Office of Superintendent of Schools July 8, 2026
Board Meeting of July 22, 2026

Office of Facilities Design and Construction
Raul F. Perez, Chief Facilities Design and Construction Officer

SUBJECT: **APPROVE MASTER DEVELOPMENT AGREEMENT AND 99-YEAR GROUND LEASE WITH PINNACLE WITHERS, LLC, FOR THE REDEVELOPMENT OF THE ISAAC WITHERS SITE AT 21300 SW 122ND AVENUE MIAMI, FL**

COMMITTEE: **FACILITIES AND CONSTRUCTION**

LINK TO STRATEGIC PLAN: **EFFECTIVE & SUSTAINABLE OPERATIONAL PRACTICES**

BACKGROUND

Miami-Dade County Public Schools (MDCPS) continues to evaluate redevelopment opportunities that allow selected District-owned properties to support educational infrastructure needs, preserve public ownership of land, and advance workforce housing opportunities. Through long-term ground lease structures, the District can generate capital for school facility priorities without selling the underlying property.

On August 12, 2025, The School Board approved Invitation to Negotiate No. ITN-24-014-CM – Ground Lease Opportunities on School Board Owned Properties, authorizing the Superintendent to solicit proposals for redevelopment of District-owned properties through public-private partnerships.

The Withers Site, located at 21300 SW 122nd Avenue, Miami, Florida, consists of approximately 8.4 acres of School Board-owned property in southwest Miami-Dade County and is identified as Parcel ID 30-6912-002-0010. For this site, two Board-authorized proposers were evaluated: Pinnacle Communities and Bluenest Development. Following review of Best-and-Final Proposals, Pinnacle Communities was advanced into negotiations based on its materially higher upfront capital contribution, proposed workforce housing development program, site utilization plan, and alignment with the District's near-term capital priorities.

The Best-and-Final comparison reflected that Pinnacle Communities proposed a 200-unit garden-style rental community serving households at or below 120% of Area Median Income, with no Low-Income Housing Tax Credit financing and approximately $5.0 million in upfront capital. Bluenest Development proposed a 92-unit twin-home rental workforce housing community serving households at or below 120% of Area Median Income, with no Low-Income Housing Tax Credit financing, approximately $500,000 in upfront capital, annual lease payments beginning at approximately $253,000 with a 3% annual increase, and 5% participation in Effective Gross Income.

Staff advanced Pinnacle Communities because its proposal provided the stronger combination of near-term capital, site utilization, and workforce housing production aligned with the District's portfolio strategy. Advancement into negotiations did not constitute a final award, and Bluenest Development remained authorized while negotiations proceeded.

Following advancement into negotiations, staff, legal counsel, and Pinnacle further negotiated and refined the transaction structure for the Withers Site. The documents now presented for Board approval provide for a capitalized lease payment of $26,000 per approved residential dwelling unit, with a minimum payment of $6,240,000 based on a development plan for 240 units – which is consistent with the property's appraised value. The negotiated structure supports increased density and upfront capital payment from the Best-and-Final Proposal, while preserving a per-unit payment formula if additional residential units are approved through the final development process.

PROJECT DESCRIPTION

Under the proposed structure, MDCPS will retain fee simple ownership of the Withers Site and grant a long-term ground lease to Pinnacle Withers, LLC, or its affiliated development entities, for the development, construction, and operation of a workforce housing community.

The proposed development is anticipated to include at least 240 workforce housing units in a low-rise, garden-style multifamily community, with related parking, clubhouse, pool, and residential amenities. The current unit mix reflected in the transaction exhibits includes 102 one-bedroom units, 90 two-bedroom units, and 48 three-bedroom units, subject to final development approvals, permitting, financing, and implementation requirements.

The development will be implemented pursuant to the negotiated Master Development Agreement, Ground Lease, and related exhibits. The District is not conveying ownership of the land. Instead, the proposed transaction grants a leasehold interest that allows the developer to finance, construct, and operate the project while preserving long-term District ownership of the property.

HOUSING AFFORDABILITY AND WORKFORCE STRUCTURE

The current development structure anticipates a minimum of approximately 240 workforce housing units serving households whose incomes do not exceed 120% of the Area Median Income (AMI), adjusted for family size, for Miami-Dade County as reported by the United States Department of Housing and Urban Development (HUD), subject to applicable law, annual income-limit updates, and final program requirements.

The proposed development will support workforce housing needs in Miami-Dade County, including housing opportunities for working families and individuals whose incomes are within the approved workforce housing range. As permitted by applicable law and program requirements, the development will also support housing opportunities for eligible MDCPS employees, including classroom teachers and other District personnel.

The Ground Lease further contemplates that the project's workforce housing units will be leased in compliance with applicable property tax exemption requirements, including provisions tied to Florida Statutes governing workforce housing ad valorem tax exemption eligibility.

COMMUNITY BENEFITS

The proposed development will expand the supply of workforce housing in southwest Miami-Dade County and support housing opportunities for working families, individuals, and eligible District employees, subject to applicable law and program requirements.

The project is also expected to contribute to local economic activity through construction, lease-up, and long-term property operations. Community engagement and stakeholder coordination will continue as the project advances through due diligence, governmental approvals, permitting, financing, and implementation.

FINANCIAL STRUCTURE, SITE UTILIZATION, AND DISTRICT VALUE

The negotiated transaction provides for an upfront capitalized lease payment to the District in the amount of $26,000 per approved residential dwelling unit. Based on the current 240-unit development program, the minimum capitalized lease payment is $6,240,000.

This negotiated structure improves upon the Best-and-Final Proposal by increasing the upfront capital payment from approximately $5.0 million to a minimum of $6.24 million, while also tying the final payment amount to the number of residential dwelling units approved for construction. If additional residential units are approved through the final development process, the capitalized lease payment will be calculated at $26,000 per approved residential dwelling unit, consistent with the Ground Lease.

The Ground Lease provides that the capitalized lease payment will be paid upon the Commencement Date, which is tied to the tenant's closing on construction financing. The Ground Lease also provides for annual base rent of $1.00 per lease year.

The development budget reflects an estimated total development cost of approximately $72.0 million, including approximately $53.5 million in construction costs and the $6,240,000 million land/capital lease payment.

The proposed transaction creates value for the District by converting an underutilized real estate asset into a defined upfront capital payment, supporting the District's broader capital strategy for the Arthur & Polly Mays Conservatory of the Arts K–12 facility, preserving public ownership of the land, and shifting development, financing, construction, lease-up, and operating risk to the developer.

All development, entitlement, financing, construction, lease-up, operational, and property management risks are borne by the developer and affiliated ownership entities. MDCPS will not hold an ownership interest in the development entities and will have no responsibility for construction financing, operating deficits, guaranties, or capital contributions.

DEVELOPMENT SCHEDULE AND IMPLEMENTATION

The current project schedule is subject to change based on due diligence, site availability, financing, and necessary governmental approvals. The transaction documents recognize that the property may be subject to existing occupancies, including school operations, offices, and other facilities, and provide that existing occupancies are to be addressed prior to June 30, 2027.

As implementation advances, MDCPS will continue coordinating with Miami-Dade County regarding the existing Head Start program currently operating at the site. This coordination will be addressed as part of the District's operational planning and site transition process, while preserving the negotiated redevelopment framework and the District's ability to move forward with the proposed transaction.

The current schedule anticipates lease signing in August 2026, completion of due diligence in November 2026, Administrative Site Plan Review (ASPR) submission in February 2027, ASPR approval in September 2027, construction drawings in February 2028, building permits in August 2028, construction closing and start in October 2028, and an estimated 18-month construction period.

The Ground Lease provides that the tenant must cause the Commencement Date to occur within four years following the lease date, subject to the terms and conditions of the lease. The Ground Lease also includes provisions related to due diligence, development approvals, financing, construction obligations, and termination rights if required approvals or financing conditions are not satisfied.

RISK ALLOCATION AND DISTRICT PROTECTIONS

The Master Development Agreement and Ground Lease include District approval rights and protections regarding development plans, material changes, construction obligations, ownership and leasehold structures, assignment and subletting, insurance, indemnification, public records compliance, environmental due diligence, and legal compliance.

The Master Development Agreement requires prior written approval for material changes to the Redevelopment Plan, including changes that materially affect the development schedule, scope, size, density, height, permitted uses, site plan, access, circulation, parking, public spaces, infrastructure, required public improvements, or the District's obligations, liabilities, or risk exposure.

The developer is responsible for securing financing, obtaining governmental approvals, carrying out pre-construction and construction activities, maintaining required insurance, paying contractors and subcontractors, keeping the property free of liens, and providing quarterly reports and progress updates to the District.

The agreements also preserve the District's fee simple ownership of the property and provide that improvements will revert to the District at the expiration or earlier termination of the Ground Lease, subject to the terms of the lease. The Ground Lease includes reversion mechanics, wind-down obligations, capital reserve requirements during the final years of the lease term, and no compensation to the tenant for residual value unless otherwise expressly agreed.

RECOMMENDED:

That The School Board of Miami-Dade County, Florida:

1) Approve and execute the Master Development Agreement, Ground Lease, and related ancillary agreements with Pinnacle Withers, LLC, or its affiliated development entities, for the redevelopment of the Withers Site located at 21300 SW 122nd Avenue, Miami, Florida;

2) Approve the negotiated business terms reflected in the transaction documents, including development of at least 240 workforce housing units and a capitalized lease payment of $26,000 per approved residential dwelling unit, with a minimum payment of approximately $6.24 million based on the 240-unit development program, payable at financial closing;

3) Approve any permitted assignments, subleases, amendments, recognition agreements, non-disturbance agreements, estoppels, joinders, or related leasehold structures to affiliated ownership entities or financing entities consistent with the approved business terms and financing structure;

4) Execute all ancillary agreements, amendments, certificates, joinders, estoppels, consents, and related documents necessary to effectuate the transaction, including those required for financing, permitting, development approvals, regulatory compliance, affordability and workforce housing requirements, and implementation of the Ground Lease;

5) Take all actions necessary to implement the redevelopment consistent with prior Board directives, the approved business terms, and the District's portfolio strategy to generate capital to support reconstruction of the Arthur & Polly Mays Conservatory of the Arts K–12 facility while advancing workforce housing opportunities; and

6) Make non-substantive modifications as required by legal review, financing authorities, governmental approvals, or final negotiations, provided such modifications do not materially alter the approved economic terms.

MASTER DEVELOPMENT AGREEMENT

BETWEEN

THE SCHOOL BOARD OF MIAMI-DADE COUNTY

AND

PINNACLE WITHERS, LLC

MASTER DEVELOPMENT AGREEMENT

THIS MASTER DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of ____________, 2026 (the "Effective Date"), by and between **THE SCHOOL BOARD OF MIAMI-DADE COUNTY**, a body corporate and politic existing under the laws of the State of Florida ("Owner"), and **PINNACLE WITHERS, LLC**, a Florida limited liability company, its successors and/or assigns ("Developer").

RECITALS

WHEREAS, Owner is the owner of that certain real property located in Miami-Dade County, Florida, as more particularly described in Exhibit "A" attached hereto and incorporated herein by this reference (the "Property");

WHEREAS, Developer desires to develop the Property as a multifamily housing development (the "Development"), which is anticipated to include, among other things, a minimum of two hundred forty (240) workforce housing units as more particularly described in this Agreement;

WHEREAS, in connection with the Development, Owner and Developer (or its designee or assignee) anticipate entering into a Ground Lease (as defined herein) pursuant to which Owner shall lease the Property to Developer for the purpose of developing, constructing and operating the Development;

WHEREAS, in connection with the operation of the Development, Owner and its Management Agent (as defined below) will formulate a leasing program to provide a preference for then current employees of Owner as more particularly described in Article 6 below;

WHEREAS, this Agreement is intended to provide an overall framework for a cooperative, coordinated approach to the development of the Property, and Owner and Developer agree to work with each other in good faith to execute any subsequent agreements that may be needed to complete the Development;

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. Definitions.

"Affiliate" means, as to a party, any entity which directly controls, is controlled by, or is under common control with such party, where "control" means ownership of fifty-one percent (51%) or greater of the equity of such party or the ability to direct the day-to-day management of such party.

"Agreement" shall have the meaning set forth in the introductory paragraph of this Agreement.

"Conceptual Plan" shall have the meaning set forth in Section 3.1(b).

"Construction Completion" means the date upon which Developer has achieved substantial completion in accordance with the approved Redevelopment Plan, the approved plans and specifications, and all applicable laws, as evidenced by: (a) a temporary certificate of occupancy, permanent certificate of occupancy, or other equivalent governmental approval permitting lawful occupancy and use of the improvements for their intended purpose has been issued (subject only to customary conditions); and (b) Developer has delivered to Owner all close-out documentation required under this Agreement, including copies of certificates of occupancy, and when applicable, affidavits of compliance issued by building code enforcement.

"Cure Period" shall have the meaning set forth in Section 8.2.

"Default Notice" shall have the meaning set forth in Section 8.2.

"Developer" shall have the meaning set forth in the introductory paragraph of this Agreement.

"Development" shall have the meaning set forth in the second recital of this Agreement.

"Development Budget" shall have the meaning set forth in Section 3.1(b).

"Development Schedule" shall have the meaning set forth in Section 3.1(b).

"Effective Date" shall have the meaning set forth in the introductory paragraph of this Agreement.

"Environmental Laws" means all applicable federal, state, and local laws, statutes, regulations, ordinances, rules, codes, orders, consent decrees, judgments, and injunctions relating to the protection of the environment, human health, or natural resources, including without limitation 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 Clean Water Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Florida Pollutant Discharge Prevention and Removal Act (Chapter 376, Florida Statutes), and all rules and regulations promulgated thereunder, each as amended from time to time.

"Environmental Reports" means, collectively, the Phase I Report, the Phase II Report (if any), and any other environmental assessment, investigation, or remediation report prepared with respect to the Property.

"Financial Closing" shall mean closing on construction financing for the Development.

"Ground Lease" means that certain ground lease agreement to be negotiated, executed and delivered by Owner, as landlord, and Developer, as tenant, with respect to the Property, as may be amended and/or restated from time to time.

