

LAND DISPOSITION AGREEMENT

THIS LAND DISPOSITION AGREEMENT (this “**Agreement**”) is made effective for all purposes as of the 2ND day of MARCH, 2015, between (i) DISTRICT OF COLUMBIA, a municipal corporation, and (ii) DB Residential Hill East, LLC, a District of Columbia limited liability company (“**Developer**”).

RECITALS:

R-1. District (hereinafter defined) owns the parcels of land located in Washington, D.C., known as Reservation 13 and consisting of approximately 67 acres of land area. District acquired Reservation 13 from the Federal Government by quitclaim deed dated September 14, 2010 and recorded with the land records of the District of Columbia as Instrument no. 2010080921.

R-2. District intends to sell to Developer a portion of Reservation 13 known as Parcels F-1 and G-1 (such portion, the “**Property**”), as shown approximately on the plat and legal description attached hereto as Exhibit A. Parcel F-1 consists of approximately 36,039 square feet of land area, Parcel G-1 consists of approximately 78,003 square feet of land area. Parcels F-1 and G-1 have frontage on the east side of 19th Street, SE and are separated by C Street, SE. Additionally, Parcel G-1 has frontage on the north side of Massachusetts Avenue, SE, and on the west side of 20th Street, SE. Parcel F-1 has frontage on the south side of Burke Street, SE.

R-3. Finding that the Property was no longer required by the District of Columbia for public purposes, the Council of the District of Columbia (“**Council**”) approved the disposition of the Property to Developer pursuant to the Hill East Redevelopment- Phase F-1 and G-1 Disposition Emergency Approval Act of 2014 (December 29, 2014, Act. No. A20-0547) (the “**Resolution**”), subject to the terms and conditions set forth therein and incorporated herein by this reference.

R-4. The Project (hereinafter defined) to be developed on the Property is not a public building or public work, but rather is a private development intended to stimulate the economy and growth of the neighborhood and community in which the Property is located. However, the Property has a unique and special importance to District. Accordingly, this Agreement makes particular provision to assure the excellence and integrity of the design and construction of the Project necessary and appropriate for an urban development serving District of Columbia residents and the public at large. Developer and District further desire and intend that Developer develop the Project on the Property without any District of Columbia or federal government financing, subsidy or assistance, including in the operation of the affordable housing component of the Project and in the CBE (hereinafter defined) involvement in the Project. District shall have a continuing oversight role in the development and construction of the Project for the purposes of assuring the excellence and integrity of the design, construction, and management of the Project in accordance with the plans approved by District and enforcing the terms and conditions of this Agreement; however, Developer shall not look to District for any financial assistance in the Project.

R-5. The Project will be developed in accordance with the Development Program (hereinafter defined). As a condition of District conveying the Property to Developer, Developer is required to grant District certain review rights over the Project. It is contemplated that the Project is a matter-of-right development under the District of Columbia Zoning Regulations (Title 11 of the District of Columbia Municipal Regulations (“DCMR”), although the Project is subject to review by the District of Columbia Zoning Commission pursuant to 11 DCMR §2801.1.

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 1 DEFINITIONS

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

“**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.

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

“**Affordable Units**” means those certain Residential Units (hereinafter defined) to be developed, rented or sold, and used for residential purposes in accordance with the Affordability Requirement (hereinafter defined) and the Affordability Covenant.

“**Affordability Requirement**” means the requirement pursuant to the AWI Act (hereinafter defined) that at least 30% of the total Residential Units be developed, constructed, and maintained on the Property as Affordable Units, of which no less than fifteen percent (15%) of the Residential Units be rented to families with incomes of 30% AMI or less and no less than fifteen percent (15%) of the Residential Units be rented to families with incomes between 31% and 60% AMI or less. Based upon the Development Program, Developer shall develop, construct, and maintain a minimum of 53 Affordable Units for lease to families with incomes less than 30% AMI or less and 53 Affordable Units for lease to families with incomes between 31% and 60% AMI on the Property. The Affordable Units shall be located in both of the buildings. The Affordable Units shall be maintained for a minimum of 50 years, subject to any extensions required to comply with Inclusionary Zoning (hereinafter defined) and as further described in the Affordability Covenant.

“**AMI**” means the most current “area median income” for a household of four persons in the “Washington Metropolitan Statistical Area” as periodically published by HUD.

“**Approved Plans and Specifications**” is defined in Section 4.2.1.

“**Architect**” means Colbert & Associates, 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.

