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, disposing or dumping of Hazardous Materials into the Environment.

Replacement Value shall have the meaning as defined in Section 12.8.

Rent shall mean the Basic Rent.

Reserved Property shall mean the (i) air rights necessary to construct the New Fire Station in accordance with the Construction Covenant ("**Fire Station Air Rights**"), and (ii) such

easements, covenants and other rights ("**Reserved Rights**") in the Land as are necessary or convenient for the support and operation of the New Fire Station as contained in the Reciprocal Easement Agreement, including without limitation an easement to provide parking for the New Fire Station and SUBJECT TO such easements, covenants and other rights in, to, under or over the Fire Station Air Rights respectively, as are necessary or convenient for the support and operation of the Project. The Reserved Property is more particularly described in **Exhibit A-2**.

Reserved Rights is defined in the definition of "**Reserved Property**".

Significant Alteration shall mean any Alteration (or series of related Alterations) that (i) changes the exterior design, the massing, or the core elements of the Improvements (i.e. elevators, stairwells, MEP risers and service and mechanical rooms); (ii) changes or modifies the structural integrity of the Improvements; (iii) changes or modifies the quality of material or finishes used in the Improvements in an adverse manner, or (iv) has an estimated cost of more than ten percent (10%) of the construction cost of the Improvements in the aggregate, as adjusted pursuant to the CPI index other than tenant improvement work. The parties acknowledge and agree that normal and customary tenant improvement work consistent with then prevailing market terms and conditions shall not constitute a Significant Alteration.

Stabilization Date shall mean the date on which (a) the New Fire Station is fully operational, as certified in writing by the Chief of the District of Columbia Fire and Emergency Medical Services Department; and (b) a Certificate of Occupancy has been issued for the remainder of the Improvements on the Leased Premises.

Sublease shall mean any sublease of a portion of the Improvements in the ordinary course of business, and any subsequent amendments or modifications thereto, which sublease shall (a) contain or incorporate all of the terms, conditions and provisions of this Lease, and (b) be subject and subordinate to this Lease.

Tenant means E Street Development Group, LLC, and any successors and authorized assigns under this Lease.

Tenant Agents mean the Tenant's agents, employees, consultants, contractors, and representatives.

Transferee means purchaser, assignee, transferee or sublessee (other than via a Sublease) as a result of a Transfer.

Transfer means any sale, assignment, conveyance, lease, sublease (other than a Sublease), trust, power, encumbrance or other transfer (whether voluntary, involuntary or by operation of law) of this Lease, the Leased Premises, Improvements, or the Leasehold Estate, or of any portion of any of the foregoing, or of any interest in any of the foregoing, or any contract or agreement to do any of the same. As used in this Lease, a Transfer shall also be deemed to have occurred if in a single transaction or a series of transactions (including without limitation, increased capitalization, merger with another entity, combination with another entity, or other

amendments, issuance of additional or new stock, partnership interests or membership interests, reclassification thereof or otherwise), whether related or unrelated, there is any decrease in the percentage of ownership interests in Tenant held by any Member and there is a change in Control of Tenant from that existing as of the Commencement Date.

ARTICLE II
LEASE OF LEASED PREMISES

2.1 Lease. In consideration of the Rent, terms, covenants, and agreements hereinafter set forth on the part of Tenant and District, the District does hereby grant, demise, and let to Tenant, and Tenant hereby takes and leases from District, on the terms, covenants, and agreements hereinafter provided, the Leased Premises to have and to hold for and during the Lease Term.

2.2 Use.

2.2.1 *Continuous Legal Use*. Throughout the Lease Term, Tenant shall use and operate the Leased Premises as required by the terms of this Lease. In any event, the Leased Premises shall be used only in accordance with the applicable Certificate of Occupancy, as it may be amended.

2.2.2 *Scope of Use for the Leased Premises*. Prior to Final Completion, Tenant shall use the Leased Premises only in accordance with the Construction Covenant. Tenant shall, from and after Final Completion, actively and continuously use and operate the Leased Premises for the Permitted Uses. Notwithstanding the preceding sentence, Tenant reserves the right to close or restrict access to any portion of the Leased Premises in connection with Alterations or repairs related to Casualty Restoration, or condemnation or maintenance work, in each case undertaken in accordance with the provisions of this Lease or to such extent as may, in the reasonable opinion of Tenant's counsel, be legally necessary to prevent a dedication thereof or the accrual of prescriptive rights to any Person or Persons.

2.3 Prohibited Uses.

2.3.1 Tenant shall not use or occupy the Leased Premises or any part thereof, and neither permit nor knowingly suffer the Leased Premises or any party thereof to be used or occupied, for any of the following ("**Prohibited Uses**"):

(i) for any unlawful or illegal business, use or purpose;

(ii) any illegal gambling;

(iii) for any use which is a public nuisance;

(iv) in such manner as may make void or voidable any insurance then in force with respect to the Leased Premises;

(v) in such manner as may interfere or impede District's use of the Reserved Property; or

(vi) any use inconsistent with Section 2.2.

2.3.2 Immediately upon its discovery of any Prohibited Use, Tenant shall take all reasonably necessary steps, legal and equitable, to compel discontinuance of such business or use, including, if necessary, the removal from the Leased Premises of any subtenants, licensees, invitees or concessionaires, subject to Applicable Laws.

2.4 Quiet Enjoyment. Except during the continuance of an Event of Default, Tenant shall have the right to quiet enjoyment of the Leased Premises and its other rights under this Lease without hindrance or interference by District or by any Person lawfully claiming through or under the District.

ARTICLE III
TERM

3.1 Term of Lease. The term of this Lease (the "**Lease Term**") shall commence on the Commencement Date and continue until the earlier of (i) 11:59 p.m., Washington D.C. time, on the Expiration Date or (ii) the effective time of a termination in accordance with Section 3.2. On the Commencement Date, the District shall deliver possession of the Leased Premises to Tenant.

3.2 Early Termination. The Lease Term shall terminate prior to the Expiration Date upon the occurrence of (i) written agreement of the Parties to terminate this Lease; or (ii) termination of this Lease in accordance with the provisions hereof.

3.3 Return of Leased Premises. Upon the Expiration Date or in the event of termination pursuant to Section 3.2, Tenant shall peaceably surrender possession of the Leased Premises, including all Improvements, to the District.

3.4 Holding Over. If Tenant or any Person acting by or through Tenant shall retain possession of the Leased Premises after expiration of the Lease Term without the consent of the District, Tenant shall be a tenant at sufferance. For the period during which Tenant or such Person so retains possession of the Leased Premises, Tenant shall pay Basic Rent in an annual amount equal to the sum of ten percent (10%) of the then appraised value of the fee interest in the Leased Premises and Improvements, as determined by the District in its sole and absolute discretion. Tenant shall pay as Additional Rent any costs and expenses of an appraisal incurred by the District in connection with this Section 3.4. Tenant shall indemnify the District Indemnified Parties and hold them harmless from and against all liabilities, damages, obligations, losses and expenses sustained or incurred by them by reason of such retention of possession of the Leased Premises by Tenant or such Person, except to the extent the same is the result of or arises directly out of the gross negligence or intentional misconduct of the District Indemnified Parties. If the retention of possession of the Leased Premises is with the written consent of the District, such tenancy shall be from month-to-month and in no event from year-to-

year or any period longer than month-to-month. The provisions of this Section 3.4 shall not constitute a waiver by the District of any re-entry rights or remedies of the District available under this Lease. Except as modified by this Section 3.4, all terms and provisions of this Lease shall apply during any holdover period. During any such holdover period, each Party shall give to the other at least thirty (30) days notice to quit the Leased Premises, except in the event of nonpayment of Rent when due, or of the breach of any other covenant by Tenant, in which event Tenant shall not be entitled to any notice to quit, the usual thirty (30) days notice to quit being expressly waived. Notwithstanding the foregoing provisions of this Section 3.4, if the District shall desire to regain possession of the Leased Premises promptly at the expiration of the Lease Term, the District may re-enter and take possession of the Leased Premises by any legal action or process then in force in the District of Columbia.

ARTICLE IV
RENT AND IMPOSITIONS

4.1 Basic Rent. On the Commencement Date of this Lease, Tenant has paid to District [Two Million Five Hundred Thousand Dollars ($2,500,000.00)] as aggregate minimum basic rent for the Leased Premises for the Lease Term ("**Basic Rent**"), receipt of which is hereby acknowledged by District. Except for the foregoing payment, no other Rent shall be due and payable under this Lease.

4.2 Intentionally Omitted.

4.3 No Offsets or Deductions. It is intended that the Rent payable throughout the Lease Term shall be an absolutely net return to District, without offset or deduction and free of any loss, cost, expense, charges, diminution or other deductions whatsoever, and all costs, expenses and obligations of every kind and nature with respect to the Leased Premises shall be the sole and absolute responsibility of Tenant.

4.4 Manner of Payment. Rent and all other amounts payable by Tenant under this Lease to District as Landlord shall be paid in legal tender of the United States of America by, at the election of District, as applicable, with reasonable prior notice to Tenant, wire transfer or check drawn on a United States bank (subject to collection), to District at the applicable address designated herein or at such other address of District as District may designate from time to time by notice to Tenant. The District's acceptance of Rent or other amounts paid under this Lease after the same shall have become due shall excuse a delay in payment by Tenant on a subsequent occasion. Notwithstanding the foregoing, Tenant shall pay Impositions and Additional Rent (unless directly payable to District pursuant to the terms of this Lease) directly to the applicable taxing or other authority imposing or due same.

4.5 Payment of Impositions.

4.5.1 *Obligation to Pay Impositions*. From and after the Commencement Date, Tenant shall pay, in the manner provided in Section 4.5.2 below, all Impositions that at any time

thereafter are assessed, levied, confirmed, imposed upon, or charged to Tenant, or the Leased Premises with respect to (i) the Leased Premises, or (ii) any vault, passageway or space in, over or under any sidewalk or street in front of or adjoining the Leased Premises unless same is utilized solely by the District and/or the New Fire Station, or (iii) any other appurtenances of the Leased Premises unless same is utilized solely by the District and/or the New Fire Station, or (iv) any personal property or other facility used by Tenant in the operation thereof, or (v) any document to which Tenant is a party creating or transferring an interest in the Leasehold Estate, by or to Tenant, or (vi) the use and occupancy of the Leased Premises, or (vii) the activities and/or the transactions contemplated by this Lease. Nothing in this Section 4.5 shall prevent Tenant from pursuing or applying for an available tax exempt use or classification for any portion(s) of the Improvements if such use or classification is otherwise allowed by applicable law.

4.5.2 *Payment of Impositions*. Tenant shall arrange to be separately billed for, and shall pay the Impositions to the applicable Governmental Authority assessing or imposing such Imposition. Tenant shall pay each Imposition or installment thereof not later than the date the same may be paid without interest or penalty (which is the date of delinquency) directly to the applicable Governmental Authority. However, if by law of the applicable Governmental Authority any Imposition may at the taxpayer's option be paid in installments (whether or not interest shall accrue on the unpaid balance of such Imposition), Tenant may exercise the option to pay the Imposition in such installments and shall be responsible for the payment of such installments with interest, if any.

4.5.3 *Evidence of Payment*. Tenant shall furnish to the District, within ten (10) Business Days after the date of the District's request therefor, an official receipt of the appropriate taxing authority or other charging party or other proof reasonably satisfactory to District, evidencing the payment of the Imposition.

4.5.4 *Evidence of Non-Payment*. Any certificate, advice or bill of the appropriate official designated by law to make or issue the same or to receive payment of any Imposition asserting non-payment of such Imposition shall be prima facie evidence that such Imposition is due and unpaid at the time of the making or issuance of such certificate, advice or bill, at the time or date stated therein. Tenant shall, immediately upon receipt of any such certificate, advice or bill, deliver a copy of the same to the District.

4.5.5 *Survival*. The provisions of this Section 4.5 shall survive the expiration of the Lease Term, until any Imposition that may be due and owing under this Lease has been paid in full.

4.5.6 *Contest of Impositions*. Tenant shall have the right to contest, at its sole cost and expense, the amount or validity, in whole or in part, of any Imposition by appropriate proceedings diligently conducted in good faith, in which event payment of such Imposition may be postponed, to the extent permitted by Applicable Laws, if, and only as long as: (i) Such contest is commenced within the time period allowed under Applicable Law for the commencement of such contest and Tenant notifies the District in writing of any such contest

relating to any Imposition which is payable to the District, including but not limited to any District taxes; and (ii) Neither the Leased Premises nor any part thereof or interest therein would, by reason of such postponement or deferment, be, in the reasonable judgment of the District, in danger of being forfeited to a Governmental Authority.