"Hazardous Materials" means any substance, material, or waste that is regulated, classified, or otherwise characterized under any Environmental Law as hazardous, toxic, a pollutant, a contaminant, radioactive, or words of similar meaning or regulatory effect, including without limitation petroleum and petroleum by-products, asbestos-containing materials, polychlorinated biphenyls, lead-based paint, mold, radon gas, and urea formaldehyde insulation.

"Management Agent" shall have the meaning set forth in Section 6(a).

"Material Changes" shall have the meaning set forth in Section 3.1(c).

"Owner" shall have the meaning set forth in the introductory paragraph of this Agreement.

"Phase I Report" means an environmental site assessment of the Property prepared by a qualified environmental consultant in accordance with ASTM Standard Practice E1527-21 (or any successor standard) and applicable Environmental Laws.

"Phase II Report" means a Phase II environmental site assessment of the Property, including subsurface investigation, sampling, and laboratory analysis, prepared by a qualified environmental consultant in accordance with ASTM Standard Practice E1903-19 (or any successor standard) and applicable Environmental Laws.

"Property" shall have the meaning set forth in the first recital of this Agreement.

"Redevelopment Plan" shall have the meaning set forth in Section 3.1(b).

"School Board" shall mean the governing body of Miami-Dade County Public Schools.

“Unavoidable Delay” means any of the following which directly causes a delay in the performance of any obligations under this Agreement (including construction of the Development): (i) labor delay, strike, work stoppage, lock out or other labor dispute; (ii) supply chain disruptions or material shortages; (iii) severe weather; (iv) pandemic, epidemic, quarantine restrictions imposed by governmental authority, flood, earthquake, hurricane, cyclone, tornado or other act of God; (v) fire, explosion or other serious casualty; (vi) freight embargoes, sanctions, trade restrictions, or transportation interruption for any reason; (vii) acts of war (whether declared or not), terrorism, warlike circumstances, mobilization, revolution, riot or civil commotion; (viii) sabotage; (ix) the occurrence of a casualty or a taking; (x) action, regulation, order, moratorium, or shutdown of any governmental authority; (xi) utility outages or failures not caused by the affected party; and (xii) such other matters beyond Owner’s or Developer’s reasonable control. The times for performance set forth in this Agreement (other than for monetary obligations of a party) shall be extended to the extent performance is delayed by Unavoidable Delay, except as otherwise expressly set forth in this Agreement.

"Unit Mix" shall have the meaning set forth in Section 3.1(b).

ARTICLE 2. <u>Nature of Agreement</u>.

This Agreement sets forth the principal terms that have been agreed to by the parties concerning the Development. It is anticipated that this Agreement will constitute the "Master Development Agreement" for the development and construction of the Development. The parties are executing this Agreement to establish the principal terms of the transaction in order to enable both parties to proceed with an understanding of their respective obligations and agreements with regard to the Development.

This Agreement is intended to provide an overall framework for a cooperative, public-private, coordinated approach to the implementation of the redevelopment plan of the Development. Owner and Developer agree to work with each other in good faith to execute any subsequent agreements that may be needed to complete the Development.

The parties acknowledge that certain provisions of this Agreement are intended to be implemented through, and will be further detailed in, the Ground Lease, which is anticipated to be executed contemporaneously with or shortly following the execution of this Agreement. In the event of any conflict between the terms of this Agreement and the Ground Lease, the Ground Lease shall control with respect to matters specifically addressed therein.

ARTICLE 3. Development Feasibility and Structure.

SECTION 3.1 Development Overview.

(a) The parties hereby agree that the Development shall be a newly constructed multifamily income-restricted residential development consisting of approximately two hundred forty (240) residential units and their associated amenities.

(b) The preliminary conceptual plans for the Development are attached hereto at Exhibit "B" (hereinafter referred to as the "Conceptual Plan"). An initial development budget and schedule is attached hereto as Exhibit "C" and Exhibit "D", respectively (hereinafter referred to as the "Development Budget" and "Development Schedule") respectively. A description of the unit types, sizes and targeted income levels (the "Unit Mix") for the Development is attached as Exhibit "E". A list of key Development team members is attached as Exhibit "F". The Conceptual Plan, Development Schedule, and the Unit Mix shall be referred to as the "Redevelopment Plan". Developer shall perform or cause to be performed the construction work for the Development in a good and workmanlike manner in substantial accordance with the Redevelopment Plan and all applicable laws. Developer represents and warrants that the final Redevelopment Plan as approved by Owner (i) conforms to the concepts and specifications set forth in this Agreement, and (ii) fully complies with all laws, rules, regulations, ordinances, codes, statutes and guidelines relating to the performance of the Development work, promulgated by any federal, local, state or other governmental entity or agency or subdivision thereof having jurisdiction over the Development.

(c) Material Changes to the Redevelopment Plan shall require Owner's prior written approval which shall not be unreasonably withheld, conditioned or delayed. Any request for such approval shall be written and shall include (i) documentation reasonably supporting the reasons for the requested change; and (ii) a proposed updated project schedule showing the timing impact the requested change would have upon the Development Schedule. Prior written notice of any Development updates shall be provided in quarterly intervals. Any other changes, other than Material Changes, shall be deemed effective upon Developer providing to Owner written notice of said change(s). Subject to the preceding sentence, the following shall be considered "Material Changes":

(1) Any change to the Development Schedule that delays Construction Completion by more than [180] calendar days;

(2) Any material change to the scope, size, density, height, or permitted uses of the Development, including any change that would require additional governmental approvals, amendments to zoning or land use approvals, or amendments to any statutory development agreement;

(3) Any material modification to the approved site plan, or Conceptual Plan that materially affects access, circulation, parking, public spaces, infrastructure, or required public improvements; and

(4) Any change that materially increases Owner's obligations, liabilities, or risk exposure under this Agreement or any related document.

If Owner has not provided Developer with written notice of its approval of any submitted Material Change(s) to the Redevelopment Plan or with any written comments to any such submitted Material Change(s) within ten (10) business days of submission, Owner shall be deemed to have approved any such Material Change(s) to the Redevelopment Plan. Any disapproval of the proposed Material Change shall be in writing and specify in reasonable detail the reason(s) for such disapproval. The foregoing process shall continue until Owner has approved the Material Changes in writing or Developer fails to resubmit such request for approval.

SECTION 3.2 Ownership Entities and Development Structure.

(a) Developer will own the Development. The Developer will initially have an authorized member or manager that will be a limited liability company controlled by or under common control with Pinnacle Communities II, LLC.

(b) Contemporaneously with or following the execution of this Agreement, Owner and Developer shall negotiate in good faith and execute a Ground Lease pursuant to which Owner, as landlord, shall lease the Property to Developer, as tenant. The Ground Lease shall reflect the following terms, among others:

(i) The term of the Ground Lease shall be [99] years.

(ii) The Ground Lease shall be a "triple net" lease, and all costs, expenses, obligations, liabilities and acts necessary to and for the proper use, operation, maintenance, care and occupancy of the Property shall be the responsibility of the tenant thereunder.

(iii) All improvements constructed on the Property by the Developer shall be and remain the property of the Developer during the term of the Ground Lease, subject to reversion to Owner upon expiration or earlier termination of the Ground Lease as set forth therein.

(iv) The Ground Lease shall contain customary provisions regarding Owner's approval rights over use restrictions, insurance, indemnification, assignment and subletting restrictions, mortgagee protection provisions, and such other terms as are customary for ground leases of similar projects in the State of Florida.

(v) Developer, as the tenant under the Ground Lease, shall have the right to mortgage its leasehold interest and improvements to lenders providing financing for the Development as provided in the Ground Lease, including, customary mortgagee protection provisions in favor of such lender, including without limitation, notice and cure rights, new lease rights, and non-disturbance protections for the mortgagee.

(vi) It is agreed, pursuant to Section 713.10, Florida Statutes, that Owner's interest in the Property shall not be subject to liens under Chapter 713, Florida Statutes, arising from work or improvements to the Property made by, or pursuant to a contract with, Developer.

(vii) Owner shall retain a right of first offer with respect to any proposed sale of the tenant's leasehold interest, on such terms as are set forth in Article 14 of the Ground Lease.

ARTICLE 4. Development Responsibilities.

SECTION 4.1. Developer Responsibilities.

As more specifically set forth herein, Developer shall be responsible for development services in connection with the new construction work of the Development. Developer shall be responsible for managing and maintaining (or engaging the Management Agent (as defined below)) to manage and maintain the continued occupancy of the Development, upon Construction Completion of the Development, as well as carrying out all other work for which Developer is responsible, as such responsibilities are detailed in this Agreement. The actual services to be delivered by Developer shall include all services reasonably required to complete the construction of the Development and, except as otherwise provided herein and to the extent applicable, to facilitate the construction of the Development, including, but not limited to:

(a) establishing phasing and timetables, structuring and securing financing and obtaining necessary city and county approvals, and hiring a general contractor or construction manager;

(b) Developer shall submit to Owner a complete draft Redevelopment Plan. If the Redevelopment Plan incorporates Material Changes, such Material Changes shall be subject to Owner’s prior written approval not to be unreasonably withheld, conditioned of delayed;

(c) identifying and securing financing for the construction and/or operations of the Development;

(d) entering into contracts or agreements, consistent with the terms of this Agreement, necessary or convenient for Construction Completion of the Development;

(e) determining and obtaining all necessary governmental approvals for such plans;

(f) carrying out pre-construction and construction activities, including demolition (as applicable), geotechnical testing, environmental testing and remediation (as applicable), design and engineering of the Development, and ensuring compliance with all applicable laws, rules and regulations;

(g) maintaining regular communication and attending quarterly progress meetings with Owner regarding its development activities, and providing written quarterly reports to include: (a) current quarter's activities; (b) next quarter's planned activities; (c) schedule narratives (including any Material Changes); and (d) pending issues which could delay Construction Completion;

(h) causing to be procured and maintained, at Developer's sole cost and expense, all insurance required under this Agreement or the Ground Lease and customary for developments of similar size and scope, including builder's risk, commercial general liability, workers' compensation, and professional liability insurance, with Owner named as an additional insured where appropriate;

(i) promptly paying all contractors, and requiring contractors to pay all subcontractors, consultants, and suppliers to keep the Property free and clear of all liens arising out of work performed in connection with the Development; and

(j) performing all development activities in strict compliance with this Agreement and the approved Redevelopment Plan.

SECTION 4.2. Design, Construction, and Accessibility Requirements.

(a) Developer shall ensure compliance with the ADA, Fair Housing Act, and all applicable accessibility laws.

(b) Developer shall provide to Owner supporting documentation, such as Notice to Proceed ("NTP") to contractors/subcontractors and Certificates of Occupancy or Completion, as applicable.

Nothing herein shall be deemed to make Owner responsible for design means, methods, safety, or construction.

SECTION 4.3. Owner's Responsibilities.

As more specifically described herein, Owner is responsible for the following activities related to the Development:

(a) Working with Developer and departments of Owner to help facilitate off-site infrastructure improvements necessary for the Development, including the granting of ay easements for the construction and/or operation of the Development;

(b) Cooperating with Developer, on a commercially reasonable basis, in Developer's application for and executing, as needed, all zoning, permitting and similar governmental applications and permits necessary for the Development; provided, however, that Owner shall not be required to incur any material cost, assume any liability, in connection therewith; and

(c) Coordinating with other stakeholders on Development-related issues.

ARTICLE 5. ARTICLE 5. Termination

Owner may terminate this Agreement, but only to the extent that Owner and Developer first made good faith efforts to pursue an alternative course of action that meets the program objectives for the Development and in accordance with Termination provisions established by the Ground Lease, whereupon this Agreement shall also terminate upon a termination of the Ground Lease.

ARTICLE 6. Property Management Responsibilities.

(a) Developer shall engage a property manager for the Development, which may be an Affiliate of Developer (the "Management Agent"). The Management Agent shall be responsible for the day-to-day operation of the Development, including, but not limited to, compliance, collections, leasing, payment of invoices and maintenance.

(b) Developer and Management Agent shall reasonably cooperate with Owner to establish a program for the initial lease-up of the Development reasonably satisfactory to Owner to provide a preference for Owner's employees who otherwise satisfy the income requirements in the following order of priority (i) Owner's classroom teachers, (ii) Owner's other personnel, and (iii) other qualifying applicants. Such program shall include policies and procedures for the identification and verification of priority applicants, the maintenance of waiting lists and inclusion of the preference in marketing and advertising programs, subject to Owner's approval, not to be unreasonably withheld, conditioned or delayed.

(c) Following the initial lease-up, Developer, Management Agent and Owner shall work cooperatively to adopt and implement a mutually agreeable program to provide a preference or priority for Owner's employees (who otherwise satisfy the income limits applicable to the unit) to rent any unit in the Development which may become vacant.

(d) Any such preference program shall comply with all applicable fair housing laws.

ARTICLE 7. Debarment/Fraud.

SECTION 7.1 Debarment.

By execution of this Agreement, Developer hereby certifies to Owner that it is not suspended, debarred or otherwise prohibited from participation in any government programs.

SECTION 7.2 Fraud, Misrepresentation or Material Misstatement.

Owner may terminate this Agreement if Developer attempts to meet its contractual obligations hereunder with Owner through fraud, misrepresentation or material misstatement. The foregoing notwithstanding, any individual, corporation or other entity that attempts to meet its contractual obligations with Owner through fraud, misrepresentation or material misstatement, including, without limitation, Developer, its Affiliates, contractors, or subcontractors, may be debarred from Owner contracting for up to [__] years in accordance with Owner debarment procedures.

ARTICLE 8. Default.

SECTION 8.1 Events of Default.