“**AWI Act**” means the “National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008” (D.C. Law 17-138), as amended by Affordable Housing For-Sale and Rental Distribution Amendment Act of 2009” (D.C. Law 18-0107) and codified in D.C. Official Code §§ 2-1226.02 *et seq.*

“**AWI Environmental Act**” means the “Anacostia Waterfront Environmental Standards Act of 2008” (D.C. Law 17-138), as codified in D.C. Official Code §§ 2-1226.31 *et seq.*

“**Bonds**” is defined in Section 2.8.1.

“**Business Day**” means Monday through Friday, inclusive, other than holidays recognized by the District of Columbia government.

“**CBE**” means a certified business enterprise, certified as a “CBE” by the DSLBD under applicable District of Columbia law.

“**CBE Agreement**” is that agreement attached hereto as Exhibit C between Developer and DSLBD (hereinafter defined) governing certain obligations of Developer under D.C. Code §§ 2-217.01 *et seq.* and its implementing regulations with respect to the Project.

“**Certificate of Final Completion**” is defined in the Construction Covenant.

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

“**Closing**” is the consummation of the purchase and sale of the Property as contemplated by this Agreement.

“**Closing Date**” is defined in Section 6.1.1.

“**Commencement of Construction**” means Developer has (i) executed a construction contract with its general contractor; (ii) given such general contractor a notice to proceed under said construction contract; (iii) caused such general contractor to mobilize on the Property equipment required to commence excavation, and (iv) obtained the Permits (hereinafter defined) required for excavation, sheeting and shoring and commenced excavation upon the Property pursuant to the Approved Plans and Specifications. For purposes of this Agreement, the term “Commencement of Construction” does not mean site exploration, borings to determine

foundation conditions, or other pre-construction monitoring or testing to establish background information related to the suitability of the Property for development of the Project thereon or the investigations of environmental conditions.

“**Commitment Letters**” is defined in Section 4.8.2.

“**Completion of Construction**” is defined in the Construction Covenant (hereinafter defined).

“**Concept Plans**” are Developer’s design plans for the Project, which serve the purpose of establishing the major direction of the design of the Project, and any modifications thereto permitted pursuant to this Agreement. The Concept Plans for the Project are attached hereto as Exhibit D.

“**Construction Covenant**” is that certain Construction and Use Covenant between District and Developer in the form attached hereto as Exhibit E, to be recorded in the Land Records against the Property in connection with Closing.

“**Construction Drawings**” means the detailed architectural drawings and specifications that are prepared for all aspects of the Development Program or the Project, as applicable, and that are used to obtain Permits and detailed cost estimates, and to solicit and receive construction bids.

“**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 (hereinafter defined)) of any Hazardous Materials.

“**Control**” means the possession, directly or indirectly, of the power to direct, or cause the direction of, the day-to-day operations or 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 at least fifty-one percent (51%) of the directors, managers, 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.

“**CSOSA**” is the Court Services and Offender Supervision Agency.

“**CSOSA Lease**” is defined in Section 4.11.

“**DDOT**” is the District of Columbia Department of Transportation.

“**Deed**” shall mean the deed in the form of Exhibit F attached hereto and incorporated herein by reference.

“**Deposit Letter of Credit**” is defined in Section 2.2.1.

“Developer Default” is defined in Section 9.1.1.

“Developer’s Agents” means Developer’s agents, employees, consultants, contractors, and representatives.

“Developer’s Financing Statement” is defined in Section 4.8.1.

“Development and Completion Guaranty” is that guaranty, the form of which is attached hereto as Exhibit G, to be executed by Guarantor (hereinafter defined) in connection with Closing.

“Development Program” means construction and development of Property with: (i) no less than 354 apartment Residential Units, subject to the Affordability Requirement; (ii) a minimum of 20,000 sq. ft. ground floor retail; (iii) the Village Square (hereinafter defined) on Parcel F-1; (iv) the Green Space (hereinafter defined) on Parcel G-1; (v) approximately 222 underground parking spaces; and (vi) any public space improvements and utility improvements required for the use and occupancy of the improvements to be constructed on the Property, including sidewalks and streetscapes.

“Disapproval Notice” is defined in Section 4.2.2.

“District” is the District of Columbia, a municipal corporation, acting by and through the Office of the Deputy Mayor for Planning and Economic Development.

“District Default” is defined in Section 9.1.2.

“DOES” is the District of Columbia Department of Employment Services, or such successor District agency.

“DOL” is the United States Department of Labor.