ARTICLE V
APPLICABLE LAWS

5.1 Compliance with Applicable Laws. During the Lease Term, Tenant shall comply with all Applicable Laws (including, without limitation, Environmental Laws). Without limiting the generality of the foregoing:

(a) Tenant shall maintain and comply with all permits, licenses and other authorizations required by any Governmental Authority for its use of the Leased Premises and for the proper operation, maintenance and repair of the Leased Premises or any part thereof.

(b) Neither Tenant nor any Tenant Party shall use, handle, store, generate, manufacture, transport, discharge, or release any Hazardous Materials in, on or under the Leased Premises, except that Tenant may use, store, handle, transport and dispose of Permitted Materials. Tenant shall promptly notify the District, and provide copies promptly after receipt, of all written complaints, claims, citations, demands, inquiries, reports, or notices relating to compliance or non-compliance with Applicable Laws at the Leased Premises or the use, storage, handling, transportation, disposal, or release of Hazardous Materials in, on or under the Leased Premises by Tenant or a Tenant Party; provided, however, that the District's receipt of any of the foregoing shall in no way create or impose any duty or obligation upon the District to respond thereto. To the extent required by Applicable Laws, Tenant shall, at its sole cost and subject in all respects to the prior written notification to the District thereof, promptly clean up, remove and otherwise fully remediate, in compliance with all Applicable Laws, any Hazardous Materials (other than Permitted Materials) situated in, on, or under the Leased Premises except to the extent any such materials are placed on the Leased Premises by District or arise from the Fire Station Air Rights and the District's use thereof.

(c) If Tenant fails to timely and fully perform any of the work described in the preceding paragraph or if Tenant does not diligently pursue such work, in addition to any other remedies that may be provided in Article IX of this Lease, the District may, in its sole discretion and to the exclusion of Tenant, after notice to Tenant and the failure of Tenant to cure within the applicable cure period set forth below, cause the necessary cleanup, removal or other remedial work to be performed and, in such event, all costs and expenses reasonably incurred by the District in connection therewith shall be paid by Tenant. If the District elects to cause the necessary cleanup, removal or other remedial work to be performed as provided above, there shall be no abatement or reduction of Rent, and Tenant hereby waives any claim or right that it may have to any such reduction or abatement of Rent and for damages for any injury or inconvenience with Tenant's business or loss of occupancy or quiet enjoyment or any other loss occasioned by the performance of such work. Tenant's obligations hereunder shall survive the expiration or earlier termination of the Lease.

(d) Upon the expiration or earlier termination of this Lease or Tenant's vacation of the Leased Premises, Tenant shall, at its sole cost, immediately remove and otherwise fully remediate in compliance with all Applicable Laws, all Permitted Materials (including, without limitation, the performance of any necessary investigatory, monitoring, cleanup, removal or other remedial work), all of which remediation shall be subject to the prior written notification to the District thereof. If Tenant fails to timely and fully perform any of the work described in this paragraph, within thirty (30) days following the end of the Lease Term or if Tenant does not diligently pursue such work throughout such thirty (30) day period, in addition to any other remedies that may be provided in Article IX of this Lease, the District may, in its sole discretion and to the exclusion of Tenant, cause the necessary cleanup, removal or other remedial work to be performed and, in such event, all costs and expenses reasonably incurred by the District, in connection therewith, plus interest at the Default Rate from the date incurred by the District until such amounts are paid in full, shall be paid by Tenant. Tenant's obligations hereunder shall survive the expiration or earlier termination of the Lease.

5.2 Right to Contest. Tenant shall have the right, after prior notice to the District, to contest by appropriate legal proceedings, the validity or applicability of any Applicable Laws affecting the Leased Premises. In such circumstances, Tenant shall have the right to delay observance thereof and compliance therewith until such contest is finally determined and is no longer subject to appeal, but only if such action does not subject the District or Tenant to any criminal liability or fine or the Leased Premises to any lien or assessment. Tenant shall indemnify, protect and hold the District harmless from any civil liability or penalty incurred as a result of or otherwise relating to any such actions by Tenant.

ARTICLE VI
REPRESENTATIONS, WARRANTIES AND COVENANTS

6.1 District's Representations and Warranties. As an inducement to Tenant to enter into this Lease, the District represents and warrants to the Tenant, as of the Commencement Date, as follows:

(a) The District has full right, power and authority to enter into, execute and deliver this Lease and to perform its obligations hereunder.

(b) This Lease has been duly executed and delivered by District and, when duly executed and delivered by Tenant, shall constitute a legal, valid and binding obligation of District enforceable against District in accordance with its terms.

(c) The execution, delivery and performance of this Lease will not conflict with or constitute a breach of or default under any commitment, agreement or instrument to which District is a party.

(d) No broker, finder, investment banker or other person is entitled, or shall become entitled, to any brokerage, finders' or other fee or commission in connection with this Lease, based upon arrangements made by the District or on the District's behalf.

(e) There is no litigation, arbitration, administrative proceeding or other similar proceeding pending or threatened in writing against District which, if decided adversely to District, would impair District's ability to enter into and perform its obligations under this Lease.

6.2 Tenant's Representations and Warranties. As an inducement to the District to enter into this Lease, Tenant represents and warrants to the District, as of the Commencement Date, as follows:

(a) Tenant is a limited liability company duly created and validly existing pursuant to the laws of the District of Columbia and is qualified to do business in every jurisdiction where its ownership of property or its conduct of business operations gives rise to the need for such qualification, except to the extent that the failure so to qualify in any particular jurisdiction could not reasonably be expected to result in a material adverse effect on the business or financial condition of Tenant or the ability of Tenant to perform its obligations under this Lease. True, correct and complete copies of the certificates, articles of incorporation and bylaws of Tenant have been certified and delivered to the District on or before the Commencement Date.

(b) Tenant has full right, power and authority to enter into, execute and deliver this Lease and to perform its obligations hereunder.

(c) This Lease has been duly executed and delivered by Tenant and, when duly executed and delivered by the District, shall constitute a legal, valid and binding obligation of Tenant enforceable against Tenant in accordance with its terms.

(d) The execution, delivery and performance of this Lease will not conflict with or constitute a breach of or default under any commitment, agreement or instrument to which Tenant is a party or by which it or any of its properties or assets are bound.

(e) No action, consent or approval of, or registration or filing with or other action by, any Governmental Authority or other Person is or will be required in connection with the execution and delivery by Tenant of this Lease or the assumption and performance by Tenant of its obligations hereunder, other than the issuance of governmental permits and licenses expected in the ordinary course of business.

(f) No broker, finder, investment banker or other person is entitled, or shall become entitled, to any brokerage, finder's or other fee or commission in connection with this Lease, based upon arrangements made by Tenant or on Tenant's behalf.

(g) Neither Tenant nor any of its Members, or the constituent Members of 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.

(h) Neither Tenant nor any Member or Affiliate of Tenant is a Prohibited Person.

(i) There is no litigation, arbitration, administrative proceeding or other similar proceeding pending or threatened in writing against Tenant or its Members which, if decided adversely to Tenant or its Members, (i) would impair Tenant's ability to enter into and perform its obligations under this Lease, (ii) would materially adversely affect the financial condition or operations of Tenant or its Members, or (iii) the legal existence of Tenant.

(j) The lease of the Leased Premises by Tenant, and Tenant's other undertakings pursuant to this Lease, are and will be used for the purpose of developing and operating the Project Improvements, and not for speculation in land holding or any other purpose.

6.3 "As Is, Where Is" Lease. Tenant acknowledges that the lease by the District to Tenant of the Leased Premises pursuant to the terms of this Lease is on an "AS-IS, WHERE-IS" basis. The District makes no representation or warranty, either express or implied, as to: (i) the condition of the Leased Premises, including, but not limited to, the presence or absence of Hazardous Materials at, in, on or under the Leased Premises; (ii) the suitability or fitness of the Leased Premises for any use, or (iii) any Environmental Law, other law or any other matter affecting the use, occupancy or enjoyment of the Leased Premises. By executing this Lease, Tenant shall be deemed to have acknowledged to the District that Tenant has conducted such inspections and tests of the Leased Premises as Tenant deems appropriate and that Tenant is thoroughly acquainted and satisfied with all respects thereof and is leasing the Leased Premises "AS-IS, WHERE-IS". Tenant's acceptance of possession of the Leased Premises pursuant to this Lease shall constitute a waiver and release of the District from any claim or liability pertaining to the condition of the Leased Premises as of the date of this Lease including, without limitation, the existence of any Hazardous Material and/or any other Environmental Condition in, on or about the Leased Premises.

6.4 Management Contracts. District shall have the right to approve Tenant's initial Management Contract for management of the Leased Premises or any portion thereof, which shall not be unreasonably withheld, conditioned, or delayed provided that such Management Contract contains commercially reasonable terms and that any compensation for services provided by the managers shall be market-rate and is in a form and substance reasonably satisfactory to District. In furtherance of the foregoing, at least thirty (30) days prior to the effective date of the initial Management Contract, Developer shall submit to District, for District's review and approval, the draft Management Contract. The failure of the District to respond to a request for approval of a Management Contract within thirty (30) days of receipt thereof shall constitute approval by the District. Provided there is no Tenant default on any covenant or obligations contained herein or in the REA with respect to the use, operation, maintenance and management of the Leased Premises, Tenant may renew, terminate or enter into alternate management contracts without District approval. However, if there is any Tenant default on any covenant or obligations contained herein or in the REA with respect to the use, operation, maintenance and management of the Leased Premises and District notifies Tenant of the same, District shall retain approval over Tenant's subsequent management contract, or any renewal or extension of the Management Contract, such approval not to be unreasonably

withheld, conditioned or delayed.

ARTICLE VII
CONSTRUCTION OF PROJECT IMPROVEMENTS; MAINTENANCE AND REPAIR; UTILITIES

7.1 Construction of Project Improvements.

7.1.1 *Obligation to Construct.* It is understood and agreed that Tenant shall, at its sole cost, risk and expense, construct or cause to be constructed the Project Improvements in accordance with this Lease and the Construction Covenant, with new first-class quality materials and in a first-class and diligent manner, in compliance with Applicable Laws and in accordance with the applicable highest industry standards.

7.1.2 *No Defense.* Tenant shall not be entitled to any defense to its obligation to construct the Project Improvements (or any part thereof) pursuant to the terms of this Lease based on the failure of any other Person to construct any other improvements within the Leased Premises, nor will Tenant be entitled to any such defense based on any other Person failing to give access to any land or premises to Tenant, notwithstanding that such access may be necessary in order for Tenant to construct the Project Improvements in accordance with this Lease, and Tenant expressly waives any such defenses.

7.2 Maintenance of Leased Premises.

7.2.1 *Maintenance and Repair.* Tenant shall take good care of, and keep and maintain, the Leased Premises in good and safe order and condition, and shall make all repairs therein and thereon, interior and exterior, structural and nonstructural, ordinary and extraordinary, foreseen and unforeseen, necessary to keep the Leased Premises in good and safe order and condition, however the necessity or desirability therefor may arise, and shall make all such repairs in the most expedient manner and in compliance with Applicable Laws. Tenant shall not commit, and shall use all reasonable efforts to prevent, waste, damage or injury to the Leased Premises.

7.2.2 *Cleaning of Leased Premises.* Tenant shall keep clean and free from dirt, mud, standing water, snow, ice, vermin, rodents, pests, rubbish, obstructions and physical encumbrances all areas of the Leased Premises.

7.2.3 *Other Areas.* Tenant shall cause the Leased Premises, to be maintained and operated in such a manner that will not directly or indirectly adversely affect, damage or cause injury to the District or any agency or department thereof. Without in any way limiting the first sentence of this Section 7.2.3, Tenant shall promptly rectify any damage or interference caused by Tenant to any improvements, equipment, structures or vegetation outside of the Leased Premises, which is owned or controlled by the District or any agency or department thereof. The provisions of this Section 7.2.3 shall not limit the obligations of Tenant with respect to any other Person or any property of any other Person.