An Event of Default shall mean a breach of this Agreement by Developer after expiration of any applicable notice and cure period without cure thereof. Without limiting the generality of the foregoing, and in addition to those instances referred to herein as a breach, an Event of Default shall include, but not be limited to, the following:

(a) Developer has made a Material Change to the Development Schedule without Owner's approval;

(b) Developer has refused or failed to supply commercially reasonable and sufficient skilled staff personnel for the construction of the Development;

(c) Developer has failed to make prompt payment to the contractor for any services in violation of applicable law;

(d) Developer has become insolvent (other than as interdicted by the bankruptcy laws), or has assigned the proceeds received for the benefit of Developer's creditors, or Developer has taken advantage of any insolvency statute or debtor/creditor law or if Developer's affairs have been put in the hands of a receiver;

(e) Developer has breached in any material respect with respect, any representation or warranty stated under Section 13 of this Agreement;

(f) Developer has failed to comply with the public records disclosure requirements set forth in Section 119.0701 of the Florida Statutes and this Agreement;

(g) Developer permits the filing of any mechanics', construction, or similar liens against the Property and fails to bond off or discharge such liens within the Cure Period;

(h) Developer fails to maintain required insurance or bonds in full force and effect as required under this Agreement;

(i) Developer fails to meet any material milestone in the Development Schedule (including commencement and Construction Completion), other than due to Unavoidable Delays;

(j) Developer abandons or substantially suspends construction of the Development without Owner's prior written consent for more than sixty (60) consecutive days, other than as a result of Unavoidable Delays;

(k) Developer fails to comply with applicable laws, ordinances, permits, or governmental approvals in a manner that materially adversely affects the Development;

(l) Any governmental authority issues a stop-work order, citation, or notice of violation caused by Developer's acts or omissions, and such order or violation is not timely cured;

(m) Developer violates any labor, wage, or employment law applicable to the Development;

(n) Developer fails to deliver required reports, certifications, budgets, schedules, or financial information within the time periods required by this Agreement, and such failure continues beyond the expiration of the Cure Period;

(o) Any material misstatement or omission in information, reports, or certifications delivered to Owner;

(p) Any unauthorized assignment, delegation, or transfer by Developer of this Agreement or any material development rights without Owner's prior written consent;

(q) A change in control of Developer without Owner's prior written consent; and

(r) Developer fails to perform any other material covenant or obligation under this Agreement, and such failure is not cured within the Cure Period.

If Owner shall terminate this Agreement for an Event of Default, Owner or its designated representatives may immediately take possession of all applicable equipment, materials, products, documentation, and reports, if applicable.

SECTION 8.2 Notice of Default – Opportunity to Cure.

Notwithstanding anything in this Agreement to the contrary, if Owner, in Owner's sole and absolute determination, determines that an Event of Default has occurred and elects to declare such Event of Default, Owner shall deliver written notice to Developer (the "Default Notice") specifying the nature of the claimed Event of Default and the basis therefor, and Developer shall commence cure of the Event of Default promptly upon receipt of the Default Notice. If (and only if) Owner determines that such Event of Default is reasonably susceptible of cure, the Default Notice shall also specify (i) the actions required to cure such Event of Default, and (ii) the time period, as determined by Owner in its reasonable discretion, within which Developer must cure such Event of Default (the "Cure Period"), which Cure Period shall not exceed thirty (30) days from Developer's receipt of the Default Notice for non-monetary defaults and ten (10) days for monetary defaults. Provided Developer timely commences cure within the Cure Period and thereafter diligently prosecutes such cure to completion, Developer shall be entitled to one extension of the Cure Period for such additional time as is reasonably necessary to complete the cure, not to exceed an additional thirty (30) days (the “Extended Cure Period”). Any further extension of the Cure Period or the Extended Cure Period shall be granted, if at all, only in Owner’s sole discretion.

SECTION 8.3 Remedies in the Event of Default.

If an Event of Default occurs and remains uncured following the expiration of the applicable Cure Period pursuant to Section 8.2 herein, Owner may terminate this Agreement. In addition, subject to the terms of this Agreement, Owner shall be entitled to exercise any and all rights and remedies available to Owner at law or in equity, including, without limitation, the right to recover damages and to seek mandatory or prohibitive injunctive relief.

SECTION 8.4 Owner Default.

(a) Owner Events of Default. An "Owner Event of Default" shall mean a material breach of this Agreement by Owner after expiration of any applicable notice and cure period without cure thereof, including without limitation: (i) Owner's failure to perform any material covenant or obligation expressly required of Owner under this Agreement, and such failure continues for a period of thirty (30) days after written notice thereof from Developer to Owner (or such longer period as may be reasonably necessary to effectuate a cure, provided Owner commences cure within such thirty (30) day period and thereafter diligently prosecutes the cure to completion); (ii) Owner's failure to deliver possession of the Property in accordance with the terms of this Agreement; or (iii) any material misrepresentation by Owner in the representations and warranties set forth in Article 13 of this Agreement.

(b) Developer's Remedies. Upon the occurrence of an Owner Event of Default, Developer shall be entitled to terminate this Agreement upon [__] days' prior written notice to Owner, in which event Developer's sole and exclusive remedy shall be the recovery of Developer's actually incurred, reasonable, documented, and non-recoverable out-of-pocket costs incurred in reliance on this Agreement prior to such termination (but excluding Developer overhead, internal costs, developer fees, profit, opportunity costs, expectation damages, or consequential damages). Notwithstanding anything to the contrary in this Agreement, Developer shall not be entitled to recover monetary damages from Owner in excess of the limitations imposed by Section 768.28, Florida Statutes (with respect to any tort claims), and Owner does not waive sovereign immunity by entering into this Agreement.

ARTICLE 9. <u>Lien Waivers</u>.

Developer shall not permit any mechanics’, materialmen’s, construction, or other liens, claims, security interests, or encumbrances (collectively, “Liens”) to be filed or to remain of record against the Property or any interest of Owner therein arising out of or in connection with any labor, services, materials, or work furnished to or at the direction of Developer or anyone claiming by, through, or under Developer. Developer shall have no right, power, or authority to bind Owner or Owner’s interest in the Property, or to create or permit any Liens against the Property or any interest of Owner therein. Developer shall pay or cause to be paid all costs and charges for all work performed or caused to be performed by Developer in connection with the development, construction, operation, maintenance, alteration, or improvement of the Development. IF ANY LIEN IS FILED AGAINST THE PROPERTY OR ANY INTEREST OF OWNER THEREIN, DEVELOPER SHALL, WITHIN THIRTY (30) DAYS AFTER WRITTEN NOTICE FROM OWNER, CAUSE SUCH LIEN TO BE BONDED OVER, RELEASED, DISCHARGED, OR OTHERWISE REMOVED FROM THE PUBLIC RECORDS, WHETHER BY PAYMENT OR IN SUCH OTHER MANNER AS MAY BE PRESCRIBED BY APPLICABLE LAW. NOTICE IS HEREBY GIVEN THAT OWNER SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES, OR MATERIALS FURNISHED OR TO BE FURNISHED TO DEVELOPER OR TO ANY PERSON OR ENTITY CLAIMING BY, THROUGH, OR UNDER DEVELOPER, AND THAT NO LIEN FOR ANY SUCH LABOR, SERVICES, OR MATERIALS SHALL ATTACH TO OR AFFECT OWNER'S INTEREST IN THE PROPERTY. Owner shall have the right, but not the obligation, to post and record any notices of non-responsibility or similar notices permitted by applicable law. Developer shall promptly pay all persons and entities furnishing labor or materials in connection with the Development and shall deliver to Owner, upon request, customary lien waivers and releases from all contractors, subcontractors, and material suppliers, together with an affidavit from Developer confirming that all amounts due in connection with such work have been paid in full and that no outstanding obligations exist, other than in the ordinary course of business. Developer shall promptly deliver such additional documents and instruments as Owner may reasonably request to evidence that the Property is free and clear of Liens or the threat thereof.

ARTICLE 10. Indemnification.

(a) Developer shall indemnify, defend and hold harmless Owner and its Affiliates, officers, employees, agents and instrumentalities from any and all liability, losses, or damages, including reasonable attorney fees and costs of defense, which Owner or its officers, employees, agents or instrumentalities may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Agreement by Developer or its employees, agents, servants, partners, principals or subcontractors. Developer shall pay all of Owner's claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of Owner, where applicable, including appellate proceedings, and shall pay all costs, judgments, and reasonable attorney's fees which may issue thereon. Developer expressly understands and agrees that any insurance protection required by the Agreement or otherwise provided by Developer shall in no way limit the responsibility to indemnify, keep and save harmless and defend Owner or its officers, employees, agents and instrumentalities as herein provided. Notwithstanding anything to the contrary herein, such indemnification by Developer shall not cover claims or losses to the extent caused by the negligence, gross negligence or intentional wrongful acts or omissions of Owner or its officers, employees, agents or instrumentalities.

(b) Owner shall indemnify and hold harmless Developer and its Affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns from any and all liability, losses, or damages, including reasonable attorney fees and costs of defense, which Developer or its affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, to the extent caused by the willful or negligent acts, omissions, or breach of this Agreement by Owner. Owner shall pay all claims and losses in connection therewith and shall have the right, but not the obligation, to assume defense thereof. Owner's indemnification obligations in this Section 10 shall be subject to the monetary limitations set forth in Section 768.28, Florida Statutes (with respect to any tort claims), as amended from time to time, and Owner's total liability shall not exceed the applicable statutory caps set forth therein as in effect at the time of the applicable claim or occurrence. Notwithstanding anything to the contrary herein, such indemnification by Owner shall not cover claims or losses to the extent caused by the negligence, gross negligence or intentional wrongful acts or omissions of Developer or its affiliates, subsidiaries, officers, agents, employees, representatives, successors and assigns.

(c) The obligations of the parties under this Section 10 of this Agreement shall survive the termination of this Agreement.

ARTICLE 11. Insurance. Developer shall maintain insurance coverage in accordance with the provisions of the Ground Lease.

SECTION 11.1 Continuity of Coverage.

Developer shall be responsible for assuring that the insurance documentation required hereunder remains in force for the duration of this Agreement, including any renewals thereof. Developer shall submit or cause to be submitted renewal insurance documentation prior to expiration. All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of MDCPS Risk Management Division. Or, the company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services.

Owner shall be named as an additional insured for all insurance policies.

CERTIFICATE HOLDER MUST READ:
The School Board of Miami-Dade County, Florida, and its members, officers and employees
1501 N.E. 2nd Avenue, Suite 335
Miami, Florida, 33132

ARTICLE 12. Agreement Security.

Developer shall be required to execute, record in the public records of Miami-Dade County, and furnish to Owner before commencing any and all construction work on the Property in connection with the Development, a payment and performance bond, and/or alternate form of security satisfactory to Owner and in compliance with the requirements of Section 255.05 of the Florida Statutes, in the amount of the price of the Development then to be undertaken, to assure completion of the work and payment of the costs, free and clear of all claims of subcontractors, laborers, mechanics, suppliers and materialmen. In the event that in partial satisfaction of this requirement Developer furnishes a payment and performance bond not by Developer, but by Developer's construction contractor or construction manager, then the payment and performance bond shall name Owner, Developer and any leasehold mortgagee under the Ground Lease as co-obligees. The payment and performance bonds shall have as the surety thereon only such surety company or companies as are acceptable to Owner and are authorized to write bonds of such character and amount in accordance with the following qualifications:

(a) All bonds shall be written through surety insurers authorized to do business in the State of Florida as surety, with the following qualifications as to management and financial strength according to the latest edition of Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey:

	Bond Amount	**AM Best Rating**
i.	$500,001 to $1,500,000	A or better. No Minimum Class
ii.	$1,500,001 to $2,500,000	A or better. No Minimum Class
iii.	$2,500,001 to $5,000,000	A or better. No Minimum Class
iv.	$5,000,001 to $10,000,000	A or better. Class IV
v.	Over $10,000,000	A or better. Class V

(b) On contract amounts of $500,000 or less, the bond provisions of Section 287.0935, Florida Statutes shall be in effect and surety companies not otherwise qualifying with this paragraph may optionally qualify by:

(1) Providing evidence that the surety has twice the minimum surplus and capital required by the Florida Insurance Code at the time the invitation to bid is issued.

(2) Certifying that the surety is otherwise in compliance with the Florida Insurance Code;

(3) Providing a copy of the currently valid Certificate of Authority issued by the United States Department of the Treasury under ss. 31 U.S.C. §§ 9304-9308; and

(4) Be listed in the latest Circular 570 of the U.S. Department of the Treasury entitled "Surety Companies Acceptable on Federal Bonds", published annually (the "Surety List"). The bond amount shall not exceed the underwriting limitations as shown in this circular.

(c) For contracts in excess of $500,000, all requirements of Section 12(b) apply, and in addition to such requirements, the surety company must have been listed for at least three (3) consecutive years on the Surety List or hold a valid Certificate of Authority of at least 1.5 million dollars, and be listed on the Treasury List.

(d) Surety bonds guaranteed through U.S. Government Small Business Administration or Developers Training and Development Inc. will also be acceptable.

(e) The attorney-in-fact or other officer who signs performance and payment bonds for a surety company must file with such bond a certified copy of his power of attorney authorizing him to do so. The performance and payment bonds must be counter signed by the surety's resident Florida agent. The performance bond or cash used in lieu of the performance bond shall remain in force one (1) year from Construction Completion to protect Owner against losses resulting from defects in materials or improper performance of work under the Agreement; provided however, that this limitation does not apply to suits seeking damages for latent defects in materials or workmanship, such actions being subject to the limitations found in Section 95.11(3)(e), Florida Statutes.

ARTICLE 13. Warranties.

(a) Developer represents and warrants to Owner that (i) Developer is and will continue to be duly organized, and is in good standing under the laws of and qualified to do business in the State of Florida, (ii) Developer has and will have all necessary power, authority, licenses and staff resources for the undertaking of its obligations under this Agreement, (iii) this Agreement has been duly entered into and is the legally binding obligation of Developer, (iv) this Agreement will not violate any judgment, law, or agreement to which Developer is a party or is subject, (v) there is no claim pending, or to the best knowledge of Developer, threatened, that would impede Developer's ability to perform its obligation hereunto, (vi) Developer has sufficient expertise and experience in matters such as those contemplated hereby to timely and fully discharge its duties hereunder and holds the knowledge, experience and expertise to coordinate the development and construction of the Development, and (vii) Developer has and shall maintain access to sufficient capital and financial resources to perform its obligations under this Agreement as and when required, including through Construction Completion, and (viii) Developer is in compliance with all applicable laws, including labor, employment, and licensing laws, and is not debarred, suspended, or otherwise prohibited from participating in any public or private development or financing program applicable to the Development. Developer shall not hereafter enter into any agreement which would modify any existing agreement in a manner that would impair its ability to perform its obligations hereunder, and will notify Owner if any suit is threatened or law proposed which would impair its ability to perform its obligations hereunder.