“DSLBD” is the District of Columbia Department of Small and Local Business Development, or such successor District agency.

“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 to this Agreement shall have executed and delivered this Agreement to one another.

“Environmental Claims” is defined in Section 8.1.3(a).

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

order, or decree regulating, relating to, or imposing liability or standards of conduct concerning any Hazardous Material.

“Estoppel Recipient” shall have the meaning set forth in Section 13.21.

“Final Project Budget” is defined in Section 4.7.2.

“First Source Agreement” is that agreement, attached as Exhibit H, between Developer and DOES, entered into in accordance with Section 7.5 herein, governing certain obligations of Developer under DC Code §§ 2-219.01 *et. seq.*; DC Code § 10-801(b)(7); 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, acts of terror or terrorism, 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 or acts or failures to act of government or of civil, military, or naval authorities enacted or adopted after the Effective Date, so long as such act or event (i) is not within the reasonable control of Developer, Developer’s Agents, or its Members (hereinafter defined); (ii) is not due to the fault or negligence of Developer, Developer’s Agents, or its Members; (iii) is not reasonably foreseeable and avoidable by Developer, Developer’s Agents, or its Members or District in the event District’s claim is based on a Force Majeure event, and (iv) directly results in a delay in performance by Developer or District, as applicable; but specifically excluding (A) shortage or unavailability of funds or financial condition, (B) changes in market conditions such that construction of the Project as contemplated by this Agreement and the Approved Plans and Specifications is 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.

“Green Space” means the portion of Parcel G-1 set back from 19th Street, SE and described on Exhibit A, to be constructed and maintained as open green space. After Completion of Construction, the Green Space shall remain open and accessible for use by the public set forth in the Construction Covenant.

“Guarantor” is Christopher J. Donatelli, or any substitute guarantor approved by District pursuant to Section 2.8.2. Guarantor must have sufficient net worth and liquidity to satisfy its obligations under such 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.

“Guarantor Submissions” shall mean (a) the last three years of financial statements and tax returns if the Guarantor is an individual and (b) the last three years of audited financial statements and audited balance sheets, profit and loss statements, cash flow statements and other financial reports if the Guarantor is an entity, and such other financial information as District may reasonably request to determine whether such Person has sufficient net worth and liquidity to satisfy the obligations under the Development and Completion Guaranty, together with a summary of such Person’s other guaranty obligations and the other contingent obligations of

such Person (in each case, certified by such Person or an officer of such Person as being true, correct and complete in all material respects).

“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.

“Hill East Zoning Regulations” means requirements set forth in Chapter 28 of the District of Columbia Zoning Regulations, as codified in Title 11 of the District of Columbia Municipal Regulations, and any other applicable District zoning statutes and regulations.

“HUD” is the United States Department of Housing and Urban Development.

“Inclusionary Zoning” means the requirements set forth in D.C. Official Code §§ 6-1041.01 *et seq.*, and its implementing regulations set forth in DCMR §§ 11-2600 *et seq.*

“Indemnified Parties” are defined in Section 8.1.3(a).

“Institutional Lender” means a Person that (a) lends money to or invests in real estate developers or developments in the ordinary course of its business, (b) is not an Affiliate of Developer or a Prohibited Person, (c) has an aggregate of no less than \$1 billion in assets, and (d) is (i) a commercial bank, investment 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 or any financing-related subsidiary of a Fortune 500 company (such as GE Commercial Finance); (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 or a trustee or issuer of collateralized mortgage obligations or similar investment entity (provided that such trustee, issuer or other entity is publicly traded or is sponsored by an entity that otherwise constitutes an Institutional Lender); (vii) a governmental agency; (viii) a charitable organization regularly engaged in making loans secured by real estate; (ix) a profit-sharing or commingled trust or fund, the majority of equity investors in which are pension funds, or (x) a corporation, other entity or joint venture that is a wholly owned subsidiary or combination of any one or more of the foregoing entities (including, without limitation, any of the foregoing when acting as trustee for other lender(s) or investor(s) that are not Prohibited Persons, whether or not such other lender(s) or investor(s) are themselves Institutional Lenders). A holder of a bond issued by a governmental agency that is an Institutional Lender shall be deemed to be an Institutional Lender solely for purposes of determining whether such holder, as owner of an interest in the debt issued by such governmental agency, is an Institutional Lender.

“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, AWI Act, the Master Plan, the Hill East Zoning Regulations, the Environmental Laws (including the AWI Environmental Act), the Davis-Bacon Act, 40 U.S.C. § 276(a) (and the regulations promulgated therewith), laws relating to historical preservation, and laws relating to accessibility for persons with disabilities.