7.2.4 *No Obligation of the District.* The District, as the landlord under this Lease, shall not be required to furnish any services, utilities or facilities whatsoever to the Leased Premises and the District shall have no duty or obligation to make any alteration, change, improvements, replacement or restoration or repair to the Leased Premises, or to demolish any improvements. Tenant assumes the full and sole responsibility for the condition, operation, repair, alteration, improvement, replacement, restoration, maintenance and management of the Leased Premises at all times during the Term.

7.3 Utilities. Tenant, at its sole expense, shall be responsible for handling all aspects associated with utilities affecting the Leased Premises. Such responsibility includes, without limitation, (i) locating, surveying, designing, permitting, installing and constructing any utility systems or facilities to, on or under the Leased Premises, (ii) removing, replacing, relocating, protecting and/or modifying any utilities affecting the Leased Premises, whether such utilities are located at the Leased Premises, or on adjacent property, (iii) maintaining and repairing all utility lines and services to, on or under the Leased Premises, and (iv) paying all costs, together with the applicable District sales tax, for receipt of utility services to, on or under the Leased Premises.

ARTICLE VIII
ALTERATIONS

8.1 Alterations Generally. Tenant may, at any time and from time to time after the District's issuance of the Final Certificate of Completion, at its sole cost and expense, make alterations, additional installations, substitutions, improvements, renovations or betterments (collectively, "**Alterations**") in and to the Leased Premises or any portion thereof provided that:

(a) no Alteration affecting the structural portions of the Project Improvements shall be undertaken except under the supervision of a licensed architect or licensed professional engineer;

(b) the Alterations will not result in a violation of any Applicable Law or require a material change in any certificate of occupancy applicable to the Leased Premises;

(c) the outside appearance of the Leased Premises and the Permitted Uses shall not be materially adversely affected, and the Alterations shall not materially (1) weaken or impair the structure or the Improvements, (2) reduce the size of the Improvements, (3) lessen the fair market value of the Leased Premises, or (4) reduce the utility or useful life of the Improvements;

(d) the proper functioning of any of the heating, air conditioning, elevator, plumbing, electrical, sanitary, mechanical and other service or utility systems of the Leased Premises shall not be materially adversely affected;

(e) no Alteration shall be made that impacts the District's use of the New Fire Station or the Reserved Property without the prior written consent of the District in the District's sole and absolute discretion;

(f) for any Significant Alteration or series of related Alterations that constitute a Significant Alteration, Tenant shall obtain the prior written consent of the District for such Significant Alterations (or series of Alterations) in accordance with the provisions of Section 8.2.3 below.

8.2 Performance of Alterations.

8.2.1 *Generally.* The Alterations shall be expeditiously made and completed with new, first-class quality materials and in a first-class and diligent manner. All Alterations shall be performed by a duly licensed and qualified contractor(s) selected by Tenant. Tenant shall, prior to the commencement of such Alterations, provide (i) broad form builders all risk insurance, on a completed value (or reporting form) which insurance shall be effected by policies complying with all of the provisions of Article XIV, (ii) proof of funding for the costs of such Alterations reasonably satisfactory to the District; and (iii) if the Alteration is a Significant Alteration, appropriate construction, performance and/or labor and material payment bonds.

8.2.2 *Requirements of Governmental Authorities.* Tenant, at its expense, shall obtain all necessary permits and certificates from Governmental Authorities for the commencement and prosecution of any Alterations and final approval from Governmental Authorities upon completion, promptly deliver copies of the same to District and cause the Alterations to be performed in compliance with all Applicable Laws and requirements of Leasehold Mortgagees and insurers of the Leased Premises, and any Board of Fire Underwriters, Fire Insurance Rating Organization, or other body having similar functions, and in good and workmanlike manner, using materials and equipment at least equal in quality and class to the original quality of the installations at the Leased Premises that are being replaced.

8.2.3 *Significant Alterations.* Tenant shall submit to District, for District's review and approval, plans and specifications, and any amendments thereof, showing in reasonable detail any proposed Significant Alteration not less than sixty (60) days before the proposed commencement of such proposed Significant Alteration, such approval shall not be unreasonably withheld, conditioned or delayed. Within thirty (30) days after District's receipt of such plans and specifications, District shall notify Tenant of its approval or disapproval thereof (and the reasons for any disapproval). The failure of the District to respond within such thirty (30) day period shall constitute the District's approval of the proposed Significant Alteration. Any Significant Alteration for which consent has been received shall be performed substantially in accordance with the final plans and specifications provided to District, and no material amendments or material additions to the plans and specifications shall be made without the prior consent of District in accordance with the terms hereof.

ARTICLE IX
DEFAULTS AND REMEDIES

9.1 Tenant's Default. Any of the following occurrences, conditions or acts shall constitute an "**Event of Default**" under this Lease, unless caused by a default or breach of District hereunder or, as to obligations of Tenant not involving the payment of Rent or other amounts, by

a Force Majeure Event:

(a) if Tenant shall default in making payment when due of any Rent or other amount payable by Tenant hereunder, and such default shall continue for ten (10) days after District shall have given written notice to Tenant specifying such default and demanding that the same be cured;

(b) if Tenant shall default in the observance or performance of any term, covenant or condition of this Lease (other than the payment of Rent or other amounts) on Tenant's part to be observed or performed (other than the covenants expressly set forth below) and Tenant shall fail to remedy such default within the time period provided herein for the cure thereof; if no such time period is provided then, within thirty (30) days after notice by District of such Default (the "**Default Notice**"), or if such a Default is of such a nature that it cannot reasonably be remedied within such thirty (30) day period, Tenant shall (i) within thirty (30) days after the giving of such Default Notice, advise District of Tenant's intention to institute all steps (and from time to time, as reasonably requested by District, Tenant shall advise District of the steps being taken) necessary to remedy such Default (which such steps shall be reasonably designed to effectuate the cure of such Default in a professional manner), and (ii) thereafter diligently prosecute to completion all such steps necessary to remedy the same without interruption to cure such Default within the shortest reasonably possible time, but in no event longer than ninety (90) days;

(c) Tenant shall admit in writing its inability to pay its debts as they mature or shall file a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or shall voluntarily take advantage of any such act by answer or otherwise;

(d) Tenant shall be adjudicated bankrupt or insolvent by any court;

(e) involuntary proceedings under any bankruptcy law, insolvency act or similar law for the relief of debtors shall be instituted against Tenant, or a receiver or trustee shall be appointed for all or substantially all of the property of Tenant, and such proceedings shall not be dismissed or the receivership or trusteeship vacated within ninety (90) days after the institution of appointment;

(f) Tenant shall make an assignment for the benefit of creditors or Tenant shall petition for composition of debts under any law authorizing the composition of debts or reorganization of Tenant;

(g) an Event of Default occurs under the Construction Covenant or the REA and such default continues after notice and expiration of the applicable cure period;

(h) the levy upon or other execution or the attachment by legal process of the Leasehold Estate or the lawful filing or creation of a lien (unless otherwise permitted pursuant to the terms of this Lease) in respect of any such interest (unless the same is attributable to the acts or omissions of District or any of District's agents, employees, licensees or contractors), which levy, attachment or lien shall not be released, discharged or bonded against within forty-five (45)

days following the date Tenant receives notice thereof;

(i) Tenant shall fail to obtain or maintain in effect any insurance required of it under this Lease or the Construction Covenant, or pay any insurance premiums, as and when the same become due and payable, or fails to reinstate, maintain and provide evidence to District of the insurance required to be obtained or maintained by Tenant or its contractors or subcontractors under this Lease or the Construction Covenant in accordance with its terms and conditions, and such failure shall continue for a period of five (5) Business Days after notice of such failure from District;

(j) Tenant assigns this Lease or sublets the Leased Premises or any portion thereof in violation of this Lease;

(k) Tenant shall use or suffer or permit the use of the Leased Premises or any part thereof for any purpose other than those permitted pursuant this Lease; or

(l) Any representation or warranty of Tenant in this Lease shall be materially false when made.

9.2 Remedies for Tenant's Default.

9.2.1 *Legal and Equitable Relief.* District shall be entitled to the extent permitted by Applicable Law, to injunctive relief or to a decree compelling observance or performance of any provision of this Lease, or to any other legal or equitable remedy.

9.2.2 *Termination.*

(a) This Lease, the Lease Term and the Leasehold Estate are subject to the limitation that whenever an Event of Default shall have happened and be continuing, District shall have the right, at its sole election, then or thereafter while any such Event of Default shall continue and notwithstanding the fact that District may have some other remedy hereunder or at law or in equity, to give Tenant notice of its intention to terminate this Lease on a date specified in such notice, which date shall be no earlier than as may be specifically provided in this Lease, or if not so provided, then not less than five (5) Business Days after the giving of such notice, and upon the date so specified, this Lease and the Leasehold Estate shall expire and terminate with the same force and effect as if the date specified in such notice were the date hereinbefore fixed for the expiration of this Lease, and all rights of Tenant hereunder shall expire and terminate, and Tenant shall be liable as provided in this Section. If any such notice is given, District shall have, on such date so specified, the right of re-entry and possession of the Leased Premises pursuant to legal process, and the right to remove all persons and property therefrom and to store such property in a warehouse or elsewhere at the risk and expense, and for the account, of Tenant. Should District elect to re-enter as herein provided or should District take possession pursuant to legal proceedings or pursuant to any notice provided for by Applicable Laws, District may from time to time re-let the Leased Premises or any part thereof for such term or terms and at such rental or rentals and upon such terms and conditions as District, as

applicable, may deem advisable, with the right to make alterations therein and repairs thereto. Notwithstanding the foregoing, following an Event of Default, once the District has obtained exclusive possession and control of the Leased Premises, the District shall have no obligation to re-let the Leased Premises.

(b) In addition to District's right to terminate pursuant to the foregoing, District shall have the right, at its sole election, to terminate this Lease if Tenant fails to satisfy all of its obligations, covenants and conditions contained in the Construction Covenant or REA upon District's notice to Developer as provided therein.

(c) In the event of any termination of this Lease as provided in this Section, Tenant shall forthwith quit and surrender the Leased Premises to District, and District may, without further notice, enter upon, re-enter, possess and repossess the same by summary proceedings, ejectment or otherwise, and again have, repossess and enjoy the same as if this Lease had not been made, and in any such event neither Tenant nor any Person claiming through or under Tenant by virtue of any law or an order of any court shall be entitled to possession or to remain in possession of the Leased Premises but shall forthwith quit and surrender the Leased Premises, and District, at its sole option, shall forthwith, notwithstanding any other provision of this Lease, be entitled to recover from Tenant, as and for liquidated damages, the sum of all Rent and any other amounts payable by Tenant hereunder then due or accrued and unpaid up to the date the District recovers possession of the Leased Premises. District acknowledges that the Rent due hereunder has been paid in full upon execution of this Lease. No partner, member, manager or officer of Tenant shall be personally or in any other manner liable to District by reason of any default which may occur in the performance of any of the terms, covenants and conditions hereof undertaken or required to be performed by Tenant, nor will District or its successors or assigns seek or be entitled to any personal or other judgment against any of the aforementioned or their successors or assigns by reason of any default hereunder.

9.2.3 *Enforcement Rights.* Following an Event of Default, District may, at its sole option, enforce all of its rights and remedies under this Lease, including the right to recover all Rent and other payments as they become due hereunder. Additionally District shall be entitled to recover from Tenant all costs of maintenance and preservation of the Leased Premises incurred by District for which Tenant is responsible hereunder.

9.2.4 *District's Right to Cure.* If Tenant shall default in the keeping, observance or performance of any covenant, agreement, term, provision or condition herein contained, District, without thereby waiving such default, may perform but shall not be required to perform the same for the account and at the expense of Tenant after notice to Tenant and the expiration of the applicable cure period in Section 9.1. All costs and expenses incurred by District in connection with any such performance for the account of Tenant, and also all costs and expenses, including, without limitation, reasonable attorneys' fees and disbursements, incurred by District in any action or proceeding (including any summary dispossess proceeding) brought by District to enforce any obligation of Tenant under this Lease and/or right of District in or to the Leased Premises, shall be paid by Tenant to District upon demand, as applicable. District shall have a right of entry for purposes of the foregoing, exercise of which right shall be without prejudice to

any of their other rights or remedies hereunder.