(b) Owner represents and warrants to Developer that (i) Owner has and will have all necessary power and authority under Florida law for the undertaking of its obligations under this Agreement, (ii) this Agreement has been duly entered into and is the legally binding obligation of Owner, (iii) this Agreement will not violate any judgment, law, consent decree, or agreement to which Owner is a party or is subject to and will not violate any law or ordinance under which Owner is organized, (iv) except for matters that are subject to sovereign immunity pursuant to Section 768.28 of the Florida Statutes, there is no claim pending, or to the best knowledge of Owner, threatened, that is likely to materially impede Owner's ability to perform its obligation hereunto. Owner shall not hereafter enter into any agreement or consent decree which would modify any existing agreement or consent decree in a manner that would impair its ability to perform its obligations hereunder, and will notify Developer if any suit is threatened or law proposed which would materially impair its ability to perform its obligations hereunder.

ARTICLE 14. <u>Term</u>.

This Agreement shall commence upon execution and shall remain in effect through Construction Completion, unless earlier terminated in accordance with this Agreement. To the extent any matter is expressly addressed and governed by the Ground Lease, the Ground Lease shall control. All provisions of this Agreement that are not expressly modified, superseded, or overridden by the Ground Lease shall remain in full force and effect following full execution of the Ground Lease, including, without limitation, provisions relating to indemnification, insurance, defaults and remedies, liens, work product, and survival.

Notwithstanding anything in this Agreement to the contrary, the Ground Lease shall expressly survive the expiration or sooner termination of this Agreement and shall continue in full force and effect in accordance with its terms.

ARTICLE 15. <u>Intentionally Deleted</u>.

ARTICLE 16. <u>Intentionally Deleted</u>.

ARTICLE 17. <u>Non-Discrimination</u>.

Developer will not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, gender identity, gender expression, sexual orientation, or actual or perceived status as a victim of domestic violence, dating violence or stalking. Developer shall take affirmative action to ensure that applicants are employed and that employees are treated during their employment, without regard to their race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, marital status, familial status, gender identity, gender expression, sexual orientation, or actual or perceived status as a victim of domestic violence, dating violence or stalking. Such actions shall include, but not be limited to, the following: employment; upgrading; transfer or demotion; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. Developer agrees to post in conspicuous places, available to employees and applicants for employment notices to be provided by Owner setting forth the provisions of this Equal Opportunity clause.

ARTICLE 18. <u>Interest of Members of Congress</u>.

No Member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom.

ARTICLE 19. <u>Interest of Members, Officers, or Employees and Former Members, Officers, or Employees</u>.

No member, officer, or employee of Owner, no member of the governing body of the municipality in which the Development is situated, and no other member, officer, employee or other public official of the School Board who exercises any functions or responsibilities with respect to the Development, shall, during his or her tenure, or for twenty (20) years thereafter, have any interest, direct or indirect, in this Agreement or the benefits to arise therefrom.

ARTICLE 20. <u>Florida Public Records Act</u>.

As it relates to this Agreement and any subsequent agreements and other documents related to the Development, Developer and any of its subsidiaries, pursuant to Section 119.0701 of the Florida Statutes, shall:

(a) Keep and maintain public records that ordinarily and necessarily would be required by Owner in order to perform the service;

(b) Upon request of from Owner's custodian of public records identified herein, provide Owner with a copy of the requested records or allow the public with access to public records on the same terms and conditions that Owner would provide the records and at a cost that does not exceed the cost provided in the Florida Public Records Act, Miami-Dade County Administrative Order No. 4-48, or as otherwise provided by law;

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement's term and following completion of the work under this Agreement if Developer does not transfer the records to Owner; and

(d) Meet all requirements for retaining public records and transfer to Owner, at no cost to Owner, all public records created, received, maintained and/or directly related to the performance of this Agreement that are in possession of Developer upon termination of this Agreement. Upon termination of this Agreement, Developer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to Owner in a format that is compatible with the information technology systems of Owner.

(e) For purposes of this Section, the term "public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of Owner.

(f) In the event Developer does not comply with the public records disclosure requirements set forth in Section 119.0701 of the Florida Statutes and this Section 20, Owner shall avail itself of the remedies set forth in Article 8 of this Agreement. Developer's obligations under this Section shall survive the termination of this Agreement.

IF DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT OWNER'S CUSTODIAN OF PUBLIC RECORDS AT:

Office of Communications
Records & Forms Management Office
1450 NE Second Avenue, Suite 250
Miami, FL 33132
Attention: Jaquelyn C. Diaz
Email: jacalzadilla@dadeschools.net
Phone: 305-995-2060

ARTICLE 21. Compliance with Federal, State and Local Laws.

(a) Developer shall comply with all applicable laws, rules, regulations, ordinances and codes of all governmental authorities, including, without limitation, Owner Policies, the Florida Building Code, the Americans with Disabilities Act, the Jessica Lunsford Act, COVID-19 restrictions or any restrictions and/or measures relating to a pandemic as may be defined by federal, state, local and/or Owner policy, as all may be further amended from time to time and to the extent required by applicable law, whichever is more restrictive. The parties further agree that if Owner determines that this Agreement must be modified to conform to applicable law, Developer shall cooperate in good faith and the parties shall amend this Agreement accordingly.

(b) Developer shall be responsible for determining and securing, at its sole cost and expense, any and all Federal, State, County, Municipal and/or other permits, licenses, use approvals, occupational licenses, certificates or approvals needed, if any, for Developer's operations at the Development, including any and all permits, fees or jurisdictional approvals related to its operations, prior to the Effective Date of this Agreement. Any fines or citations levied upon Developer or Owner by a Federal, State or local jurisdictional entity due to the use and operation of the Development by Developer or any of its employees, agents or contractors, shall be the responsibility of Developer to expeditiously resolve, at its sole cost and expense. Compliance with all applicable laws, shall be at Developer's full cost and expense.

ARTICLE 22. Notices.

All notices, requests, approvals, demands and other communications given hereunder or in connection with this Agreement shall be in writing and shall be deemed given when delivered by hand or sent by registered or certified mail, return receipt requested, addressed as follows (provided, that any time period for responding to any such communication shall not begin to run until such communication is actually received or delivery is refused):

If to Owner:

the School Board of Miami-Dade County, Florida
1450 N.E. 2nd Avenue, Room 912

Miami, Florida, 33132
Attn: Superintendent of Schools

and a copy to:

the Office of Facilities Design and Construction
1450 N.E. 2nd Avenue, Room 300
Miami, Florida, 33132
Attn: Chief Facilities Officer

With a copy to:

School Board Office of General Counsel
1450 NE Second Avenue, Room 400
Miami, FL 33132
Attn: General Counsel

If to Developer:

Pinnacle Withers, LLC
c/o Pinnacle Communities II, LLC
9100 S. Dadeland Blvd., Suite 700
Miami, FL 33156
Attn: David O. Deutch

With a copy to:

Shutts & Bowen LLP
200 S. Biscayne Blvd., Suite 4100
Miami, FL 33131
Attn: Robert Cheng

ARTICLE 23. <u>Further Assurances</u>. Each party shall execute such other and further documents as may be reasonably necessary or proper for the consummation of the transaction contemplated by this Agreement as mutually agreed by the Parties hereto.

ARTICLE 24. <u>Designation of Owner's Representatives</u>. The Superintendent of the School Board, or designee, shall have the power, authority and right, on behalf of Owner, and without any further resolution or action of the School Board, to:

(a) Review and approve documents, plans, and other requests required of, or allowed by, Developer (or, for purposes of this Section 24, its sublessees or assignees) to be submitted to Owner pursuant to this Agreement;

(b) Consent to actions, events, and undertakings by Developer or extensions of time periods for which consent is required by Owner, including, but not limited to, extensions of time for the performance of any obligation by Owner hereunder;

(c) Execute any and all documents on behalf of Owner necessary or convenient to the foregoing approvals, consents, and appointments;

(d) Assist Developer with and execute on behalf of Owner any applications or other documents, needed to comply with applicable regulatory procedures, permits or other approvals to accomplish the construction of any and all improvements in and refurbishments of the Property;

(e) Execute joinders and consents to easement and access agreements, for the purposes of granting any needed non-exclusive vehicular and/or pedestrian ingress and egress access routes and for any parking within and throughout the Development, and utilities and easements to serve the Development;

(f) Execute on behalf of Owner any subleases, occupancy agreements or changes to the Ground Lease, including but not limited to, assignments, amendments, or restated or substitute leases, required for the Financial Closing, as well as any documents required by any investor or lender in connection with the Financial Closing, including but not limited to, estoppels, consents, and recognition agreements; and

(g) Amend this Agreement to correct any typographical or non-material errors, to address revisions or supplements hereto of a non-material nature or to carry out the purposes of this Agreement.

ARTICLE 25. Rights of Third Parties.

Except as provided herein, all conditions of Owner, Developer and their successors and assigns hereunder are imposed solely and exclusively for the benefit of Owner, Developer and their successors and assigns, and no other person shall have standing to require satisfaction of such conditions or be entitled to assume that Owner or Developer will make advances in the absence of strict compliance with any or all conditions of Owner or Developer. No other person shall under any circumstances, be deemed to be a beneficiary of this Agreement or any other documents associated with this Agreement, or any provisions of this Agreement which may be freely waived in whole or in part by Owner or Developer at any time if, in their sole discretion, they deem it desirable to do so. In particular, Owner and Developer make no representations and assume no duties or obligations as to third parties concerning the quality of the construction by Developer, its successors and assigns, of the Development or the absence therefrom of defects.

ARTICLE 26. Assignment.

This Agreement may be assigned by either party only with the express written consent of the other party, which in the case of Owner shall require the approval of the School Board. By exception, Developer shall be authorized to assign this Agreement to the Developer in the manner specifically set forth in this Agreement.

ARTICLE 27. Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed original, but all of which, together, shall constitute one instrument.

ARTICLE 28. Interpretation, Governing Law and Forum Selection.

This Agreement shall not be construed against the party who prepared it but shall be construed as though prepared by both Parties. This Agreement shall be construed, interpreted, and governed by the laws of the State of Florida. Any dispute arising under or in connection with this Agreement or related to any matter which is the subject of this Agreement shall be subject to the exclusive jurisdiction of the state and/or federal courts located in Miami-Dade County, Florida.

ARTICLE 29. Severability.

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable such portion shall be deemed severed from this Agreement and the remaining parts shall continue in full force as though such invalid or unenforceable provision had not been part of this Agreement.

ARTICLE 30. Parties Bound.

No officer, director, shareholder, employee, agent, or other person authorized to act for and on behalf of any party hereto shall be personally liable for any obligation, express or implied.

ARTICLE 31. Final Agreement.

Unless otherwise provided herein, this Agreement constitutes the final understanding and agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the parties, and except for those agreements contemplated herein. This Agreement may be amended, supplemented or changed only by a writing signed or authorized by or on behalf of the party to be bound thereby.

ARTICLE 32. Modification of Agreement.

This Agreement may be amended by mutual agreement of Owner and Developer, not to be unreasonably withheld, provided that all amendments must be in writing and signed by both parties. This Agreement may not be altered, modified, rescinded, or extended orally.

ARTICLE 33. Waivers.

The failure of any party to insist in any one or more cases upon the strict performance of any of the obligations under this Agreement or to exercise any right or remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver by any party of any provision of this Agreement shall be deemed to have been made unless set forth in writing and signed by the party to be charged.

ARTICLE 34. Successors.

The terms, covenants, agreements, provisions, and conditions contained herein shall bind and inure to the benefit of the Parties hereto, their successors and assigns.

ARTICLE 35. INTENTIONALLY DELETED.

ARTICLE 36. Headings.

The headings in this Agreement are inserted for convenience only and shall not be used to define, limit or describe the scope of this Agreement or any of the obligations herein.

ARTICLE 37. Construction.

Whenever in this Agreement a pronoun is used, it shall be construed to represent either the singular or the plural, either the masculine or the feminine, as the case shall demand.

ARTICLE 38. Sovereign Immunity.

No provision contained herein shall be deemed a waiver of School Board's sovereign immunity pursuant to Section 768.28 of the Florida Statutes.

ARTICLE 39. Dispute Resolution.

If a dispute arises between Developer and Owner with respect to any matters contemplated by this Agreement, the Development, or the Ground Lease, then, if (and only if) Developer and Owner mutually agree in writing to arbitrate such dispute, such dispute shall be resolved through arbitration pursuant to this Article 39. The arbitration proceedings under this Article, including the selection of a qualified arbitrator, shall be conducted pursuant to the rules, regulations and procedures from time to time in effect as promulgated by the American Arbitration Association (or any successor organization), by a single qualified arbitrator in Miami-Dade County, Florida, with hearings conducted as expeditiously as practicable. The qualified arbitrator shall decide the issues submitted to him/her in accordance with: (i) the language, commercial purpose and restrictions contained in this Agreement (including the riders and exhibits hereto); and (ii) what is just and equitable under the circumstances, provided that all substantive issues shall be determined under the laws of the State of Florida. With respect to any arbitration proceeding hereunder, the following provisions shall apply: (x) the parties shall cooperate with one another in the production and discovery of requested documents, and in the submission and presentation of arguments to the qualified arbitrator at the earliest practicable date; (y) the qualified arbitrator conducting any arbitration shall be bound by the provisions of this Agreement and shall not have the power to modify such provisions or to determine any matter other than the dispute in question; and (z) each party shall be responsible for its own costs and expenses incurred in the arbitration, including attorneys' fees, but the costs of the presiding arbitrator and the arbitration itself shall be shared equally by Owner and Developer. The determination of the qualified arbitrator shall be final and binding on Developer and Owner and may be enforced in any court of competent jurisdiction. Notwithstanding the foregoing, all disputes arising out of or relating to this Agreement, shall be subject to non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by either party. The parties shall endeavor to resolve their claims by mediation which, unless the parties mutually agree otherwise, shall be in accordance with the rules of the American Arbitration Association, but not under the auspices or administration of the Association in arbitration. The parties shall mutually agree to the selection of a mediator and share equally in the costs of mediation, with each party solely responsible for the costs of their legal fees.

ARTICLE 40. Data Protection.