“Letter of Credit” shall mean a letter of credit substantially in the form attached as Exhibit I and reasonably satisfactory to District in all respects.

“Major Subcontract” shall mean each subcontract for construction services for the Project with a contract price that is \$250,000 or more.

“Master Plan” means the *“Master Plan for Reservation 13, Hill East Waterfront”* prepared by Ehrenkrantz Eckstut & Kuhn Architects Justice and Sustainability Associates dated February 2003 and approved by the Council of the District of Columbia pursuant to D.C. Official Code § 10-15.01.

“Material Adverse Change” means a material adverse change (in comparison to any state of affairs existing before the Effective Date) (i) to the business operations, assets or condition (financial or otherwise) of Guarantor, and (ii) that affects the ability of Guarantor to perform, or of District to enforce, any material provision of the Development and Completion Guaranty after Closing.

“Material Change” means (i) any change in size or design from the Approved Plans and Specifications affecting the general appearance or structural integrity of exterior walls and elevations, building bulk, or number of floors, or a ten percent (10%) or greater change in lot coverage or floor area ratio; (ii) any changes in colors or use of exterior finishing materials substantially affecting architectural appearance from those shown and specified in the Approved Plans and Specifications; (iii) any material change in the functional use and operation of the Project from those shown and specified in the Approved Plans and Specifications; (iv) any changes in design and construction of the Project requiring approval of, or any changes required by, any District of Columbia agency, body, commission or officer (other than District); (v) any change affecting the general appearance of landscape design or plantings from the Approved Plans and Specifications; (vi) any change affecting the general appearance or structural integrity of exterior pavement, pedestrian malls, plazas, retaining walls, pools and fountains, exterior lighting, public art and other site features related to the development of the Project from the Approved Plans and Specifications; (vii) any changes in general pedestrian or vehicular circulation in, around or through the Project from the Approved Plans and Specifications, (viii) in the case of Affordable Units only, any change in unit location, number, type, unit size, or level of interior finish, from the Approved Plans and Specifications, and (ix) any change to the Development Program.

“Member” means any Person with a direct ownership interest in Developer.

“Mortgage” shall mean a mortgage, deed of trust, or other security instrument that is recorded against the Property (but no other real property) and secures a loan that provides financing to acquire the Property and to develop and construct the Project.

“Outside Closing Date” is defined in Section 6.1.1.

“Parcel F-1” means the portion of the Property known for taxation and assessment as Lot __ in Square E-1112, described on Exhibit A as “Parcel F-1”.

“Parcel G-1” means the portion of the Property known for taxation and assessment as Lot __ in Square E-1112, as further described on Exhibit A as “Parcel G-1”.

“Party” when used in the singular, shall mean either District or Developer; 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 (hereinafter defined), and any utility company, as the case may be) necessary to commence and complete construction, operation, and maintenance of the Project, in accordance with the Construction Drawings and this Agreement.

“Permitted Exceptions” has the meaning given it in Section 2.4.1.

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

“Prohibited Person” shall mean any of the following Persons:

(A) Any Person (or any Person whose operations are directed or Controlled by a Person) who has been convicted of or has pleaded guilty in a criminal proceeding for a felony or who is an on-going target of a grand jury investigation convened pursuant to 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 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" shall have the meaning set forth in Section 8.1.2(d).

"Project" means the improvements to be constructed on the Property and adjacent to the Property, and the development and construction thereof in accordance with the Development Program and this Agreement.

"Project Budget" means Developer's budget for construction of the Project that includes a cost itemization prepared by Developer specifying all costs (direct and indirect, hard and soft) 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.

"Project Covenants" means the Construction Covenant, the Affordability Covenant and the covenants and easements contained and reserved in the Deed.

"Property" is defined in the Recitals.

"Purchase Price" has the meaning set forth in Section 2.1.2 hereof.

"Residential Unit" is any unit constructed as part of the Project to be developed, rented, and used for residential purposes.

"Resolution" is defined in the Recitals.

"Retail Marketing Plan" shall mean Developer's retail marketing plan and retail strategy, which shall satisfy the Unique Retailer Requirement, as approved by District pursuant to Section 8.1.2.