9.2.5 *Remedy for Noncompliant Leasehold Mortgagee.* In the event that a Leasehold Mortgagee is not an Institutional Lender or the prior written consent of District has not been secured, District shall have the right to seek such equitable relief (either mandatory or injunctive in nature) as may be necessary to enjoin the placement or transfer of such Leasehold Mortgage or any interest therein, it being understood that monetary damages will be inadequate to compensate District for harm resulting from such noncompliance.

9.2.6 *Completion of Improvements.* In the event the construction of the Project Improvements has not been completed as of the occurrence of any Event of Default, whether or not this Lease or Tenant's right of possession hereunder is terminated, within five (5) Business Days after occurrence of such Event of Default: (a) Tenant shall deliver all plans, reports, estimates, and models which have been prepared or made with respect to same to District and each of the same shall become the property of District (Tenant hereby agreeing to execute such documentation as District may require to evidence the transfer of the ownership interests in and to such documentation to the extent such interests are transferable or assignable); (b) Tenant shall inform each preparer of all such plans, reports, estimates, and models of transfer in ownership of such property; and (c) District may take over the completion of the construction of the Project Improvements or cause the same to be completed and Tenant shall remain liable for any actual, third party, out of pocket costs incurred by District in completing construction of the Project Improvements.

9.2.7 *Waiver by Tenant.* Tenant hereby expressly waives, for itself and all Persons claiming by, through or under it, any right of redemption, re-entry or restoration of the operation of this Lease under any current or future Applicable Laws, including, without limitation, any such right that Tenant would otherwise have in case Tenant shall be dispossessed for any cause, or in case District shall obtain possession of the Leased Premises as herein provided.

9.2.8 *Late Fee; Accrual of Interest.* Any Rent or other payments due by Tenant or any amounts incurred by District pursuant to the terms of this Lease shall bear interest at the Default Rate beginning on the date such payments were due or incurred by District, as applicable, until paid.

9.2.9 *Attorney's Fees.* District shall be entitled to recover from Tenant the reasonable attorneys' fees and costs incurred by District in enforcing any of its rights and remedies hereunder. In the event District is represented by the Office of the Attorney General for the District of Columbia, reasonable attorneys' fees shall be calculated based on the then applicable hourly rates established in the most current *Laffey* matrix prepared by the Civil Division of the United States Attorney's Office for the District of Columbia and the number of hours employees of the Office of the Attorney General for the District of Columbia prepared for or participated in any such litigation.

9.3 Remedies Cumulative. No right or remedy herein conferred upon or reserved to District is intended to be exclusive of any other right or remedy, and every right and remedy shall be

cumulative and in addition to any other legal or equitable right or remedy given hereunder, or now or hereafter existing.

9.4 No Waiver. If District shall institute proceedings against Tenant and a compromise or settlement thereof shall be made, then the same shall not constitute a waiver of the same or of any other covenant, condition or agreement set forth herein, nor of any of District's rights hereunder. Neither the payment by Tenant of a lesser amount than the Rent due hereunder nor any endorsement or statement on any check or letter accompanying a check for payment of Rent payable hereunder shall be deemed an accord and satisfaction. District may accept the same without prejudice to District's right to recover the balance of such Rent or to pursue any other remedy. During the continuance of any Event of Default, notwithstanding any request or designation by Tenant, District may apply any payment received from Tenant to any payment then due under this Lease. No re-entry by District shall be considered an acceptance of a surrender of this Lease. No delay or failure by District or Tenant to exercise or enforce any of its rights or remedies or the other party's obligations (except to the extent a time period is specified in this Lease therefor) shall constitute a waiver of any such or subsequent rights, remedies or obligations. District or Tenant shall not be deemed to have waived any default by the other party unless such waiver expressly is set forth in a written instrument signed by the party allegedly waiving such right. If District or Tenant waives in writing any default by the other party, such waiver shall not be construed as a waiver of any covenant, condition or agreement set forth in this Lease except as to the specific circumstances described in such written waiver.

9.5 Remedies for the District's Default. If District shall default or fail in the performance of a covenant or agreement on its part to be performed under this Lease, and such default shall not have been cured for a period of thirty (30) days after receipt by District of notice of said default from Tenant, or if such default cannot, with due diligence, be cured within thirty (30) days, and District shall not have commenced the remedying thereof within such period or shall not be proceeding with due diligence to remedy it (it being intended in connection with a default not susceptible of being cured by District, with due diligence within thirty (30) days, that the time period within which to remedy same shall be extended for such period as may be necessary to complete same with due diligence up to a maximum of ninety (90) days), then Tenant shall have the right to declare a default of this Lease upon notice to District and seek any compensatory damages (other than incidental, consequential, punitive and other special damages, which Tenant expressly waives pursuant to this Lease) which may be available to Tenant in an action as well as court costs and reasonable attorneys fees; provided, however, that Tenant shall have the right to terminate this Lease only if District shall default or fail in the performance of its covenant of quiet enjoyment and such default is materially adverse to the operation or maintenance of the Project. Any damages and claims against District shall be limited to the value of its interests in the Leased Premises. Nothing contained herein shall restrict Tenant from seeking injunctive relief or relief for anticipatory breach if such remedies are required in Tenant's sole and absolute discretion to protect Tenant's interests under this Lease.

ARTICLE X
TRANSFER AND SUBLETTING

10.1 Transfer.

10.1.1 *Prior to the Stabilization Date.* Prior to the Stabilization Date, Tenant shall not cause or suffer to be made a Transfer, in whole or in part without the prior written consent of the District, which shall not be unreasonably withheld, conditioned or delayed so long as the Control of Tenant and the Control of the Project is not changed.

10.1.2 *After the Stabilization Date.* Following the Stabilization Date, there shall be no restrictions on Tenant's ability to make a Transfer, in whole or in part. Sections 10.2 and 10.3 below only apply to transfers under 10.1.1 above.

10.1.3 In no event shall Tenant be permitted to make any Transfer at any time to a Prohibited Person.

10.2 District's Approval of Transfer.

10.2.1 *Tenant's Submissions.* If Tenant desires to effect a Transfer Tenant shall provide and demonstrate to District the following, at least sixty (60) days prior to the proposed effective date of the proposed Transfer:

(a) the name and address of the proposed Transferee and the names and addresses of the individuals that are Members of or Control the proposed Transferee;

(b) a copy of the final negotiated Transfer agreement(s), or, if not available, the terms and conditions of the proposed Transfer;

(c) evidence that the proposed Transferee's operation of the Project will be of a quality and character no less than Tenant's;

(d) evidence of the nature and character of all of the business of the proposed Transferee, showing that as of the date of requesting District's consent to such Transfer, the proposed Transferee is legally entitled (or has a reasonable expectation of becoming legally entitled) to operate the Leased Premises, is not a Prohibited Person, and has sufficient experience owning and/or operating other properties of a similar nature to the Leased Premises;

(e) banking, financial, and other credit information, including, but not limited to, audited financial statements (or unaudited financial statements if the transferee does not customarily obtain audited statements), certified to be true and correct by the proposed Transferee, relating to the proposed Transferee, in reasonably sufficient detail to enable District to determine that the proposed Transferee can provide financial assurances to satisfy District that the proposed Transferee is financially responsible and able to meet the obligations of Tenant under the Lease; and

(f) any additional information as District may reasonably request.

10.2.2 *Submissions upon District's Approval.* If District approves the proposed Transfer, the Transferee shall provide to District, within five (5) Business Days after District's notice to Tenant of District's approval, but, in any event no later than two (2) Business Days prior to the effective date of the Transfer, (a) proof of insurance required under Article XII obtained by Tenant and (b) an executed assignment and assumption of this Lease and the Leasehold Estate in a form reasonably acceptable to District. It shall be a condition to the effectiveness of any Transfer that the assignment and assumption referred to in this Section 10.2.2 shall be executed and delivered by each of Tenant and the Transferee and that the same shall be recorded by Tenant (or such Transferee) among the Land Records at no cost to District.

10.3 Transfer of Membership Interests;

10.3.1 *Transfer.* Tenant or its Members (including any successors in interest of Tenant or its Members) may assign, sell, convey or otherwise transfer, whether directly or indirectly, the membership interests of Tenant, with District's prior written approval, which shall not be unreasonably withheld, conditioned, or delayed as long as Control of the Project remains the same. In no event shall the foregoing restrictions be deemed to prohibit or otherwise restrict transfers in ownership interest to any Member, including, without limitation, transfers for estate planning purposes that do not affect Control of Tenant. Upon Stabilization, the foregoing restrictions on Transfer of a Membership interest shall no longer apply, however there shall remain in place the restriction against any transfer to a Prohibited Person.

10.3.2 *Operating Agreement.* Prior to the Stabilization Date, Developer shall not amend the Operating Agreement or otherwise modify the relationship between the Members (including, but not limited to, the Member's respective financial interests in Developer) without the prior written approval of District, which shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Operating Agreement may be amended, subject to District's reasonable approval, if the purpose of the amendment is (a) for tax or financing reasons, provided such amendment shall not (i) affect Developer's interest in this Agreement or interest or control of the Property or any portion thereof, (ii) negatively impact Developer's financial capacity or viability, or (iii) potentially impede or otherwise affect the performance of Developer under this Agreement or the Related Agreements. Upon achieving stabilization of the Improvements on the Property, the foregoing restrictions shall no longer apply

10.4 No Prohibition of Foreclosure Transfer. Notwithstanding anything to the contrary contained in this ARTICLE X or elsewhere in this Lease, this ARTICLE X shall not apply to and shall not prohibit a Foreclosure Transfer. In the event of a Foreclosure Transfer such notice and the information required under Section 10.2 shall be given as soon as practicable but in no event later than thirty (30) days after the Foreclosure Transfer.

10.5 Tenant to Remain Liable. Notwithstanding such Transfer, unless District expressly agrees otherwise, which approval shall not be unreasonably withheld, Tenant shall remain fully liable hereunder for the performance of all of the obligations set forth herein, including, but not limited to, the payment of Rent. Tenant shall without delay perform each of the obligations of the assignee, transferee or sublessee at Tenant's sole cost and expense upon notice from District

of the assignee's, transferee's or sublessee's failure to fulfill such obligations and without the necessity of District exhausting remedies against said assignee, transferee or sublessee. District shall not be obligated to resort to any other rights, remedies, or security before proceeding against Tenant. Except as otherwise provided in this Lease, all covenants, agreements, provisions, and conditions of this Lease shall be binding on and inure to the benefit of the Parties, and their respective successors and assigns. All covenants set forth in this Lease shall apply to and run with the land. A consent to one Transfer shall not be deemed a consent to any other assignment, transfer or subletting, to which the provisions of this ARTICLE X shall apply.

10.6 Subleases. Notwithstanding anything to the contrary contained in this ARTICLE X, the prior written consent of District shall not be required before Tenant enters into a Sublease. Within twenty (20) Business Days after execution of any Sublease, Tenant shall provide to District copies of the Sublease. At any time upon District's demand, Tenant shall deliver District, within ten (10) Business Days following such demand, a schedule of all Subleases giving the names of all subtenants, a description of the space that has been sublet pursuant to each Sublease, expiration dates, rentals and other fees, and such other information as District reasonably may request, which information shall be kept confidential by District and shall not be shared with any non governmental third parties except as required by applicable law or if the thid party signs an agreement not to disclose such information, and in all events, such releases shall always be subject to the confidentiality provisions of this paragraph.

10.7 Prohibited Transactions. Notwithstanding any provision to the contrary, in no event shall any Transfer or Sublease (a) be made to a Prohibited Person, (b) be for a term longer than, or that would survive expiration of, the Lease Term unless same has been approved in advance by the District in its sole discretion, (c) permit a use other than the Permitted Uses, (d) permit a Prohibited Use, or (e) violate Applicable Laws, or any term, covenant, condition or provision of this Lease, the REA or the Construction Covenant.

10.8 GSA Sublease Agreement. The parties hereto acknowledge that they have executed that certain agreement dated November 2, 2010, a copy of which is attached hereto as Exhibit "B", concerning development and leasing of an office building on the Land as part of the Project Improvements referenced herein.