Developer shall implement and maintain reasonable administrative, technical, and physical safeguards that are appropriate to the nature of the data and Developer's role under this Agreement to protect the security, confidentiality, and integrity of any data or information that is non-public, confidential, or personally identifiable information and provided by or on behalf of Owner or created or obtained in connection with this Agreement ("School Board Data"). To the extent Developer is legally responsible as a processor (not owner) of such School Board Data, Developer shall comply in all material respects with all applicable federal, state, and local laws relating to data privacy and security, including the Florida Information Protection Act of 2014 (Section 501.171, Florida Statutes). In the event of any actual or reasonably suspected unauthorized access that results in a confirmed unauthorized access to, acquisition of, or disclosure of School Board Data (a "Security Incident"), Developer shall notify Owner in writing within seventy-two (72) hours of becoming aware of such Security Incident and shall cooperate reasonably with Owner in investigating and remediating the same. Developer shall ensure that any contractor or subcontractor with access to School Board Data agrees to comply with data protection obligations no less protective than those set forth herein. The provisions of this Article 40 shall survive the termination of this Agreement.

ARTICLE 41. Exculpation.

It is the intent and agreement of the parties that only the parties as entities or governmental authorities (as applicable) shall be responsible in any way for their respective obligations hereunder. In that regard, no board member, officer, director, shareholder, manager, member, partner, investor, trustee, beneficiary, official, representative, employee, agent, or attorney of any of the parties shall be personally liable for the performance of any obligation hereunder or for any other claim made hereunder or in any way in connection with this Agreement, or any matters contemplated herein, except as expressly provided herein.

ARTICLE 42. Environmental Due Diligence and Remediation.

SECTION 42.1 Environmental Assessments. Within [120] days following the Effective Date, Developer shall, at Developer's sole cost and expense, cause to be prepared a Phase I Report with respect to the Property. Developer shall deliver a copy of the Phase I Report to Owner promptly upon receipt. If the Phase I Report identifies any recognized environmental conditions, controlled recognized environmental conditions, or historical recognized environmental conditions, Developer shall, at Developer's sole cost and expense, cause to be prepared, subject to Owner's prior approval, a Phase II Report and shall deliver a copy of such Phase II Report to Owner promptly upon receipt. Owner shall have the right, but not the obligation, to conduct its own environmental assessments of the Property at Owner's cost.

SECTION 42.2 Developer Environmental Obligations. Developer shall (a) comply with all Environmental Laws in connection with the Development; (b) not cause or permit the release, generation, storage, treatment, or disposal of any Hazardous Materials on, in, or under the Property in violation of any Environmental Laws; (c) promptly notify Owner in writing of any release or threatened release of Hazardous Materials on, in, or under the Property of which Developer becomes aware; (d) promptly notify Owner in writing of any environmental claims, notices of violation, or enforcement actions received by Developer relating to the Property; and (e) at Developer's sole cost and expense, investigate and remediate any contamination of the Property caused by Developer or its agents, contractors, or subcontractors, in compliance with all applicable Environmental Laws and to the satisfaction of all governmental authorities with jurisdiction.

SECTION 42.3 Environmental Indemnification. Developer shall indemnify, defend, and hold harmless Owner and its officers, employees, agents, and instrumentalities from and against any and all claims, losses, damages, liabilities, costs, and expenses (including reasonable attorneys' fees and costs of environmental investigation and remediation) arising out of or relating to (a) the presence, release, or threatened release of any Hazardous Materials on, in, or under the Property to the extent caused by Developer or its agents, contractors, or subcontractors, (b) any violation of Environmental Laws by Developer or its agents, contractors, or subcontractors, or (c) any material misrepresentation by Developer regarding environmental conditions of the Property. The obligations of Developer under this Section 42.3 shall survive the expiration or earlier termination of this Agreement.

ARTICLE 43. Intentionally Deleted.

ARTICLE 44. Intentionally Deleted.

ARTICLE 45. Title and Survey.

SECTION 45.1 Title Commitment. Within [60] days following the Effective Date, Developer shall, at Developer's sole cost and expense, obtain a title commitment issued by a title insurance company licensed in the State of Florida and reasonably acceptable to Owner (the "Title Company"), committing to issue an owner's policy of title insurance (or, if applicable, a leasehold policy) insuring Developer's or the applicable Developer's interest in the Property in an amount not less than the anticipated total development cost of the Development. Developer shall deliver a copy of the title commitment, together with legible copies of all exception documents referenced therein, to Owner promptly upon receipt.

SECTION 45.2 Survey. Within [90] days following the Effective Date, Developer shall, at Developer's sole cost and expense, obtain a current ALTA/NSPS Land Title Survey of the Property prepared by a surveyor licensed in the State of Florida and certified to Owner, Developer, and the Title Company (the "Survey"). The Survey shall comply with the minimum standard detail requirements for ALTA/NSPS Land Title Surveys as adopted by the American Land Title Association and the National Society of Professional Surveyors and shall include such optional

Table A items as Owner may reasonably require. Developer shall deliver a copy of the Survey to Owner promptly upon receipt.

SECTION 45.3 Title Objections. Within [30] days following Developer's receipt of the title commitment and Survey (the "Title Review Period"), Developer shall deliver to Owner written notice of any title exceptions, encumbrances, or survey matters to which Developer objects ("Title Objections"). Owner shall have no obligation to cure any Title Objections, but shall have the right, in its sole discretion, to elect to cure any or all Title Objections within [10] days following receipt of Developer's notice of Title Objections (the "Cure Period"). If Owner elects not to cure, or is unable to cure, any Title Objection within the Cure Period, Developer may, within [10] days following expiration of the Cure Period, either (a) waive such Title Objection and proceed under this Agreement, or (b) terminate this Agreement. Any title exceptions, encumbrances, or survey matters not objected to by Developer within the Title Review Period shall be deemed accepted.

SECTION 45.4 Title Insurance. At or prior to Financial Closing, Developer shall, at Developer's or Developer’s sole cost and expense, cause the Title Company to issue the title insurance policy (or leasehold policy, as applicable) referenced in Section 45.1, with such endorsements as Developer may reasonably require.

ARTICLE 46. Confidentiality.

SECTION 46.1 Confidential Information. "Confidential Information" means all non-public information disclosed by one party (the "Disclosing Party") to the other party (the "Receiving Party") in connection with this Agreement or the Development, including without limitation financial projections, development plans, pro formas, cost estimates, market analyses, business strategies, trade secrets, and the terms and conditions of this Agreement, but excluding (a) information that is or becomes publicly available through no fault of the Receiving Party, (b) information that was already known to the Receiving Party prior to disclosure, (c) information that is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information, or (d) information that is required to be disclosed by applicable law, court order, or governmental authority.

SECTION 46.2 Obligations. The Receiving Party shall (a) hold the Disclosing Party's Confidential Information in strict confidence, (b) not disclose such Confidential Information to any third party except to the Receiving Party's officers, employees, agents, attorneys, consultants, contractors, lenders, and investors who have a need to know such information in connection with the Development and who are bound by confidentiality obligations no less restrictive than those set forth herein, and (c) not use such Confidential Information for any purpose other than in connection with the Development and the performance of its obligations under this Agreement.

SECTION 46.3 Public Records Exception. Notwithstanding anything in this Article 46 to the contrary, the parties acknowledge that Owner is subject to the Florida Public Records Act (Chapter 119, Florida Statutes) and the Florida Sunshine Law (Section 286.011, Florida Statutes). Nothing in this Article 46 shall be construed to require Owner to withhold from public disclosure any information that is subject to disclosure under applicable law. In the event Owner receives a public records request for Confidential Information of Developer, Owner shall, to the extent permitted by applicable law, provide Developer with reasonable advance notice of such request and an opportunity to assert any applicable exemptions from disclosure prior to Owner's production of such records. Developer shall bear the burden of establishing that any exemption from public records disclosure applies.

SECTION 46.4 Survival. The obligations of the parties under this Article 46 shall survive the expiration or earlier termination of this Agreement for a period of [__] years.

ARTICLE 47. Intentionally Deleted.

ARTICLE 48. Background Screening.

SECTION 48.1 Developer Screening. Prior to the commencement of any construction or development activities on the Property, Developer shall provide Owner with background screening results for all principals, key personnel, and individuals with a controlling interest in Developer, in such form and scope as Owner may reasonably require. Owner shall have the right, in its sole discretion, to disapprove any individual whose background screening reveals information that Owner reasonably determines to be inconsistent with the standards applicable to persons working on or near School Board property.

SECTION 48.2 Contractor and Subcontractor Screening. Developer shall ensure that all contractors, subcontractors, and their respective employees and agents who will have access to the Property comply with the Jessica Lunsford Act (Section 1012.465, Florida Statutes), as amended from time to time, and all other applicable background screening requirements of Owner, including Owner's policies regarding Level 2 background screening for personnel with access to School Board property or contact with students. Developer shall maintain records of all background screening results and shall make such records available to Owner for inspection upon reasonable notice.

SECTION 48.3 Ongoing Compliance. Developer shall implement and maintain procedures to ensure ongoing compliance with all applicable background screening requirements throughout the term of this Agreement, including re-screening at such intervals as Owner may require. Developer shall promptly remove from the Property any individual who fails to satisfy applicable background screening requirements.

ARTICLE 49. Intentionally Deleted.

ARTICLE 50. Existing Occupancies and Relocation.

SECTION 50.1 Delivery of Possession. Owner shall deliver possession of the Property to Developer in its "as-is, where-is" condition, vacant and free of all occupancies or rights thereto on or before the Commencement Date (as defined in the Ground Lease). IF AS-IS: Owner makes no representation or warranty regarding the physical condition of the Property, or the suitability of the Property for the intended Development.

SECTION 50.2 Existing Occupancies. The parties acknowledge that as of the Effective Date, the Property may be subject to existing occupancies, including without limitation active school operations, offices, and other facilities (collectively, "Existing Occupancies"). A schedule of known Existing Occupancies as of the Effective Date, if any, is attached hereto as Exhibit [__]. Owner shall be responsible, at Owner's sole cost and expense, for relocating or terminating all Existing Occupancies prior to June 30, 2027.

SECTION 50.3 Relocation Costs. All costs of relocating Existing Occupancies, including moving expenses, temporary facilities, and business interruption costs, shall be borne by Owner.

ARTICLE 51. Property Taxes.

SECTION 51.1 Tax Obligations. Developer shall be responsible for and shall timely pay (or cause to be timely paid) all ad valorem real property taxes, non-ad valorem assessments, and special assessments levied against the Property or any improvements thereon to the extent attributable to Developer's interest in the Property, from and after the Commencement Date under the Ground Lease. Developer acknowledges that the Property may currently be exempt from ad valorem taxation by reason of Owner's status as a governmental entity, and that the development structure contemplated by this Agreement (including without limitation any ground lease, condominium, joint venture, or other shared ownership structure) may result in all or a portion of the Property becoming subject to ad valorem taxation. Developer shall bear all risk of any change in the tax-exempt status of the Property resulting from the Development.

SECTION 51.2 Tax Indemnification. Developer shall indemnify and hold harmless Owner from and against any and all ad valorem real property taxes, non-ad valorem assessments, special assessments, penalties, and interest attributable to Developer's interest in the Property or the improvements thereon. If any tax or assessment is levied against Owner as the fee owner of the Property that is attributable to the Development or Developer's use and occupancy of the Property, Developer shall promptly reimburse Owner for the amount of such tax or assessment upon demand.

ARTICLE 52. <u>Utilities, Impact Fees, and Infrastructure</u>.

SECTION 52.1 Utility Services. Developer shall be responsible, at Developer's sole cost and expense, for securing all utility capacity and service commitments (including water, sanitary sewer, stormwater, electrical, natural gas, and telecommunications) necessary for the Development. Developer shall coordinate with all applicable utility providers and governmental authorities to ensure that adequate utility capacity is available to serve the Development, and shall pay all utility connection charges, tap fees, and related costs.

SECTION 52.2 Impact Fees. Developer shall be responsible for and shall timely pay all impact fees, concurrency fees, mobility fees, park fees, school impact fees, fire rescue fees, and any other governmental fees or charges imposed in connection with the development, permitting, or construction of the Development, at Developer's sole cost and expense. Developer shall use commercially reasonable efforts to identify and apply for any available impact fee credits, exemptions, or waivers, and shall consult with Owner regarding any impact fee implications that may affect Owner.

SECTION 52.3 Infrastructure Dedications. To the extent the Development requires the dedication of roads, rights-of-way, easements, stormwater facilities, or other infrastructure to any governmental authority or utility provider, Developer shall be responsible for completing applications for such dedications at Developer's sole cost and expense, and Owner will execute such dedication documents as fee owner of the Property. Developer shall consult with Owner prior to making any application for such dedication that would encumber or affect Owner's fee interest in the Property, and no such dedication shall be made without Owner's prior written consent.

[SIGNATURES ON NEXT PAGES]

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed this _____ day of _______________, ______.

THE DEVELOPER:

PINNACLE WITHERS, LLC, a Florida limited liability company

By: PC2 Withers, LLC, a Florida limited liability company, its Authorized Member

By:_________________________________
Name: David O. Deutch
Title: President
Date: ____________

Attest:________________________________
Authorized Person **OR** Notary Public

____
Print Name: ________________________
Title: ________________________
Date: ________________________

Corporate Seal **OR** Notary Seal/Stamp

THE OWNER:

WITNESSES AS TO SCHOOL BOARD

By: ____________________________
Print Name:
____
Address: 1450 NE 2 Ave., Miami, FL 33132

By: ______________________________
Print Name:
____
Address: 1450 NE 2 Ave., Miami, FL 33132

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

By: ____________________________
Dr. Jose L. Dotres
Superintendent of Schools
Date: ____________________

TO THE SCHOOL BOARD: APPROVED AS TO RISK MANAGEMENT ISSUES:

____
Office of Risk and Benefits Management
Date: ________________

RECOMMENDED:

____
Raul F. Perez
Chief Facilities Design & Construction Officer
Date: ____________________

TO THE SCHOOL BOARD: APPROVED AS TO TREASURY MANAGEMENT ISSUES:

____
Treasury Management
Date: ________________

TO THE SCHOOL BOARD: APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

____
General Counsel
Date: ____________________

LIST OF EXHIBITS

EXHIBIT A LEGAL DESCRIPTION

EXHIBIT B CONCEPTUAL PLAN

EXHIBIT C DEVELOPMENT BUDGET/PRO FORMA

EXHIBIT D DEVELOPMENT SCHEDULE

EXHIBIT E UNIT MIX

EXHIBIT F LIST OF KEY DEVELOPMENT TEAM MEMBERS

EXHIBIT G FINANCIAL BENEFITS

EXHIBIT A

LEGAL DESCRIPTION

EXHIBIT A

Legal Description

21300 SW 122nd Avenue, Miami FL

Parcel ID 30-6912-002-0010

All of Block 1 and 2 and all that portion of the Right-of-Way of SW 213th Street (assumed to be abandoned) lying between said Block 1 and 2, as shown on “Knowles Subdivision” according to the Plat thereof as recorded in Plat Book 47, Phase 95 of the Public Records of Miami-Dade County, Florida.