"Schedule of Performance" means that schedule of performance attached hereto as Exhibit J and incorporated herein, which has been approved by District as of the Effective Date, and which may be amended by mutual agreement of the Parties, setting forth the timelines for milestones in the design, development, construction, and completion of the Project in a single

phase (including a construction timeline in customary form), together with the dates for submission of documentation for the Project required under this Agreement, which schedule shall be attached to the Construction Covenant. The Schedule of Performance shall be subject to delays caused by events of Force Majeure, as hereinafter more specifically provided, and to any other revisions expressly provided for in this Agreement or made pursuant to this Agreement by the Parties or automatically given effect in accordance with this Agreement.

“**Second Notice**” means that notice given by Developer to District in accordance with Article 4 herein. Any Second Notice shall be labeled, in bold, 18 point font, as a “Second and Final Notice.” Developer, as applicable, shall deliver any Second Notice to District, in the manner identified in Section 12.1, in an envelope that is conspicuously labeled “Second and Final Notice.”

“**Settlement Agent**” means Premium Title & Escrow, LLC, the title agent selected by Developer and mutually acceptable to Developer and District. Settlement Agent shall not be an Affiliate of Developer or have any interest (financial or otherwise) in the Project.

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

“**Studies**” is defined in Section 2.3.1(a).

“**Subdivision**” shall have the meaning set forth in Section 2.4.3.

“**Transfer**” means any sale, assignment, conveyance, ground lease (but excluding space leases) with a primary term in excess of thirty (30) years, trust, power, encumbrance or other transfer of this Agreement, the Property or the improvements or of any portion of this Agreement, the Property or the improvements, or of any interest in this Agreement, the Property or the improvements, or any contract or agreement to do any of the same. As used in this Agreement, a Transfer shall also be deemed to have occurred if: (i) 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, a majority of the membership or beneficial interest in the Developer is sold, transferred, diluted, reduced or otherwise affected resulting in a change in Control of the Developer; or (ii) in a single transaction or series of transactions, whether related or unrelated, a majority of the membership interests in the Developer or in any member of the Developer is sold, transferred, diluted, reduced or otherwise affected (whether directly or indirectly) resulting in a change of Control of the Developer; (iii) an assignment or transfer by operation of Law occurs; or (iv) there is a substantial change in the participation of CBEs in the ownership or management of the Developer, which shall mean any change the result of which will be to alter the percentage of the participation by CBEs from that previously presented to the District, or a change that results in the loss of the CBE status.

“**Unique Retailer Requirement**” shall have the meaning set forth in Section 8.1.2(b).

“**UST Act**” is defined in Section 2.3.3.

“**UST Regulations**” is defined in Section 2.3.3.

“**Village Square**” means that area on Parcel F-1 fronting on 19th Street, SE and housing an entrance to the Stadium-Armory Metro station and described on Exhibit A and in the Master Plan for the construction, development and use as a public square.

“**WMATA**” is the Washington Metropolitan Area Transit Authority.

ARTICLE 2 CONVEYANCE; PURCHASE PRICE; CONDITION OF PROPERTY

2.1 SALE; PURCHASE PRICE

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

2.1.2 The purchase price of the Property is Ten Dollars (\$10.00) (the “**Purchase Price**”), payable at Closing.

2.1.3 Developer shall pay the Purchase Price at Closing in immediately available funds through a closing escrow established with Settlement Agent.

2.2 DEPOSIT

2.2.1 The District hereby acknowledges receipt from Developer of a Letter of Credit in the amount of **One Hundred Thousand Dollars (\$100,000.00)** (the “**Deposit Letter of Credit**”). The Deposit Letter of Credit may be drawn by District in accordance with this Agreement.

2.2.2 The Deposit is not a payment on account of and shall not be credited against the Purchase Price; rather, the Deposit shall be held by District to be used as security to ensure Developer’s compliance with this Agreement and may be drawn on by District in accordance with the terms of this Agreement. Notwithstanding any provision herein to the contrary, if Closing occurs hereunder, District shall return the Deposit Letter of Credit to Developer on after the District’s issuance of the Certificate of Final Completion.

2.2.3 If at any time prior to District’s issuance of the Certificate of Final Completion, the Deposit Letter of Credit will expire within thirty (30) days, Developer shall deliver to District either a replacement Letter of Credit or an endorsement to the Deposit Letter of Credit extending the expiration date of the Deposit Letter of Credit for at least one (1) year. If a replacement Letter of Credit or endorsement is not provided to District as required pursuant to the preceding sentence by five (5) Business Days prior to the expiration date of the existing Deposit Letter of Credit, the same shall be considered a Developer Default hereunder and District may draw upon the Deposit Letter of Credit.