ARTICLE XI
EXCULPATION AND INDEMNIFICATION

11.1 District Not Liable for Injury or Damage, Etc. From and after the Commencement Date, the District Indemnified Parties shall not be liable to Tenant or any of its Affiliates for, and Tenant shall defend, indemnify and hold the District Indemnified Parties harmless from and against, any loss, cost, liability, claim, damage, expense (including, without limitation, reasonable attorneys' fees and disbursements), penalty or fine incurred in connection with or arising from any injury, whether physical (including, without limitation, death), economic or otherwise to Tenant or to any other Person in, about or concerning the Leased Premises or any damage to, or loss (by theft or otherwise) of, any of Tenant's property or of the property of any other Person in, about or concerning the Leased Premises, irrespective of the cause of injury,

damage or loss or any latent or patent defects in the Leased Premises, except to the extent any of the foregoing is due to the gross negligence, fraud or willful misconduct of the District Indemnified Party.

11.2 District's Exculpation. Except for gross negligence, fraud or willful misconduct, none of the District Indemnified Parties (exclusive District) shall have any liability (personal or otherwise) hereunder, and no property or assets of the District Indemnified Parties (exclusive District) shall be subject to enforcement procedures for the satisfaction of Tenant's remedies hereunder or any other liability of the District Indemnified Parties arising from or in connection with this Lease or the Project. Any damages and claims against District shall be limited to the value of its interest in the Leased Premises.

11.3 Indemnification of District.

11.3.1 *Tenant's Acts.* Tenant shall defend, indemnify and hold the District Indemnified Parties harmless from all loss, cost, liability, claim, damage and expense (including, without limitation, reasonable attorneys' fees and disbursements), penalties and fines, incurred in connection with claims by a Person against any District Indemnified Party arising from: (i) the use or occupancy or manner of use or occupancy of the Leased Premises by Tenant or any Person claiming through or under Tenant; (ii) any acts, omissions or negligence of Tenant, or any Person claiming through or under Tenant, or of the contractors, agents, servants, employees, guests, invitees or licensees of Tenant, or any Person claiming through or under such Person, in each case to the extent in, about or concerning the Leased Premises during the Lease Term, including, without limitation, any acts, omissions or negligence in the making or performing of any repairs, restoration, alterations or improvements to the Leased Premises; (iii) any misrepresentation by Tenant in this Lease; (iv) any breach or other failure by Tenant to comply with the terms of this Lease; (v) any violations or alleged violations by Tenant of any Applicable Laws; or (vi) any Default or Event of Default (including, without limitation, any cure thereof by District), except to the extent any of the foregoing is caused by the gross negligence, fraud or willful misconduct of such District Indemnified Party.

11.3.2 *Environmental Damages.* Without limiting the generality of Section 11.3.1 above, Tenant hereby indemnifies and holds harmless the District Indemnified Parties from and against any and all Environmental Damages, except to the extent any of the foregoing is caused by the gross negligence, fraud or willful misconduct of such District Indemnified Party. Without limiting the foregoing, if the presence or Release of any Hazardous Material on or from the Leased Premises caused or permitted by Tenant or any Tenant Party results in any contamination of the Leased Premises, Tenant shall promptly take all actions at its sole cost and expense as are necessary to return the Leased Premises to the condition existing prior to the introduction of such Hazardous Material.

11.3.3 *Scope of Indemnification Obligations.* The obligations of Tenant under this Article XI shall include, without limitation, the burden and expense of defending all claims, suits and administrative proceedings (with qualified counsel), even if such claims, suits or proceedings are groundless, false or fraudulent, and conducting all negotiations of any description, and

paying and discharging, when and as the same become due, any and all judgments, penalties or other sums due against any of the District Indemnified Parties.

11.3.4 *No Effect by Insurance Coverage.* The obligations of Tenant under this Article XI shall not be affected in any way by the absence or presence of insurance coverage (or any limitation thereon, including any statutory limitations with respect to Workers' Compensation insurance), or by the failure or refusal of any insurance carrier to perform an obligation on its part under insurance policies affecting the Leased Premises.

11.4 Defense of Claim, Etc.

11.4.1 *Tenant's Defense Obligations.* If any claim, action or proceeding is made or brought against any District Indemnified Party by reason of any event to which reference is made in this Article XI, then, unless the Office of the Attorney General determines that such representation violates District policy or is legally prohibited, upon demand by District or such District Indemnified Party, Tenant shall either resist, defend or satisfy such claim, action or proceeding in the District Indemnified Party's name, by the attorneys for, or approved by, Tenant's insurance carrier (if such claim, action or proceeding is covered by insurance) or such other attorneys as District shall reasonably approve. If Tenant elects to undertake such defense by its own counsel or representatives, Tenant shall give notice of such election to the District Indemnified Party within ten (10) Business Days after receiving notice of the claim therefrom. The District Indemnified Party shall cooperate with Tenant in such defense at Tenant's expense and provide Tenant with all information and assistance reasonably necessary to permit Tenant to settle and/or defend any such claim. The foregoing notwithstanding, any District Indemnified Party may at its own expense engage its own attorneys to defend it, or to assist it in the defense of such claim, action or proceeding, as the case may be.

11.4.2 *Failure by Tenant.* If Tenant fails or refuses to undertake such defense or fails to act within such period of ten (10) Business Days, the District Indemnified Party may, but shall not be obligated to, after five (5) days' prior notice to Tenant, undertake the sole defense thereof by counsel or other representatives designated by it, such defense to be at the expense of Tenant. The assumption of such sole defense by the District Indemnified Party shall in no way affect the indemnification obligations of Tenant.

11.5 Notification and Payment. Each District Indemnified Party shall promptly notify Tenant of the imposition of, incurrence by or assertion against them of any cost or expense as to which Tenant has agreed to indemnify such District Indemnified Party pursuant to the provisions of this Article XI. Tenant agrees to pay such District Indemnified Party all amounts due under this Article XI within sixty (60) days after receipt of the notice therefrom. Any delay by the District Indemnified Party in sending such notice does not relieve Tenant of the indemnification obligations set forth in this Article XI, except to the extent that defense of the claim is materially prejudiced as a result of such delay.

11.6 Survival. The provisions of this Article XI shall survive the expiration or termination of the Lease Term with respect to events and matters that arise or occur during the Lease Term (even if discovered following the expiration or termination of the Lease Term).

ARTICLE XII
INSURANCE, DAMAGE AND DESTRUCTION

12.1 Insurance Requirements. Until the issuance of the Final Certificate of Completion, Tenant shall maintain the insurances set forth in the Construction Covenant. From and after issuance of the Final Certificate of Completion, Tenant shall maintain the insurances set forth herein. Tenant hereby covenants to provide District with timely evidence that such other insurances as are required herein are in place at the times and in the amounts to satisfy the requirements of this Article XII.

12.1.1 *Liability Insurance*. Tenant, at its sole cost and expense, shall carry or cause to be carried commercial general liability insurance protecting against liability for bodily injury, death, property damage and personal injury with respect to the Leased Premises and the operations related thereto, whether conducted on or off the Leased Premises in an amount of not less than five million dollars ($5,000,000) per occurrence, combined single limit, and designating Tenant as a named insured and District as an additional insured. Such insurance shall (within the limits of the insurance required above):

(a) include a broad form property damage liability endorsement with fire legal liability limit of not less than $1,200,000, subject to adjustment by the CPI Index;

(b) contain blanket contractual liability insurance covering written contractual liability;

(c) contain contractual liability insurance specifically covering Tenant's indemnification obligation under Article 11, to the extent such indemnification obligation is for an insurable risk;

(d) contain independent contractors coverage (i.e., coverage for events arising out of work done by subcontractors);

(e) if the coverage is via a claims-made policy rather than on an occurrence basis, contain a notice of occurrence clause;

(f) if the coverage is via a claims-made policy rather than on an occurrence basis, contain a knowledge of occurrence clause;

(g) contain an errors and omissions clause covering professional services;

(h) contain no exclusion with respect to suits arising from the use of reasonable force to protect persons and property;

(i) contain no employee and contractual exclusions in respect of the personal injury coverage, except that there may be an exclusion for contractual liability with respect to false arrest, wrongful eviction, libel, slander, invasion of privacy and similar claims, provided that such exclusion shall not apply if the liability would have existed in the absence of a contract;

(j) contain no exclusions unless approved by District, other than the industry standard exclusions for facilities of similar size, nature and character location;

(k) contain Products Liability/Completed Operations coverage;

(l) provide for a deductible determined by Tenant, but not more than $_____ per loss, subject to adjustment by the CPI Index; and

(m) include automobile liability insurance covering any owned, leased, non-owned or hired automobile or other motor vehicle used in connection with the Leased Premises with a liability limit equivalent to that of the commercial general liability policy, with a deductible determined by Tenant of not more than $_____, subject to adjustment by the CPI Index.

12.1.2 *Property Insurance.*

(a) Tenant, at its sole cost and expense, shall carry or cause to be carried property damage insurance under an "All Risk" policy or its equivalent covering the Leased Premises with replacement cost valuation and a stipulated value endorsement in an amount not less than the full Replacement Value (determined in accordance with Section 12.8) and including the following coverages or clauses:

(i) coverage for physical loss or damage to the Improvements;

(ii) coverage for earth movement to include subsidence;

(iii) a replacement cost valuation without depreciation or obsolescence clause;

(iv) debris removal coverage;

(v) provision for a deductible determined by Tenant, but not more than $_____ per loss, subject to adjustment by the CPI Index;

(vi) contingent liability from operation of building laws;

(vii) demolition cost for undamaged portion coverage;

(viii) an agreed or stipulated amount endorsement in an amount not less than the full Replacement Value negating any coinsurance clauses;

(ix) coverage for explosion caused by steam pressure-fired vessels (which coverage may be provided under a separate policy reasonably approved by District);

(x) business interruption or business income coverage in accordance with Section 12.1.3; and

(xi) contain no exclusions unless approved in writing by District, other than the industry standard exclusions for facilities of similar size, location, nature and character.

(b) Tenant shall be named insured, and District shall be designated as an additional insured, but not a loss payee. If not included within the All Risk coverage above, Tenant shall also carry or cause to be carried coverage against damage due to (x) water and sprinkler leakage and collapse (which shall at least insure against damage caused by water or any other substance discharged from any part of the fire protection equipment for the Leased Premises, and collapse or fall of tanks forming part of such fire protection equipment or the component parts or supports of such tanks); which shall be written with limits of coverage of not less than the full Replacement Value per occurrence, with a deductible of not more than $_____, subject to adjustment by the CPI Index, and (y) flood, which shall be written with limits of coverage not less than $_____, with a deductible of not more than $_____, subject to adjustment by the CPI Index, to the extent available at commercially reasonable rates and deductibles.

(c) If Tenant elects to insure Tenant's personal property used in connection with the Leased Premises, the replacement value of such personal property shall be added to the amount of insurance required by this Section.

12.1.3 *Other Insurance*. Tenant shall procure and carry insurance meeting all of the standards, limits, minimums, and requirements described as follows:

(a) Business Interruption or Business Income Insurance on an "All Risk" basis. The insurance specified in this subsection shall:

(i) provide coverage against all insurable risks of physical loss or damage to the Improvements;

(ii) provide Extra Expense coverage, with a limit of at least $1,000,000 to cover overtime and other extra costs incurred to expedite repairing or rebuilding the damaged portion of the Leased Premises;

(iii) provide for an amount of coverage based on the anticipated annual operating levels;

(iv) contain explosion caused by steam pressure fired vessels coverage (which coverage may be provided under a separate policy reasonably approved by District);

(v) provide for a deductible determined by Tenant, but for other than flood or windstorm not more than $_____ per loss, subject to adjustment by the CPI Index; and

(vi) contain no exclusions, unless approved by District, other than industry standard exclusions for Projects of similar size and location.

(b) Statutory Workers' Compensation and Disability Benefits Insurance and any other insurance required by law covering all persons employed by Tenant, contractors, subcontractors, or any entity performing work on or for the Leased Premises (unless and to the extent provided by such other parties), including Employers Liability coverage, all in amounts not less than the statutory minimum, except that Employers Liability coverage shall be in an amount equivalent to the commercial general liability insurance policy under Section 12.1.1.

(c) Boiler and Machinery Insurance, covering the entire heating, ventilating and air-conditioning systems, in all its applicable forms, including Broad Form, boiler explosion, extra expense and loss of use in an amount not less than the replacement cost of such heating, ventilating and air conditioning systems, located on any portion of the Leased Premises and other machinery located on any portion of the Leased Premises, which shall designate Tenant as named insured and loss payee and designate District as additional insureds, as their interests may appear.