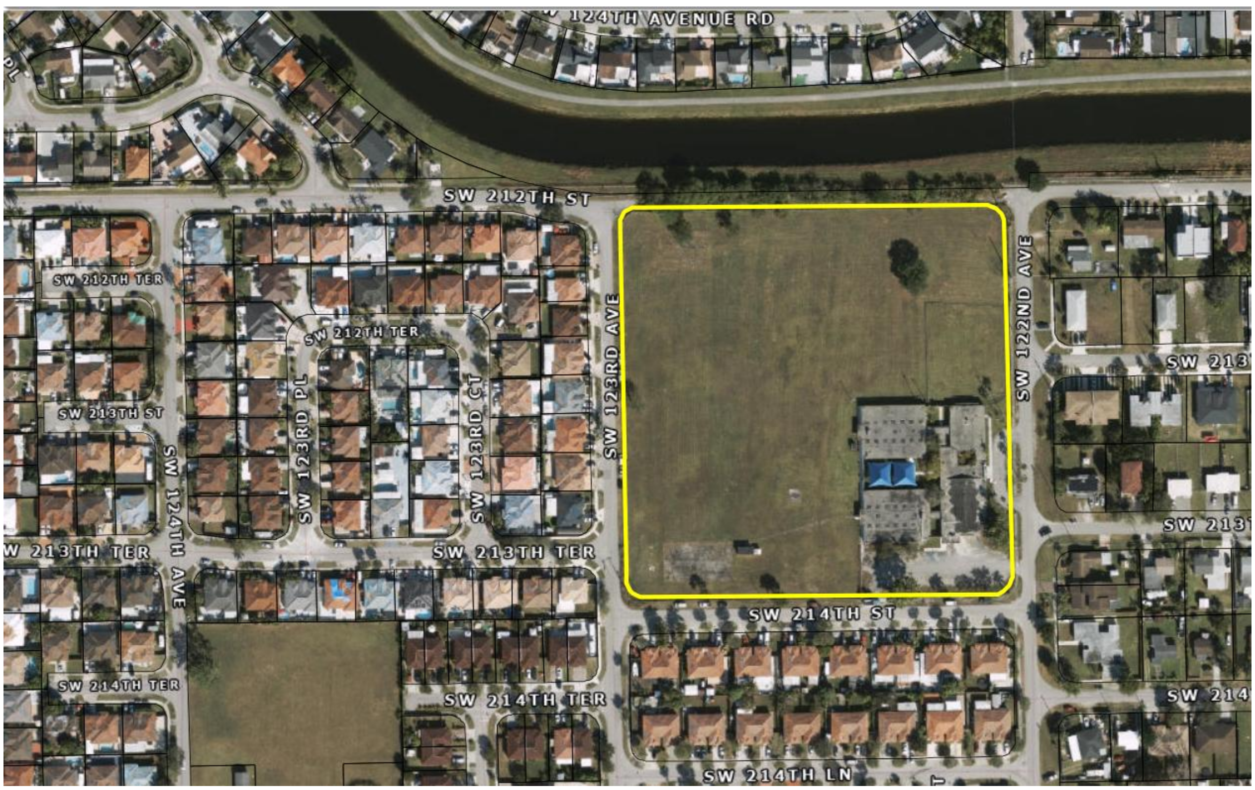
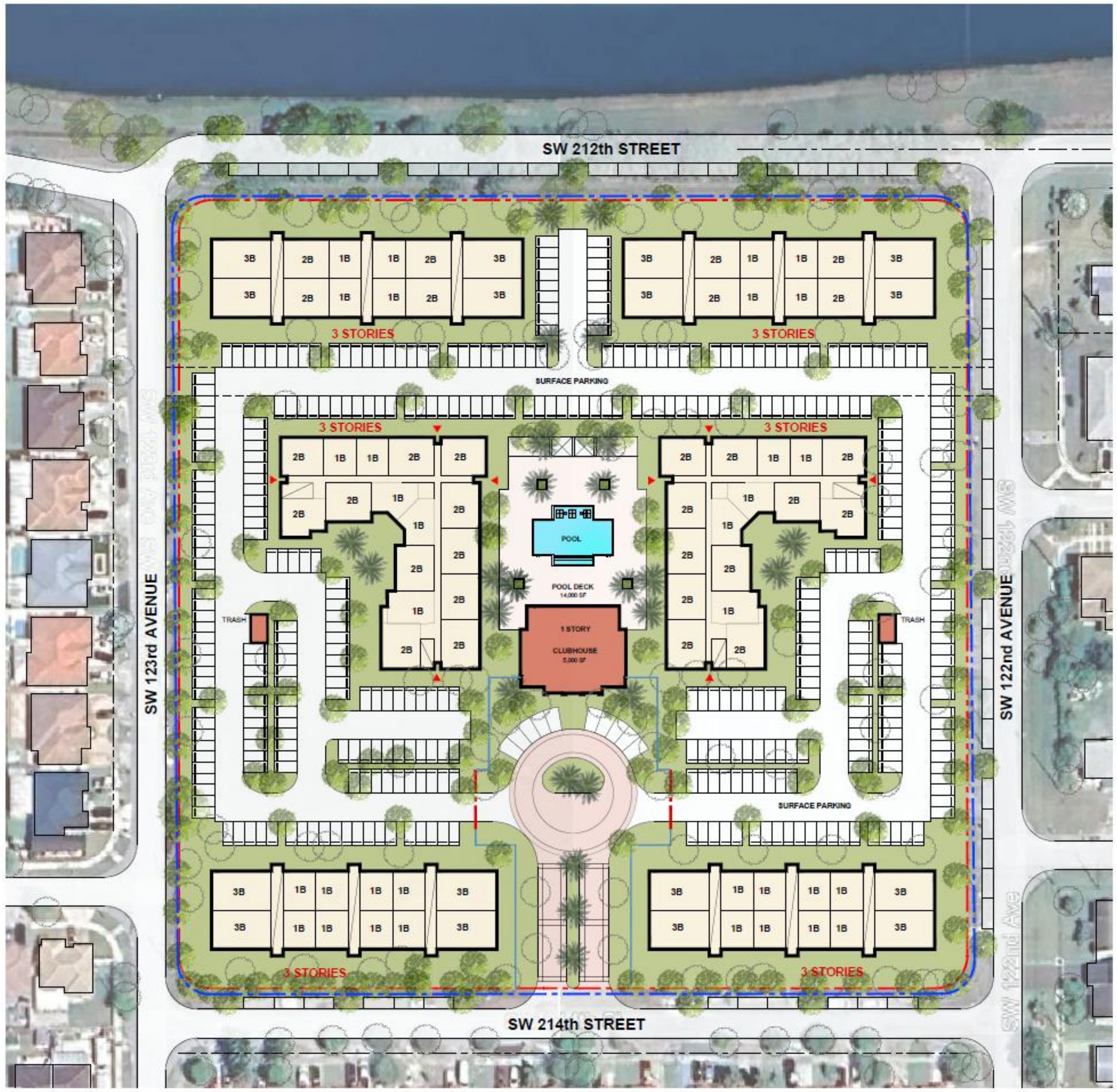


EXHIBIT B

CONCEPTUAL PLAN



SCHEMATIC **SITE PLAN**

SCALE 1"=40'

LOT SIZE: 366,000 SF (**8.4 ACRES**)

SCHEME 14.1 (**FAMILY**) 06/29/2026

3 STORIES I 240 UNITS I

408 ON-SITE PARKING SPACES + 50 ON-STREET PARKING SPACES

PINNACLE
COMMITTED TO EXCELLENCE

3191 coral way, suite 400
miami, fl. 33145
tel: (305) 854-4070
tel: (305) 854-4079
architects@atlarchitecture.com
www.atlarchitecture.com

ANILLO
TOLEDO
LOPEZ

ATL ARCHITECTURE

project name:

PINNACLE - 21300 - WITHERS

MULTI-FAMILY PROJECT

21300 SW 122nd. AVENUE, MIAMI FLORIDA

ARCH. LICENSE
AR 0016093
AA 26003571

job no.
-
date.
04 - 29 - 2025
scale.
As Shown
drawn by.
A.T.L. TEAM

A-14.1

EXHIBIT C

DEVELOPMENT BUDGET/PRO FORMA

Closing Date: 10/01/28

Construction Start: 10/01/28

EXECUTIVE SUMMARY

Withers School Board site - Miami Dade County, FL

RETURN METRICS	ROC	IRR *(Leveraged)*	Net Proceeds	Equity Investment	Equity Multiple	Cash / Cash
Untrended	**6.50%**	**20.58%**	**$19,506,070**	**$28,826,279**	**1.68x**	**6.33%**
Trended	**6.80%**	**20.83%**	**$19,755,193**	**$28,826,279**	**1.69x**	**7.42%**

PROJECT INFORMATION	
Project Type	Garden Style
Number of Apart. Units	240 units
Average Unit Size	837 sq ft
Average Rent	$2.69
Total Rentable Area (Multifamily)	200,880
Gross Area (Acres) / Density (Units per Acre)	8.3 / 28.9
Apart. Stabilized Economic Occupancy	95.00%
Absorption/Month	24
Land Price PSF	$17.26

Unit Types	# of Units	Avg. Rent
Studios	0	$0
1 Bedrooms	102	$1,950
2 Bedrooms	90	$2,350
3 Bedrooms	48	$2,700
Townhomes	0	$0

Current Average	
$ / SqFt / Mo.	Monthly Rent
$2.69	$2,250

SOURCES & USES	Total	Per Unit	% of Total	Per SF
Construction Loan	43,239,419	180,164	60.00%	215.25
Pinnacle Housing Group	5,765,256	24,022	8.00%	28.70
Limited Partner (LP)	23,061,023	96,088	32.00%	114.80
Total Sources of Funds	**$72,065,698**	**$300,274**	**100.00%**	**$358.75**

USES	Total	Per Unit	% of Total	Per SF
Total Construction	53,480,168	222,834	74.21%	266.23
Land	6,240,000	26,000	8.66%	31.06
Architect/Engineering	1,686,000	7,025	2.34%	8.39
Legal and Organizational	925,000	3,854	1.28%	4.60
Property Taxes During Construction	0	0	0.00%	0.00
Capitalized Marketing During Construction	200,000	833	0.28%	1.00
Net Interest During Construction	2,114,254	8,809	2.93%	10.52
Construction Loan Points & Closing Costs	711,498	2,965	0.99%	3.54
Furniture Fixture & Equipment	840,000	3,500	1.17%	4.18
Operating Deficit	252,870	1,054	0.35%	1.26
Other Development Costs	0	0	0.00%	0.00
Developer's Fee	2,882,628	12,011	4.00%	14.35
Total Contingency	2,733,280	11,389	3.79%	13.61
Total Development Cost	**$72,065,698**	**$300,274**	**100.00%**	**$358.75**

SCHEDULE & TIMING	Month	Date
Project Closing Date	Month 1	Oct - 2028
Construction Start Date	Month 1	Oct - 2028
Construction Duration	18 months	Mar - 2030
Initial Occupancy	Month 16	Jan - 2030
First Stabilized Month	Month 25	Oct - 2030
Construction Loan Converts	Month 48	Sep - 2032
Project Sale Date	Month 36	Sep - 2031

CONSTRUCTION FINANCING	
Loan to Cost	60.00%
Interest Rate	6.50%
Loan Term	48 months
Loan Amount	$43,239,419
Total Interest Carry	$2,114,254

PERMANENT FINANCING	
Loan to Cost	[illegible]
Interest Rate	[illegible]
Funding Date	[illegible]
Loan Amount	[illegible]

STABILIZED OPERATING STATEMENT*			
From month 25 to month 36			
Scenario:	***Untrended***	*Per Unit*	***Trended***
Market Rent	$6,480,000	*$27,000*	$6,803,371
Economic Loss	(328,860)	*(1,370)*	(345,271)
Net Rental Revenue	**$6,151,140**	***$25,630***	**$6,458,100**
Other Income	97,200	*405*	102,051
Commercial Income	0	*0*	0
Total Effective Revenue	**$6,248,340**	***$26,035***	**$6,560,150**
Controllable Expenses			
Payroll	$408,000	*$1,700*	$432,847
General and Administrative	60,000	*250*	63,654
Marketing	120,000	*500*	127,308
Utilities	144,000	*600*	152,770
Turnover/Make Ready	60,000	*250*	63,654
Repairs & Maintenance	60,000	*250*	63,654
Contract Expenses	96,000	*400*	101,846
Legal and Accounting	60,000	*250*	63,654
Available Line Item	0	*0*	0
Available Line Item	0	*0*	0
Available Line Item	0	*0*	0
Non-Controllable Expenses			
Property Taxes	46,614	*194*	47,663
Property Insurance	324,000	*1,350*	343,732
Available Line Item	0	*0*	0
Available Line Item	0	*0*	0
MGMT Fee (% of Revenues)	187,450	*781*	196,805
Total Operating Expenses	**$1,566,064**	***$6,525***	**$1,657,586**
Net Operating Income	**$4,682,276**	***$19,509***	**$4,902,564**
Debt Service	(2,810,562)	*(11,711)*	(2,810,562)
Replacement Reserves	(48,000)	*(200)*	48,000
Net Annual Cash Flow	**$1,823,713**	***$7,599***	**$2,140,002**

Cash on Cash	**6.33%**	**7.42%**
DSC Ratio	**1.67**	**1.74**
Debt Yield	**10.83%**	**11.34%**

EXHIBIT D

DEVELOPMENT SCHEDULE

EXHIBIT D
Project Schedule
Withers

Milestone	Date	Deposit/Payment		Notes
Lease signing (Estimate)	Aug-26	$50,000	Initial Deposit	Both Initial and Second Deposit are contingent on approvals
End of DD (120 days)	Nov-26	$100,000	Second Deposit	After Notice to Proceed is issued
Prepare and Submit ASPR (90 days)	Feb-27			
Live Local/Site Plan Approval (210 days)	Sep-27			All deposits ($150,000) become non-refundable
Prepare Construction Drawings (150 days)	Feb-28			
Building Permits (180 days)	Aug-28			
Construction Close/Start (60 days)	Oct-28	BALANCE		Balance of upfront capital lease payment due
Completion (18 months)	Apr-30			

EXHIBIT E

UNIT MIX

Unit Mix

Withers

Unit Type	Units	Avg Unit SqFt
1BR	102	640
2BR	90	920
3BR	48	1,100
TOTAL/AVG	**240**	**837**

EXHIBIT F

LIST OF KEY DEVELOPMENT TEAM MEMBERS

The Pinnacle Team

Pinnacle is an industry leader, providing best-in-class affordable, workforce and market-rate housing. Pinnacle has experience in all facets of housing development, including affordable, mixed-income, senior, family, and special needs housing. Pinnacle prides itself on meeting deadlines and delivering sustainable, high-quality housing even in challenging development sites and under compressed timelines. Pinnacle is renowned for its quality of design, enhancement of the communities we serve, and exceptional resident services, with a consistent average portfolio-wide occupancy of 99%. Pinnacle has extensive experience in infill development and redevelopment ventures with communities, including but not limited to entities such as local governments, community redevelopment agencies and public housing authorities. We have completed numerous developments involving a public agency or non-profit organization as a meaningful collaborative partner. Pinnacle has a long-track record of satisfaction in fulfilling the obligations and needs of our public sector partners with a positive, transparent and organized business approach.