12.1.4 *Construction Insurance and Bonds.* Prior to the commencement of any Construction Work on Significant Alterations, Tenant shall procure or cause to be procured, and, after such procurement shall carry or cause to be carried, until final completion of such work, in addition to and not in lieu of the insurance required by the foregoing subsections (a), (b), and (c), the insurance described below:

(a) Builder's Risk Insurance (standard "All Risk" or equivalent coverage that insures against earth movement to include subsidence) in an amount not less than the cost of reconstruction (including soft costs), written on a completed value basis or a reporting basis, for property damage protecting Tenant, District and the general contractor for such construction work, with a deductible determined by Tenant of not more than $_____, subject to adjustment by the CPI Index.

(b) Automobile liability insurance covering any owned, leased, non-owned or hired automobile or other motor vehicle used in connection with work being performed on or for the Leased Premises in an amount not less than $_____ per occurrence, with a deductible determined by Tenant of not more than $_____, subject to adjustment by the CPI Index. Such insurance shall be afforded in a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsements, filed by the Insurance Services Office of the District.

(c) The architect and design engineers engaged with respect to the design of any Significant Alterations shall provide, pay for and maintain professional liability insurance for

protection from claims arising out of performance of professional services caused by negligent error, omission or act for which the architect or design engineer is legally liable. Such liability insurance will provide coverage of $_____ extending to three (3) years after the issuance of a certificate of occupancy with respect to all of the Significant Alterations.

(d) Risk of loss from any unforeseen obstructions, encumbrances, difficulties or conditions encountered in the prosecution of work, or the action of the elements, or from any act or omission not authorized by this Lease on the part of the contractor or its subcontractors, agents or employees.

12.2 Treatment of Proceeds.

12.2.1 *Proceeds of Casualty Insurance in General.* Insurance proceeds payable with respect to a property loss (including any payments under any business interruption or business income coverage) shall be payable to Tenant.

12.2.2 *Cooperation in Collection of Proceeds.* Tenant and District shall cooperate in connection with the collection of any insurance proceeds that may be due in the event of a loss, and Tenant and District shall as soon as practicable execute and deliver such proofs of loss and other instruments as may be required of Tenant and District, respectively, for the purpose of obtaining the recovery of any such insurance proceeds.

12.3 General Provisions Applicable to All Policies.

12.3.1 *Insurance Companies.* All of the insurance policies required by this Article XIV shall be procured from companies in good standing with the District Department of Insurance, Securities and Banking; licensed or authorized by the Department of Insurance, Securities and Banking to do business in the District; having agents upon whom service of process may be made in the District of Columbia; and have a rating in the latest edition of "Best's Key Rating Guide" of "A:XII" or better or another comparable rating reasonably acceptable to District, considering market conditions.

12.3.2 *Required Certificates.* Certificates of insurance evidencing the issuance of all insurance required by this Article XIV, describing the coverage and providing for thirty (30) days prior notice to District by the insurance company of cancellation or non-renewal, shall be delivered from time to time by Tenant to District within a reasonable period of time after District's request therefor. The certificates of insurance shall be issued by or on behalf of the insurance company and shall bear the original signature of an officer or duly authorized agent having the authority to issue the certificate. The insurance company issuing the insurance also shall deliver to District, together with the certificates, proof reasonably satisfactory to District that the premiums for each policy are not then overdue. In addition, Tenant shall deliver to District an entire duplicate original or a copy (certified by Tenant to be true, complete and correct) of each policy within a reasonable period of time after District's request therefor.

12.3.3 *Compliance with Policy Requirements.* Tenant shall not violate or permit to be violated any of the conditions, provisions or requirements of any insurance policy required by this Article XII, and Tenant shall perform, satisfy and comply with, or cause to be performed, satisfied and complied with, all conditions, provisions and requirements of all insurance policies.

12.3.4 *Required Insurance Policy Clauses.* Each policy of insurance required to be carried pursuant to the provisions of this Article XII and each certificate issued by or on behalf of the insurer shall contain (i) a clause designating District as an additional insured (but not a loss payee); and (ii) an agreement by the insurer that such policy shall not be canceled, materially modified, or denied renewal without at least thirty (30) days prior notice to District, specifically covering, without limitation, cancellation or non-renewal for non-payment of premium.

12.3.5 *Separate Insurance.* Tenant shall not carry separate liability or property insurance concurrent in form or contributing in the event of loss with that required by this Lease to be furnished by Tenant, unless District are included therein as additional insureds, as their interests may appear. Tenant shall immediately notify District of the carrying of any such separate insurance and shall cause certificates and/or policy copies of the same to be delivered as in this Lease herein before required.

12.3.6 *Duration of Policies.* Tenant shall procure policies for all insurance required by any provision of this Lease for periods of not less than one (1) year and shall procure renewals thereof from time to time before the expiration thereof, except that builders' all risk insurance shall only be renewed for the term of any construction period. Notwithstanding the foregoing, Tenant shall have the right to obtain short-term policies of less than one (1) year in order to achieve concurrency.

12.3.7 *Defective Certificates and Policies.* Following receipt of any policy or certificate of insurance from Tenant, District may notify Tenant in writing that, in the reasonable opinion of District, the insurance represented thereby does not conform to the requirements of this Article XII either in respect of the amount or in respect of the insurance company or for any other reason, and Tenant shall have (i) fifteen (15) days in which to cure any such defect in respect of amount and (ii) thirty (30) days to cure any other defect in respect of such insurance.

12.3.8 *Other Obligations of Tenant.* Compliance by Tenant with the requirements of this Article XII shall not relieve Tenant of any liability in excess of the insurance coverage provided under any insurance policy or of Tenant's liability and obligations under any other provision of this Lease, nor shall it preclude District from taking such other actions as may be available to District under any other provision of this Lease or at law or in equity.

12.3.9 *Waiver of Subrogation.* Tenant hereby releases District and all other additional insureds from liability arising out of damage that is covered by the insurance required by this Lease.

12.4 Additional Coverage. Tenant shall maintain such other insurance, in such amounts as from time to time reasonably may be required by District, against such other insurable hazards as at the time are commonly insured against in the case of projects in the District of a size, nature and character similar to the size, nature and character of the Leased Premises. All of the limits of insurance required and all deductibles of such insurance pursuant to this Article XII shall be subject to review by District and, in connection therewith, Tenant shall carry or cause to be carried such additional amounts as District may reasonably require from time to time. Tenant shall be responsible for all deductibles.

12.5 No Representation as to Adequacy of Coverage. The requirements set forth herein with respect to the nature and amount of insurance coverage to be maintained or caused to be maintained by Tenant hereunder shall not constitute a representation or warranty by District or Tenant that such insurance is in any respect adequate.

12.6 Blanket or Umbrella Policies. The insurance required to be carried by Tenant pursuant to the provisions of this Lease may, at Tenant's election, be effected by blanket, wrap-up and/or umbrella policies issued to Tenant covering the Leased Premises and other properties owned or leased by Tenant or its Affiliates, provided such policies otherwise comply with the provisions of this Lease and allocate to the Leased Premises the specified coverage, including, without limitation, the specified coverage for all insureds required to be named as insureds or additional insureds hereunder, without possibility of reduction or coinsurance by reason of, or because of damage to, any other properties named therein. If the insurance required by this Lease shall be effected by any such blanket or umbrella policies, Tenant shall furnish to District, upon District's request, certificates of insurance and copies (certified by Tenant to be true, complete and correct) of such policies as provided in Section 12.3.2, together with schedules annexed thereto setting forth the amount of insurance applicable to the Leased Premises.

12.7 Annual Aggregates. If there is imposed under any liability insurance policy required hereunder an annual aggregate which is applicable to claims other than products liability and completed operations, such an annual aggregate shall not be less than two (2) times the per occurrence limit required for such insurance.

12.8 Determination of Replacement Value.

12.8.1 *Definition.* The current replacement value of the Improvements (the "**Replacement Value**") shall be deemed to be an amount equal to the actual costs incurred or expended in connection with the construction of the Improvements as certified by the Architect upon completion of the Improvements, other than foundations and financing and other soft costs not applicable to replacement, adjusted for each year after completion of the Improvements in accordance with the percentage change in the Building Index. If the insurance required by Section 12.1 above is not sufficient to cover the Replacement Value, then within fifteen (15) days after such adjustment, said insurance shall be increased or supplemented to fully cover such Replacement Value. In no event shall such Replacement Value be reduced by depreciation or obsolescence of the Improvements.

12.8.2 *Building Index*. As used herein, the "**Building Index**" shall mean the Marshall and Swift Cost Index or such other published index of construction costs which shall be selected from time to time by District and reasonably agreed to by Tenant, provided that such index shall be a measure of construction costs widely recognized in the insurance industry and appropriate to the type and location of the Improvements.

12.9 Subleases and Operating Agreements. All Subleases or operating agreements pertaining to any part of the Leased Premises shall require either the subtenant or the counterparty thereto to carry liability insurance naming Tenant and District as additional insureds with limits reasonably prudent under the circumstances.

12.10 Additional Interests. All liability policies shall contain a provision substantially to the effect that the insurance provided under the policy is extended to apply to District.

12.11 Notice to District. If the Leased Premises are damaged or destroyed in whole or in any material part by fire or other casualty, Tenant shall notify District of same, and of the estimated amount of such casualty loss, as soon as reasonably possible after Tenant's discovery of same.

12.12 Casualty Restoration.

12.12.1 *Obligation to Restore*. After the Opening Date, if all or any of the Leased Premises are damaged or destroyed by fire or other casualty, ordinary or extraordinary, foreseen or unforeseen, Tenant shall restore the Improvements to the condition thereof as it existed immediately before such casualty (a "**Casualty Restoration**"), regardless of whether the Net Insurance Proceeds shall be sufficient therefor.

12.12.2 *Commencement of Construction Work*. Tenant shall commence the Construction Work in connection with a Casualty Restoration within ninety (90) days after receipt of all building permits, which shall be applied for no more than ninety (90) days following receipt of the Net Insurance Proceeds by Tenant arising from the damage or destruction which caused the need for such Casualty Restoration, and Tenant shall diligently pursue the completion of such Casualty Restoration.

12.13 Restoration Funds. All Net Insurance Proceeds shall be paid to Tenant and shall be applied to a Casualty Restoration to the extent required to effect such Casualty Restoration.

12.14 Effect of Casualty on Lease. This Lease shall not terminate, be forfeited or be affected in any manner, by reason of damage to, or total or partial destruction of, or untenantability of, the Leased Premises or any part thereof resulting from such damage or destruction, and District's and Tenant's obligations hereunder shall continue as though the Leased Premises had not been damaged or destroyed and shall continue without abatement, suspension, diminution or reduction whatsoever.

ARTICLE XIII
FORCE MAJEURE

13.1 Excuse for Non-Performance. The Party(ies) whose performance has been or will be affected by any Force Majeure Event shall not be responsible or liable for, or deemed in default or breach hereof because of, any failure or delay in complying with its obligations under or pursuant to this Lease (other than the payment of money as such obligations come due hereunder) which it cannot perform solely as a result of one or more Force Majeure Events or its or their effects or by any combination thereof, and the periods allowed for the performance by the Party(ies) of such obligation(s) shall be extended on a day-for-day basis for so long as one or more Force Majeure Events continues to affect materially and adversely the performance of such Party of such obligation(s) under or pursuant to this Lease, provided that the Force Majeure Event and the effects thereof are not the result of the negligence, wrongdoing or failure to perform under this Lease of the party seeking the delay. If any party requests any extension of the date of completion of any obligation hereunder due to a Force Majeure Event, it shall be the responsibility of such party to reasonably demonstrate that the Force Majeure Event is the cause of the delay.

13.2 Mitigation. Each Party shall be obligated to use commercially reasonable efforts to minimize and mitigate the adverse effect and duration of any Force Majeure Event which affects the performance of such Party.

13.3 Notice. Within ten (10) Business Days after it becomes aware of the beginning of any Force Majeure Event, any Party seeking the benefit of the relief associated with a Force Majeure Event shall give the other Party(ies) a statement describing the Force Majeure Event and its cause (to the extent known to the Party) and a description of the conditions delaying the performance of the Party's obligations, along with any supporting documentation. The affected Party shall also provide notice to the other Party of the cessation of the Force Majeure Event and the affected Party's ability to recommence performance of its obligations under this Lease by reason of the cessation of the Force Majeure Event, which notice shall be given as soon as practicable after the cessation of the Force Majeure Event.