Pinnacle Communities II, LLC (Developer): Pinnacle Communities II is comprised of highly skilled staff members with broad and specialized expertise, strengthening the company throughout its development endeavors since its founding in 1997. The Pinnacle family of companies includes more than 20 staff members across various divisions, including development, construction, and administration.

The two original founders, Louis Wolfson III and David O. Deutch, have been instrumental in the company's success. Mr. Wolfson directs policy engagement, community outreach, and public benefit initiatives for Pinnacle’s ventures. Mr. Deutch oversees business planning, financial management, debt and equity placement, and asset management. Alongside them, three key partners play vital roles: Hugo Pacanins, who leads the workforce and market-rate housing division and is also the Partner in charge of overseeing Pinnacle’s affiliated construction company; Coraly Rodriguez, who provides critical operational, financial, and technical oversight essential for corporate and programmatic success; and Timothy P. Wheat, who oversees development activities outside of Miami-Dade County.

Pinnacle’s dedicated team enhances the company’s ability to meet deadlines while delivering sustainable, high-quality affordable housing. Its successful operations within compressed timelines and challenging locations have established Pinnacle as an industry leader. Pinnacle’s affordable housing division is led by Max Cruz as Chief Executive, with over twenty years of experience in affordable housing development, assisted by Andrew Miranda and Matthew Deutch with acquisition, financing and development of our affordable communities.

PC Building II, LLC (General Contractor): PC Building II specializes in building multi-family construction services on behalf of Pinnacle, including three-story garden-style developments, four- to five-story mid-rise buildings, and high-rise developments. PC Building II is an affiliate of Pinnacle and is managed by its founding partners, David O. Deutch and Louis Wolfson III. Louis

Wolfson IV, a licensed general contractor, oversees PC Building II, LLC, and leads a team of highly experienced construction project managers. Curtis Csonka, a Florida-licensed Certified General Contractor, serves as the Qualifier PC Building II. Mr. Csonka has been the lead construction Project Manager for numerous Pinnacle developments, including Pinnacle 441 Phases 1 and 2, and Pinnacle at La Cabana.

Key Pinnacle Principals

LOUIS WOLFSON, III
PARTNER & CHAIRMAN

As a fourth-generation Miamian, Louis Wolfson III has devoted his professional life to working toward the betterment of South Florida. He is highly regarded for his work as a trustee of Miami Dade Community College, where, as Chairman of the MDCC Foundation, he helped build over $20 million in endowments. After graduating from the Stetson School of Business, Mr. Wolfson was employed in the family business, Wometco, a diversified entertainment conglomerate which included radio, television, cable operations, movie theaters and the Miami Seaquarium. Mr. Wolfson compiled years of experience and gained an immense passion for affordable housing development, finance, management, and community relations before becoming one of the founders of Pinnacle. In 1984 Mr. Wolfson became a Board member of Greater Miami Neighborhoods (GMN), which eventually grew into the largest non-profit developer of affordable housing in South Florida. Under Mr. Wolfson's leadership as Board Chairman from 1988 through 1996, over 4,000 units of housing valued at over $200,000,000 serving more than 10,000 residents were completed. Mr. Wolfson engages in public affairs aspects of Pinnacle's development programs and oversees Pinnacle's landmark Art in Public Places program.

DAVID O. DEUTCH
PARTNER & PRESIDENT

David O. Deutch co-founded Pinnacle in 1997. Mr. Deutch brings a wealth of experience to the rental housing arena, including finance, accounting, asset management, and public policy. Mr. Deutch is involved in the hands-on, day-to-day management of the Pinnacle family of companies, and oversees many facets of the business enterprise to ensure performance, sustainability and compliance. Mr. Deutch began his career in the Corporate Banking Division at Southeast Bank, where he served as Vice President, responsible for a large portfolio of corporate loans as well as new business development. Thereafter, he became Manager of Business Planning at Costa Cruise Lines where he played a role in enhancing the company's various business goals and objectives. Mr. Deutch received his M.B.A. at the University of Miami Graduate School of Business and B.A. from the University of Texas at Austin. Mr. Deutch was Chairman of the Board of Directors of the Coalition of Affordable Housing Providers, Florida’s statewide housing advocacy organization for the affordable housing industry, from 2011-2015. Mr. Deutch is a Member of the Board of Trustees at Mount Sinai Medical Center in Miami Beach.

HUGO PACANINS
PARTNER

Mr. Pacanins joined Pinnacle in 2023 to oversee the growing market rate division for the company. He brings over 17 years of multifamily development experience and has been involved in the development of over 7,000 residential units and 500,000 square feet of commercial uses, exceeding $2 billion in total development costs. The son of an affordable housing developer in Venezuela, Mr. Pacanins has been involved in real estate development and construction from a very young age, which lead him to a career in Civil Engineering where he graduated with honors. Upon graduation, Mr. Pacanins worked as a management consultant for McKinsey & Company before working as a General Manager for an amusement park operator in Venezuela. Seeking a return to the Real Estate Industry, Mr. Pacanins received his M.B.A. with a concentration in Real Estate and Strategy from the University of California at Berkeley's Haas School of Business, where he was the recipient of the Haas Merit Scholarship. He then moved to Florida to start his real estate career where he has overseen and grown the market rate platforms of both Ram Realty services and Morgan Group. Mr. Pacanins is an active member of the Urban Land Institute (ULI), a past member of the Broward MPO Community Involvement Roundtable, and has collaborated with multiple municipalities on all aspects of planning and zoning for multifamily development.

CORALY RODRIGUEZ, CPA
PARTNER

Ms. Rodriguez brings more than 15 years of diverse accounting, audit and financial experience to her role as Chief Accounting and Operating Officer. Ms. Rodriguez started her career at Pinnacle in 2000. In her role as Assistant Controller, she managed day-to-day accounting operations. After obtaining her CPA license, she transitioned into public accounting and continued her career at Deloitte, where she conducted audits for clients in the banking, gaming, and real estate industries. After her tenure at Deloitte, Ms. Rodriguez joined the Claire's Stores corporate team, where she managed various internal and operational audits and assisted in implementing strategic initiatives throughout North America and Europe. Prior to rejoining Pinnacle in 2015, Ms. Rodriguez served as Accounting Director for TotalBank, a $2.5 billion institution. She was responsible for all aspects of the Accounting and Finance functions, including budgeting, internal controls, financial reporting, technical accounting, and strategic management. Ms. Rodriguez is licensed as a Certified Public Accountant in the state of Florida and an active member of the American Institute of Certified Public Accountants and the Florida Institute of Certified Public Accountants. Ms. Rodriguez earned a Bachelor of Business Administration in Accounting and a Master of Accounting Degree from Florida International University. In 2019, Ms. Rodriguez was recognized for her achievements by the *South Florida Business Journal*, naming her to their Class of 40 Under 40.

TIMOTHY P. WHEAT
PARTNER

Mr. Wheat's professional career spans over 30 years and has almost entirely been dedicated to the development and preservation of quality housing for the workforce. Mr. Wheat began his career as a housing planner in Palm Beach County government, moved to the non-profit sector and then into private for-profit development. Mr. Wheat has overseen the development, financing and management of thousands of rental housing units in Florida and throughout the United States. Mr. Wheat joined Pinnacle in 2002, and in his capacity he has overseen successful and trend-setting developments across the state, including Pinnacle's partnerships to redevelop publicly-owned land into new, modern rental communities using innovative public/private partnerships. Mr. Wheat is acknowledged as an industry advocate and an expert in managing successful public/private housing partnerships. In recognition of these accomplishments, Mr. Wheat was appointed to the Federal Home Loan Bank of Atlanta's Affordable Housing Advisory Council, where he served from 2013-2017, and was elected Vice Chairman in 2016. He is also a founding Board Member and President of the Community Land Trust of Palm Beach County and the Treasure Coast, formed in 2006, which develops and creates housing opportunities for both renters and homeowners. Mr. Wheat is the current Vice Chair of the Housing Leadership Council of Palm Beach County, which is at the forefront of advocacy for more workforce and affordable housing in Palm Beach County. Mr. Wheat is a native Floridian and a Phi Beta Kappa graduate of Fordham University in the Bronx, New York.

MAX CRUZ
CHIEF EXECUTIVE, AFFORDABLE HOUSING

Max Cruz has over twenty years of experience in real estate and development. Over the course of his career, he has personally entitled, developed, and overseen the construction of over 3,200 rental homes across Florida and closed on over $500 million of rental financing. He has also presided over the development of over 2,300 for-sale homes and $136 million in for-sale financing. Prior to joining Pinnacle, Max was the Chief Operations Officer for Premium Development, a developer of multifamily communities in Florida, overseeing the day-to-day operation and managing the company's employees and development staff. Before joining Premium, Max was Co-Head of National Development for Housing Trust Group, a leading developer of affordable multifamily residential communities in Florida and throughout the Southeastern United States. At HTG, Max managed a staff of 17 developers across five states and oversaw all aspects of development, from site acquisition through completion of over 2,000 rental homes. Prior to HTG, Max was Vice President of Development for the Related Group's luxury market rate division, responsible for all aspects of real estate development from entitlement to completion across Florida. Prior to that, Max served as Vice President of Development and Finance for the Cornerstone Group, a multifamily developer with over 10,000 affordable and market-rate multifamily apartments developed over the past 30 years. Mr. Cruz graduated from Florida International University with a Bachelor's Degree in Finance.

LOUIS WOLFSON IV

PC BUILDING II - DIRECTOR OF CONSTRUCTION

Mr. Wolfson oversees pre-construction, bidding, subcontractor selection, field management, and overall construction for all Pinnacle developments. He is a Florida licensed General Contractor and the Qualifier for Pinnacle’s construction affiliate PC Building, LLC. Mr. Wolfson is a 2013 graduate of the Georgia Institute of Technology in Atlanta, Georgia, with a Bachelor’s Degree in Mechanical Engineering, with a focus on Nanotechnology. Mr. Wolfson’s educational experience refined his unique skills in time management, team-oriented goal setting, successful project management, computer coding, and physical building. Mr. Wolfson applies these skills and experiences to succeed in construction ventures using cutting-edge tools and technology to ensure reliable and positive outcomes. Prior to joining Pinnacle, Mr. Wolfson worked for several mechanical engineering firms, designing complex cooling and heating systems, airport fueling infrastructure, and fire suppression technology. He also contributed to computer coding and writing for a Texas website firm and a Miami-based lender. Mr. Wolfson joined Pinnacle in 2016, learning and then refining the construction process and successfully taking on greater roles and responsibilities from assistant superintendent to project manager.

EXHIBIT G

FINANCIAL BENEFITS

EXHIBIT H

FINANCIAL BENEFITS TO M-DCPS

Capitalized Lease Payments	**Expected Date**	**Total**
Ground Lease execution	August 2026	$50,000 (Initial Deposit held in Escrow)
Completion of due diligence	November 2026	$100,000 (Second Deposit held in Escrow)
Financial Closing	October 2028	$6,090,000 ($26,000 / unit) Full payment to M-DCPS
	TOTAL	**$6,240,000**

GROUND LEASE

Dated as of _______, 2026, by and between

THE SCHOOL BOARD OF MIAMI-DADE COUNTY

Landlord and

PINNACLE WITHERS, LLC

Tenant

GROUND LEASE

THIS GROUND LEASE ("***Lease***"), made as of ________________, 2026 (the "***Lease Date***") by and between **THE SCHOOL BOARD OF MIAMI-DADE COUNTY**, a body corporate and politic existing under the laws of the State of Florida ("***Landlord***") and **PINNACLE WITHERS, LLC**, a Florida limited liability company, or its affiliate, successors and/or assigns ("***Tenant***").

WITNESSETH:

WHEREAS, Landlord is the owner of the Land (as defined below) consisting of certain real property located at 21300 SW 122nd Avenue ("***Parcel***") in Miami-Dade County, Florida.

WHEREAS, Tenant has proposed to construct a new residential development on the Parcel consisting of a minimum of two hundred Workforce Housing Units as hereinafter defined (the "***Development***").