ARTICLE XIV
LEASEHOLD MORTGAGES

14.1 Creation of a Leasehold Mortgage. Developer shall not engage in any financing or other transaction creating a Mortgage or other lien or encumbrance upon the Leasehold Estate, or suffer any lien or encumbrance to be made on or attached to the Leasehold Estate, whether by express agreement or by operation of law, except that Developer may encumber the Leasehold Estate with a Leasehold Mortgage with the prior approval of District, which approval shall not be unreasonably withheld, conditioned or delayed.

14.2 District's Review and Approval of Leasehold Mortgages.

14.2.1 *Tenant's Submissions for Approval of Leasehold Mortgage.* In the event that Tenant wishes to obtain any Leasehold Mortgage, Tenant shall provide to District, the following

information and documents for District's review, at least sixty (60) days prior to the effective date of the proposed Leasehold Mortgage:

(a) the name and address of the proposed Leasehold Mortgage and information reasonably sufficient to enable District to determine whether the proposed Leasehold Mortgagee is an Institutional Lender;

(b) a certificate of an authorized officer, managing general partner, managing member, trustee or other authorized Person, whichever shall be applicable, of the proposed Leasehold Mortgagee stating whether the proposed Leasehold Mortgagee is a Prohibited Person;

(c) any commitment letter from the proposed Leasehold Mortgagee, even if such letter is preliminary or non-binding; and

(d) any appraisal or other analysis provided to or obtained by the proposed Leasehold Mortgagee regarding the value of Tenant's interest the Leasehold Estate.

At least thirty (30) days prior to the effective date of the proposed Leasehold Mortgage, Tenant shall provide to District the proposed loan documents evidencing the Leasehold Mortgage.

14.2.2 *District's Period of Review.* District shall notify Tenant within fifteen (15) Business Days after its receipt of the information and documents pursuant to Section 14.2.1 of its approval, conditional approval or disapproval of the Leasehold Mortgage or request additional information and documents required for District's review and approval. District shall have been deemed to approve all of the foregoing if it fails to notify Tenant of any objections within the aforesaid 15 business day review period.

14.2.3 *Tenant's Submissions Following District's Approval.* Tenant shall deliver to District a copy of the Leasehold Mortgage immediately following the execution, delivery and (if applicable) recordation thereof, together with a certification by Tenant confirming that the copy is a true copy of the Leasehold Mortgage and a certification by the Leasehold Mortgagee thereunder confirming the address of such Leasehold Mortgagee for notices.

14.3 Effect of Leasehold Mortgages.

14.3.1 *No Greater Rights.* The execution and delivery of a Leasehold Mortgage shall not give or be deemed to give a Leasehold Mortgagee any greater rights against District than those granted to Tenant hereunder. In no event shall Tenant have the right or ability to encumber the Fire Station Air Rights or the New Fire Station with any Leasehold Mortgage.

14.3.2 *Subordination.* The lien of all Leasehold Mortgages, and any other encumbrances on the Leasehold, whether permitted or not permitted pursuant to the terms of this Lease, shall be subject and subordinate to this Lease.

14.3.3 *Conflict between Terms.* As between District and Tenant, the terms and conditions of this Lease shall govern in the event of a conflict between the terms hereof and the terms and conditions of any Leasehold Mortgage or any instrument relating to the loan received thereby (or any other transaction) and notwithstanding any consent by District to any such financing or transaction, except as may otherwise be expressly agreed to in writing by District and Tenant.

14.4 Number of Leasehold Mortgages.

14.4.1 *Generally.* There may exist more than one Leasehold Mortgage at any given time, but the aggregate amount of all such Leasehold Mortgagees may not exceed the value of the Leasehold Estate.

14.4.2 *Rights of Multiple Leasehold Mortgagees.* In the event that there is more than one Leasehold Mortgage at any given time, all rights and remedies accorded to a Leasehold Mortgagee hereunder and all references to a Leasehold Mortgagee herein, shall be deemed to be accorded, and to be references, to each of such Leasehold Mortgagees; provided, however, that as between multiple Leasehold Mortgagees, the rights and remedies of the senior such Leasehold Mortgagee shall be senior to the rights and remedies of any and all other such Leasehold Mortgagees and, in the event of any conflict or inconsistency in the exercise, enforcement or construction of rights and remedies given multiple Leasehold Mortgagees hereunder, the exercise, enforcement and construction of such rights and remedies by or for the senior Leasehold Mortgagee shall govern, control and take precedence over any exercise, enforcement and construction of such rights and remedies by or for all Leasehold Mortgagees that are junior to such senior Leasehold Mortgagee.

14.4.3 *Syndicates.* The Leasehold Mortgagee may consist of a syndicate of Institutional Lenders or other syndicate meeting the definition of Leasehold Mortgagee; provided, however, that (i) only one Institutional Lender may exercise the rights of the Leasehold Mortgagee hereunder, (ii) such Institutional Lender shall be designated by a notice delivered to District and executed by all of the Institutional Lenders in such syndicate, (iii) District shall deal solely with such Institutional Lender, on behalf of such syndicate, as the sole Leasehold Mortgagee hereunder, (iv) the actions taken, and the documents executed, by such Institutional Lender shall be binding upon all Persons in such syndicate and (v) District shall be permitted to disregard any notice, demand, direction or other communication received from any Institutional Lender in such syndicate that is not such designated Institutional Lender.

14.5 Effect of Foreclosure Transfer. A Foreclosure Transfer shall not require prior written consent of District or constitute a breach of any provision of or a Default under this Lease; provided that (i) such Foreclosure Transfer shall be carried out in compliance with any applicable requirements of Article X, (ii) such Foreclosure Transferee is not a Prohibited Person, and (iii) within thirty (30) days after the Foreclosure Transfer, the Foreclosure Transferee shall assume, by written instrument, this Lease, the REA, and the obligations, terms and conditions contained therein.

14.6 Use of Proceeds of Leasehold Mortgage. Until the Stabilization Date, except as approved as part of the Final Project Budget and Funding Plan, or otherwise consented to the by the District, Tenant, or its Affiliates or Members, shall be permitted to recover only its out of pocket predevelopment costs incurred (without any interest or return on such costs) from any proceeds of any Leasehold Mortgage.

ARTICLE XV
EMINENT DOMAIN

15.1 Total Condemnation. If the Leased Premises or substantially all of the Improvements shall be taken by eminent domain or condemnation by any competent Governmental Authority for any public or private use or purpose, this Lease shall terminate upon the effective date of the taking and Tenant shall be reimbursed by District all costs incurred to the date of such taking.

15.2 Partial Condemnation. If less than all or substantially all of the Improvements shall be taken by eminent domain or condemnation by any competent Governmental Authority for any public or private use or purpose, and the Tenant determines, within a reasonable period of time after such taking, that the remaining portion of the Improvements cannot economically and feasibly be used by Tenant under the terms of this Lease, then this Lease shall terminate.

15.3 Allocation of Award. In the event this Lease is terminated pursuant to Section 15.1 or Section 15.2, the condemnation award with respect to the Leased Premises shall be distributed as follows: first to the Leasehold Mortgagee in an amount up to the lesser of the valuation of the Leasehold Estate or an amount sufficient to pay or provide for the payment and discharge of all of the then-outstanding obligations under the Leasehold Mortgage, and thereafter any remaining balance shall be apportioned between the District and Tenant in accordance with Applicable Law.

ARTICLE XVI
GENERAL PROVISIONS

16.1 Entire Agreement. This Lease represents the entire agreement among the Parties with respect to the matters set forth herein and supersedes all prior negotiations, representations or agreements, either written or oral, pertaining to the subject matter of this Lease.

16.2 Amendments. This Lease may be amended only by a written instrument signed by District and Tenant.

16.3 Choice of Law. This Lease shall be governed by and interpreted in accordance with the internal laws of the District of Columbia, without giving effect to conflict of laws provisions.

16.4 Severability. Whenever possible, each provision of this Lease shall be interpreted in such a manner as to be effective and valid under Applicable Law. If, however, any provision of this Lease, or portion thereof, is prohibited by law or found invalid under any law, such provision or

portion thereof, only shall be ineffective without in any manner invalidating or affecting the remaining provisions of this Lease or the valid portion of such provision, which provisions are deemed severable.

16.5 No Implied Waivers. No waiver by a Party of any term, obligation, condition or provision of this Lease shall be deemed to have been made, whether due to any course of conduct, continuance or repetition of non-compliance, or otherwise, unless such waiver is expressed in writing and signed and delivered by the Party granting the waiver. No express waiver shall affect any term, obligation, condition or provision other than the one specified in such waiver and that one only for the time and in the manner specifically stated. Without limiting the District's rights under any other provision in this Lease, it is agreed that no receipt of moneys by District from Tenant after the expiration of the Lease Term or termination of this Lease shall reinstate, continue or extend the Lease Term or the Lease, or affect any notice given to Tenant prior to the receipt of such moneys.

16.6 Successors and Assigns. Each of the Parties hereto binds itself and its successors and authorized assigns to the others and to the successors and authorized assigns of each of the other Parties with respect to all covenants of this Lease.

16.7 Interpretations. Wherever herein the singular number is used, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders, and vice versa, as the context shall require. The section headings used herein are for reference and convenience only, and shall not enter into the interpretation hereof. References herein to sections and exhibits refer to the referenced sections or exhibits hereof unless otherwise specified. The words "herein," "hereof," "hereunder," "hereby," "this Lease" and other similar references shall be construed to mean and include this Lease and all exhibits hereto and all amendments to any of them unless the context shall clearly indicate or require otherwise. Any reference in this Lease to any person includes its successors and assigns (as otherwise permitted under this Lease) and, in the case of any Governmental Authority, any person succeeding to its functions and authority. Any reference to a document or agreement, including this Lease, includes a reference to that document or agreement as novated, amended, supplemented or restated from time to time. References to any schedules or exhibits shall be construed to mean references to such schedules or exhibits as revised from time to time. The terms "include" and "including" shall be construed at all times as being followed by the words "without limitation" or "but not limited to" unless the context specifically indicates otherwise. Reference to "days" herein shall refer to calendar days unless otherwise specified. If the end of any period described herein falls on a Saturday, Sunday, or District of Columbia or federal holiday, the end of such period shall be deemed to fall on the next Business Day. In the event that any publication, institution or entity referred to herein ceases to exist, is discontinued or ceases to supply the data required to perform some measurement or calculation as set forth in this Lease, the Parties agree that they shall attempt in good faith to mutually agree upon a reasonable modification to this Lease to name an alternative publication, institution or entity to achieve substantially the same result as is intended by the Parties on the Commencement Date. This Lease has been negotiated and entered into by each Party with the advice of counsel and shall not be construed against one Party or another based on which Party drafted any portion of this Lease.

16.8 Notices. Any notice, request or other communication given or made hereunder shall be in writing and either (a) sent by any of the Parties or their respective attorneys, by registered or certified mail, return receipt requested, postage prepaid, or (b) delivered in person or by overnight courier, with receipt acknowledged, to the address specified in this Section 16.8 for the party to whom the notice is to be given, or to such other address, addresses, or substitute recipient for such party as such party shall hereafter designate by notice given to the other party pursuant to this Section 16.8. Each notice mailed shall be deemed given on the third Business Day following the date of mailing the same and each notice delivered in person or by overnight courier shall be deemed given when delivered. Copies of all notices given under this Lease must be given or served simultaneously and in the same manner required for notices, as follows:

(a) If to the District to:

Office of the Deputy Mayor for Planning and Economic Development
John A. Wilson Building
1350 Pennsylvania Avenue, N.W., Suite 317
Washington, D.C. 20004
Attn: Deputy Mayor for Planning and Economic Development

With a copy to:

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

(b) If to Tenant, to:

Geoffrey H. Griffis
CityPartners, LLC
1817 Adams Mill Road, NW
Suite 200
Washington, DC 20009

With a copy to:

Barry A. Haberman, Esquire
51 Monroe Street, Suite 1507
Rockville, Maryland 20850

Either Tenant or District, by notice to the other, may change its address for purposes of this Lease.

16.9 Memorandum of Lease. District or Tenant, at the request of the other, will promptly execute and deliver to the requesting Party a "Memorandum of Lease", duly acknowledged and in recordable form, setting forth a description of the Leased Premises, the Lease Term and any other provisions hereof, excepting the rental provisions, as either of the Parties may request. The Memorandum of Lease may be recorded by either District or Tenant. In the event the Memorandum of Lease is recorded in the land records of the District of Columbia, Tenant shall concurrently with its execution of the Memorandum of Lease execute in recordable form and deliver to District such document as shall be necessary to remove the Memorandum of record, which document shall be held in trust by District pending termination of the Leasehold Estate, which document may be recorded in the land records of the District of Columbia by District not less than three (3) days following such termination. Tenant shall pay all costs and expenses (including documentary and/or other transfer taxes, if any) associated with the recording the Memorandum of Lease and any document terminating same of record.

16.10 Third Party Beneficiaries. Except as otherwise expressly provided herein relating to indemnification, nothing in this Lease shall create a contractual relationship with or a cause of action in favor of a third party against any Party and no third party shall be deemed a third party beneficiary of this Lease or any provision hereof.

16.11 Counterparts. This Lease may be executed in several original or electronically transmitted counterparts, which shall be treated as originals for all purposes, and all so executed shall constitute one agreement, binding on the Parties, notwithstanding that the Parties may not be signatories to the original or the same counterpart. Any such original or electronically transmitted counterpart shall be admissible into evidence as an original of this Lease against the person which executed it; provided, however, that a full and complete set of any such original or electronically transmitted signature pages or copies thereof evidencing the intended execution of this Lease by all Parties must be produced if this Lease is to be considered binding upon the Parties.

16.12 Non-Merger. There shall not be a merger of Tenant's or District's interests in this Lease or the Leasehold Estate with (a) any interest of District in the Improvements; or (b) District's interest in this Lease or any other interest of District in the Leased Premises, direct or indirect, whether hereby or hereafter created; or (c) District's fee estate in the Land, or any part thereof, by reason of the fact that the same person or entity may acquire, own or hold, directly or indirectly, both an interest in this Lease or the Leasehold Estate, and all or part of (a), (b) or (c) above, and no such merger shall occur unless and until all persons, including, without limitation, District and Tenant, shall join in a written instrument effecting such merger and shall duly record the same.

16.13 Waiver of Jury Trial. THE PARTIES WAIVE ANY RIGHTS TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM BROUGHT BY ANY OF THE PARTIES AGAINST ANY OTHER PARTY ON, OR IN RESPECT OF, ANY MATTER WHATSOEVER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE OR ANY DOCUMENT OR INSTRUMENT DELIVERED IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF PARTIES HEREUNDER, AND/OR ANY CLAIM OF

INJURY OR DAMAGE.

16.14 Anti-Deficiency Limitations. Tenant acknowledges and agrees, that the obligations of District under this Lease are subject to the provisions of (i) the federal Anti-Deficiency Act, 31 U.S.C. §§1341, 1342, 1349, 1351, (ii) the D.C. Official Code 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, regardless of whether a particular obligation has been expressly so conditioned.

16.15 No Joint Venture. District and Tenant are independent parties under this Lease, and nothing in this Lease shall be deemed or construed for any purpose to establish between them a relationship of principal and agent, employment, partnership or joint venture. District and Tenant shall each be and remain an independent contractor with respect to all rights obtained and services performed under this Lease.

16.16 District's Right to Notice of Injury or Damage. Tenant shall notify District within thirty (30) days of any occurrence at the Leased Premises of which Tenant has notice and which Tenant believes could give rise to a claim of $1,000,000, subject to adjustment for CPI Index, or more, whether or not any claim has been made, complaint filed or suit commenced.

16.17 Litigation. Tenant shall furnish to District notice of each action, suit or proceeding before any court or other governmental body or any arbitrator which could materially adversely affect (i) Tenant's ability to fulfill its obligations under this Lease or (ii) the condition or operation (financial or other) of Tenant or the Leased Premises, in each case no later than the tenth (10^{th}) Business Day after the service of process with respect to such suit or proceeding or Tenant's otherwise obtaining knowledge thereof.

16.18 Procurement of Materials and Supplies. To the maximum extent feasible and provided it does not materially increase the cost, timing or quality of materials and supplies, Tenant will arrange to purchase or take delivery of construction materials and operating supplies in the District of Columbia, such that if sales tax is payable on such transactions the sales tax will be payable to District.

16.19 Rule Against Perpetuities. If any provision of this Lease shall be interpreted to constitute a violation of the Rule Against Perpetuities as statutorily enacted in the District of Columbia, such provision shall be deemed to remain in effect only until the death of the last survivor of the now living descendants of any member of the 110th Congress of the United States, plus twenty one (21) years thereafter.

16.20 Time for Performance. All dates for performance (including cure) shall expire at 6:00 p.m. (Eastern time) on the performance or cure date. In the event that the date for performance or cure falls on other than a Business Day, then such obligation shall be performed on the next succeeding Business Day.

16.21 CPI Index Adjustment. Unless otherwise expressly provided hereunder, any dollar amount described in this Lease as "adjusted pursuant to the CPI index" (or words of similar import) shall be adjusted by multiplying such amount by a fraction, the numerator of which shall be the CPI Index for the calendar month immediately preceding the date of such adjustment, and the denominator of which shall be the CPI Index for the calendar month during which the Commencement Date occurred.

16.22 Incorporation of Schedules and Exhibits; Recitals. All Schedules and Exhibits referenced in this Lease are incorporated by this reference as if fully set forth in this Lease. In the event of any conflict between the Exhibits or the Schedules and this Lease, this Lease shall control. The Recitals of this Lease are hereby incorporated herein by this reference and made a substantive part of the agreements herein between the Parties.

16.23 Estoppel Certificates. In connection with any proposed financings or Transfers, Tenant and District each agree, at any time and from time to time, upon not more than fifteen (15) days' prior written notice by the other party, to execute, acknowledge and deliver to the other party a statement in writing certifying: (i) that this Lease is unmodified and in full force and effect (or if there have been modifications, that the Lease is in full force and effect as modified and stating the modifications), (ii) the date to which the rent and other charges hereunder have been paid by Tenant, (iii) whether or not to the best knowledge of such party, the other party is in default in the performance of any covenant, agreement or condition contained in this Lease, and if so, specifying each such default of which such party may have knowledge, (iv) the address to which notices to such party should be sent, and (v) such other matters as the requested party may request. Any such statement delivered pursuant hereto may be relied upon by any third party designated by the requesting party.

IN WITNESS WHEREOF, the Parties hereto have caused this Lease to be duly executed as of the day and year first above written.

DISTRICT OF COLUMBIA, a municipal Corporation, by and through the Deputy Mayor for Planning and Economic Development pursuant to the delegation of authority contained in Mayor's Order No. _____.

By:_____
Name: _____
Title: Deputy Mayor for Planning and Economic Development

Approved for legal sufficiency by:

D.C. Office of the Attorney General

By: _____
Assistant Attorney General
Date: _____

E STREET DEVELOPMENT GROUP, LLC, a District of Columbia limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT A

Description of the Land

EXHIBIT B

GSA Sublease Agreement

AGREEMENT

This Agreement is by and between the District of Columbia (the "District"), acting by and through the Department of Real Estate Services, (the "DRES") and E Street Development Group, LLC ("E Street") dated November 2, 2010 relating to the development and lease of property at Square 494 Lot 28 (the "Site").

WHEREAS, E Street has been selected for the potential award of development rights to the Site by the District of Columbia acting by and through its Office of the Deputy Mayor for Planning and Economic Development ("ODMPED"); and

WHEREAS, ODMPED and E Street are currently in negotiations of a Land Disposition and Development Agreement ("LDDA") and E Street anticipates execution of such LDDA within the 2010 calendar year; and

WHEREAS, E Street will be obligated, as part of any development rights, to cause to be constructed on a portion of the site a 22,000 square foot, state of the art Fire Station (the "Fire Station") to replace the existing fire station on such parcel and further E Street expects to be granted the right to construct a Class A Office Building with approximately 157,000 net rentable square feet over and above the Fire Station (the "Office Building"); and

WHEREAS, E Street is desirous of leasing the Office Building to the United State General Services Administration ("GSA"); and

WHEREAS, E Street requests that the District of Columbia, by and through its Department of Real Estate Services agree that upon the occurrence of both (i) E Street's completion of construction of the Office Building in accordance with the terms and conditions of the LDDA and (ii) E Street having received a binding written commitment from GSA to lease the Office Building, that DRES agree to lease, as a master lease, the Office Building from E Street and, further, that DRES act as a master lessor to GSA; and

WHEREAS, the District is willing to agree to E Street's request and lease the Office Building upon the terms and conditions contained herein below.

NOW, THEREFORE, intending to be legally bound, the parties hereto, for good and valuable consideration, hereby agree as follows:

1. If E Street enters into an LDDA with ODMPED, then upon the occurrence of both (i) E Street's completion of construction of the Office Building in accordance with the terms and conditions of the LDDA and (ii) E Street having received a binding written commitment from GSA to lease the Office Building, the District by and through DERS will lease the Office Building from E Street, or its designee as permitted under the LDDA, upon such office lease agreement in form and substance satisfactory to DRES in its sole discretion (the "Master Lease") and which lease shall be executed simultaneously with the sublease described in

Section 2 hereof. The Master Lease shall in all events provide that the District will not be responsible for any costs, expenses, claims, or other liabilities in connection with the Office Building, that all such matters shall be passed through in the Sublease (defined below) and that E Street's sole recourse shall be to the tenant under the Sublease. The Master Lease shall be for a term of no greater than 20 years. The Master Lease shall commence on such date as the parties may agree but in no event later than July 1, 2011, subject however to both (i) and (ii) above both having first occurred.

2. DRES agrees to sublease the Office Building to the GSA which Sublease shall provide that all costs, expenses, claims, or other liabilities related to the Office Building shall be the responsibility of GSA and further shall be for a term no greater than 20 years which term is not subject to approval by the District of Columbia Council under the law applicable as of the date of this Agreement.

3. It is E Street's belief that for so long as the District is the master tenant of the Office Building, the Office Building will be exempt from real estate taxes pursuant to DC Code §47-1002(2).

4. This Agreement is binding on both parties hereto and each represents and warrants that the person executing this Agreement on its behalf has full power and authority to do so, all necessary consents and approvals having been duly obtained. Notwithstanding the foregoing, (i) the obligations of the parties hereunder are subject to the LDDA being executed, (ii) the condition precedent that the GSA agree in a legally binding writing to lease the entirety of the Office Building on terms satisfactory to E Street and otherwise in accordance with this Agreement and (iii) the obligations of E Street hereunder are subject to its ability to arrange for debt and equity financing on terms satisfactory to it in its sole discretion. Should any of these conditions not be satisfied by June 30, 2011, then this Agreement shall automatically terminate without any obligation or liability on the part of either party; provided, however, that E Street shall have one (1) right to extend this period to December 31, 2011 by giving written notice to DRES no later than ten (5) business days prior to June 30, 2011.

5. The parties hereto shall promptly execute and deliver, without additional consideration, any supplemental or additional documents which either party may reasonably deem necessary or desirable to carry out the intent and purpose of this Agreement but in no event at any cost or expense of the District.

6. The District's financial obligations under this Agreement, if any, are subject to the provisions of (a) the federal Anti-Deficiency Act, 31 U.S.C. §§ 1341, 1342, 1349-1351 and 1511-1519 (2004) (the "**Federal ADA**"), and D.C. Official Code §§ 1-206.03(e) and 47-105 (2001); (b) the District of Columbia Anti-Deficiency Act, D.C. Official Code §§ 47-355.01 – 355.08 (2004 Supp.) (the "**D.C. ADA**" and the Federal ADA, as amended from time to time, the "**Anti-Deficiency Acts**"); and

(c) § 446 of the District of Columbia Home Rule Act, D.C. Official Code § 1-204.46 (2001).

8. This Agreement shall bind and benefit the successors and assigns of the parties. This Agreement shall be governed by the laws of the District of Columbia, without reference to conflict of laws principles. This Agreement contains the entire agreement between the parties with respect to the subject matter hereof.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date first above written.

The DISTRICT OF COLUMBIA, by and through the Department of Real Estate Services

BY: _____
Name: Robin-Eve Jasper
Title: Chief Property Management Officer

Approved for legal sufficiency:

_____

E STREET DEVELOPMENT GROUP, LLC

BY: _____
Name: Geoffrey H. Griffis
Title: Co-Managing Member ESDG LLC.