WHEREAS, Tenant intends, in good faith, to secure sources of private financing through conventional lenders and equity investors who may require evidence of site control over the land;

WHEREAS, evidence of site control over the Land includes a ground lease; and

WHEREAS, Landlord and Tenant are willing to enter into this Lease of the Land conditioned on Tenant obtaining financing;

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties set forth herein, Landlord and Tenant do hereby covenant and agree as follows:

ARTICLE I

DEFINITIONS

I.1 **Definitions**. The following terms shall have the following definitions in this Lease:

(a) "***Approvals Period***" has the meaning set forth in Section VII.5.

(b) "***Award***" has the meaning set forth in Section VI.2.

(c) "***Bankruptcy Laws***" has the meaning set forth in Section VIII.1(d).

(d) "***Base Rent***" has the meaning set forth in Section III.1(b).

(e) "***Capital Lease Payment***" has the meaning set forth in Section III.1(a).

(f) "***Commencement Date***" means the date on which the Tenant closes on its construction financing for the rehabilitation, redevelopment or new construction, as applicable, of the Improvements.

(g) “***County***” means Miami-Dade County, Florida.

(h) “***Defect***” has the meaning set forth in Section VII.3.

(i) “***Development***” has the meaning set forth in the second Recital of this Lease.

(j) “***Environmental Assessments***” means the environmental studies and reports to be obtained by Tenant on or before the Commencement Date.

(k) “***Environmental Laws***” means any present and future Federal, State or local law, ordinance, rule, regulation, permit, license or binding determination of any governmental authority relating to, imposing liability or standards concerning or otherwise addressing the protection of land, water, air or the environment, including, but not limited to: the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §9601 *et seq.* (“***CERCLA***”); the Resource, Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.* (“***RCRA***”); the Toxic Substances Control Act, 15 U.S.C. §2601 *et seq.* (“***TOSCA***”); the Clean Air Act, 42 U.S.C. §7401 *et seq.*; the Clean Water Act, 33 U.S.C. §1251 *et seq.* and any so-called “Superfund” or “Superlien” law; as each is from time to time amended and hereafter in effect.

(l) “***Escrow Agent***” has the meaning set forth in Section III.8.

(m) “***Escrow Deposit***” has the meaning set forth in Section III.8.

(n) “***Event of Default***” has the meaning set forth in Section VIII.1.

(o) “***Final Development Approvals***” has the meaning set forth in Section VII.5.

(p) “***Hazardous Substances***” means (i) “hazardous substances” as defined by CERCLA or Section 311 of the Clean Water Act (33 USC § 1321), or listed pursuant to Section 307 of the Clean Water Act (33 USC § 1317); (ii) “hazardous wastes,” as defined by RCRA; (iii) any hazardous, dangerous or toxic chemical, waste, pollutant, material, element, contaminant or substance (“***pollutant***”) within the meaning of any Environmental Law prohibiting, limited or otherwise regulating the use, exposure, release, emission, discharge, generation, manufacture, sale, transport, handling, storage, treatment, reuse, presence, disposal or recycling of such pollutant; (iv) petroleum crude oil or fraction thereof; (v) any radioactive material, including any source, special nuclear or by-product material as defined in 42 U.S.C. §2011 *et seq.* and amendments thereto and reauthorizations thereof; (vi) asbestos-containing materials in any form or condition; (vii) polychlorinated biphenyls or polychlorinated biphenyl-containing materials in any form or condition; (viii) a “regulated substance” within the meaning of Subtitle I of RCRA, as amended from time to time and regulations promulgated thereunder; (ix) substances the presence of which requires notification, investigation or remediation under any Environmental Laws; (x) urea formaldehyde foam insulation or urea formaldehyde foam insulation-containing materials;
(xi) lead-based paint or lead-based paint-containing materials; and (xii) radon or radon-containing or producing materials.

(q) "***Improvements***" means all repairs, betterments, buildings and improvements hereafter constructed or rehabilitated on the Land, and any additional parking areas, walkways, landscaping, fencing or other amenities on the Land, including but not limited to the Development.

(r) "***Initial Deposit***" has the meaning set forth in Section III.8.

(s) "***Land***" means that certain real property located in Miami-Dade County and consisting of the parcel legally described in **Exhibit A**, together with all easements, rights, privileges, licenses, covenants and other matters that benefit or burden the real property. The Land and the Improvements are sometimes referred to herein as the "***Project***".

(t) "***Landlord***" has the meaning set forth in the Preamble.

(u) "***Landlord/Tenant Documents***" has the meaning set forth in Section V.1(b).

(v) "***Lease***" has the meaning set forth in the Preamble, as amended from time to time.

(w) "***Lease Year***" means, in the case of the first lease year, the period from the

Commencement Date through the last day of the 12th full calendar month of that year; thereafter, each successive twelve-calendar month period following the expiration of the first lease year of the Term; except that in the event of the termination of this Lease on any day other than the last day of a Lease Year then the last Lease Year of the Term shall be the period from the end of the preceding Lease Year to such date of termination.

(x) "***Leasehold Mortgage***" has the meaning set forth in Section VIII.9.

(y) "***Leasehold Mortgagee***" has the meaning set forth in Section VIII.9(a).

(z) "***Parcel***" has the meaning set forth in the first Recital of this Lease.

(aa) "***Partial Taking***" has the meaning set forth in Section VI.2.

(bb) "***Permitted Encumbrances***" means such recorded title matters as are disclosed pursuant to the title commitment to be obtained by Tenant pursuant to Section VII.1 and are not identified by Tenant as objectionable matters pursuant to the procedure provided in Section VII.3.

(cc) "***Personal Property***" means all fixtures (including, but not limited to, all heating, air conditioning, plumbing, lighting, communications and elevator fixtures), fittings, appliances, apparatus, equipment, machinery, chattels, building materials, and other property of every kind and nature whatsoever, and replacements and proceeds thereof, and additions thereto, now or at any time hereafter owned by Tenant, or in which Tenant has or shall have an interest, now or at any time hereafter affixed to, attached to, appurtenant to, located or placed upon, or used in any way in connection with the present and future complete and comfortable use, enjoyment or occupancy for operation and maintenance of the Premises, excepting any personal property or fixtures owned by any tenant (other than the Tenant) occupying the Premises and used by such tenant in the conduct of its business in the space occupied by it to the extent the same does not become the property of Tenant under the lease with such tenant or pursuant to applicable law.

(dd) "***Plans and Specifications***" means the plans and specifications for the Improvements to be constructed (or rehabilitated) on the Land by Tenant.

(ee) "***Premises***" means the Land and the Improvements.

(ff) "***Property Tax Exemption Statute***" has the meaning set forth in Section III.7.

(a) "***Public Records***" has the meaning set forth in Section X.1.

(b) "***Regulatory Default***" has the meaning set forth in Section VIII.5.

(c) "***Rent***" means the amount payable by Tenant to Landlord pursuant to Section III.1.

(d) "***School Board***" means the governing body of Miami-Dade County Public Schools.

(e) "***Sublease***" has the meaning set forth in Section V.7(b).

(f) "***Second Deposit***" has the meaning set forth in Section III.8.

(g) "***Sublessee***" means any sublessee to which Tenant subleases a portion of the ground leasehold estate created hereby, or any whole or partial assignee of this Lease through a partial assignment of this Lease, as provided in Section V.7, but excluding any individual residential unit.

(h) "***Taking***" means any taking of the title to, access to, or use of the Premises or any portion thereof by any governmental authority or any conveyance under the threat thereof, for any public, or quasi-public use or purpose. A Taking may be total or partial, permanent or temporary.

(i) "***Tenant***" has the meaning set forth in the Preamble.

(j) "***Term***" means a period of time commencing with the Commencement Date and continuing until the date which is the ninety-nineth (99th) anniversary thereof.

(k) "***Total Taking***" has the meaning set forth in Section VI.1(c)

(l) "***Unavoidable Delay***" means any of the following which directly causes a delay in the performance of any obligations under this Lease (including construction of the Project): (i) labor delay, strike, work stoppage, lock out or other labor dispute; (ii) supply chain disruptions or material shortages; (iii) severe weather; (iv) pandemic, epidemic, quarantine restrictions imposed by governmental authority, flood, earthquake, hurricane, cyclone, tornado or other act of God; (v) fire, explosion or other serious casualty; (vi) freight embargoes, sanctions, trade restrictions, or transportation interruption for any reason; (vii) acts of war (whether declared or not), terrorism, warlike circumstances, mobilization, revolution, riot or civil commotion; (viii) sabotage; (ix) the occurrence of a casualty or a Taking; (x) action, regulation, order, moratorium, or shutdown of any governmental authority; (xi) utility outages or failures not caused by the affected party; and (xii) such other matters beyond Landlord's or Tenant's reasonable control. The times for performance set forth in this Lease (other than for monetary obligations of a party) shall be extended to the extent performance is delayed by Unavoidable Delay, except as otherwise expressly set forth in this Lease.

(m) "***Workforce Housing Units***" means residential dwelling units leased to households whose income does not exceed 120% of the most recent area median income ("***AMI***"), adjusted for family size for the County reported by the United States Department of Housing and Urban Development ("***HUD***"), at the time of such household's initial occupancy of a unit within the Project.

I.2 **Interpretation**. The words "***hereof,***" "***herein,***" "***hereunder,***" and other words of similar import refer to this Agreement as a whole and not to any particular Section, subsection or subdivision. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Words importing the singular number shall include the plural and vice versa unless the context shall otherwise indicate.

I.3 **Exhibits**. Exhibits to this Lease are incorporated by this reference and are to be construed as a part of this Lease.

ARTICLE II

PREMISES AND TERM

Landlord leases and demises to Tenant and its successors and assigns, subject to and with the benefit of the terms, covenants, conditions and provisions of this Lease, the Land for the Term unless sooner terminated in accordance with the provisions contained in this Lease.

ARTICLE III

RENT AND OTHER PAYMENTS TO LANDLORD

III.1 **Rent**. Tenant covenants and agrees to pay to Landlord as Rent under this Lease:

(a) a one-time upfront capitalized lease payment, to be paid upon the Commencement Date in an amount equal to $26,000 multiplied by the number of residential dwelling units for which Tenant has received final development approvals to construct on the Land as of the Commencement Date, but in no event less than six million two hundred forty thousand dollars ($6,240,000) ("***Capital Lease Payment***").

(b) the annual base rent shall be one dollar ($1.00) per Lease Year (the "***Base Rent***"). Tenant shall pay Landlord the Base Rent for the entire Term on the Commencement Date.

Rent shall be made payable to Landlord at the address set forth herein, or at such other place and to such other person as Landlord may from time to time designate in writing, as set forth herein. Prior to the Commencement Date, Tenant is not obligated to pay Rent or any other sums to the Landlord under this Lease.

III.2 **Other Payments**. Tenant covenants and agrees to pay to Landlord additional payments, as and when set forth herein for this Project. All additional payments shall be made payable to Landlord at the address set forth herein, or at such other place and to such other person as Landlord may from time to time designate in writing, as set forth herein. Prior to the Commencement Date, Tenant is not obligated to pay Rent or any other sums to the Landlord under this Lease.

III.3 **Surrender**. Upon the expiration of this Lease by the passage of time or otherwise, Tenant will quietly yield, surrender and deliver up possession of the Premises to Landlord. In the event Tenant fails to vacate the Premises and remove such personal property as Tenant is allowed to remove from the Premises at the end of the Term, or at the earlier termination of this Lease, Landlord shall be deemed Tenant's agent to remove such items from the Premises at Tenant's sole cost and expense. Furthermore, should Tenant fail to vacate the Premises in accordance with the terms of this Lease at the end of the Term, or at the earlier termination of this Lease, the Tenant shall pay to Landlord a charge for each day of occupancy after expiration or termination of the Lease the amount of two hundred twenty dollars ($220.00), due on the day following the termination date and subject to five percent (5%) increase for each month thereafter. Such charge shall be in addition to any actual damages suffered by Landlord by Tenant's failure to vacate the Premises, for which Tenant shall be fully liable.

III.4 **Utilities**. Tenant shall pay or cause to be paid all charges for water, gas, sewer, electricity, light, heat, other energy sources or power, telephone or other service used, rendered or supplied to Tenant in connection with the Premises.

III.5 **Other**. Tenant covenants to pay and discharge, when the same shall become due all other amounts, liabilities, and obligations which Tenant assumes or agrees to pay or discharge pursuant to this Lease, together with every fine, penalty, interest and cost which may be added for nonpayment or late payment thereof (provided that Tenant shall not be liable for any payment or portion thereof which Landlord is obligated to pay and which payment Landlord has failed to make when due); and, in the event of any failure by Tenant to pay or discharge the foregoing, Landlord shall have all the rights, powers and remedies provided herein, by law or otherwise in the case of nonpayment of Rent.

III.6 **Taxes**. Tenant understands and agrees that as a result of the Landlord's fee ownership of the Premises, for State law purposes, the Premises may become exempt from any ad valorem taxes. Landlord represents to Tenant that any such exemption should remain in effect notwithstanding that Landlord is entering into this Lease. However, during the Term of this Lease, should, for any reason whatsoever, the Premises become exempt and then again become subject to ad valorem taxes or any other real estate taxes, fees, impositions and/or charges imposed during the Term and any extensions of the Term upon the Premises and the building and/or other improvements constructed on the Premises by Tenant ("***Real Estate Taxes***"), Tenant shall be required to pay all Real Estate Taxes, prior to delinquency without notice or demand and without set-off, abatement, suspension or deduction. In the event that the folio identification number applicable to the Premises shall also contain other property not specifically included in, or a part of, the Premises, then Tenant shall only be required to pay the portion of such taxes exclusively attributable to the Premises. In addition, Tenant shall be required to pay for any water, electric, sewer, telephone or other utility charges incurred by Tenant during the Term or any extensions of the Term which are limited solely to the Premises and/or any structures and/or improvements thereon. Notwithstanding the foregoing, Landlord shall apply and/or assist Tenant in applying for an ad valorem tax exemption for the Property in accordance with the Property Tax Exemption Statute.

III.7 **Property Tax Exemption Statute**. To obtain an ad valorem tax exemption for the Project pursuant to Fla. Stat. § 196.19782, or any successor thereto exempting the Project from ad valorem taxation (the "***Property Tax Exemption Statute***"), the Project's Workforce Housing Units shall be leased in compliance with the Property Tax Exemption Statute as follows: after the Project becomes available for occupancy and until the earlier of the repeal of the Property Tax Exemption Statute or expiration of such Property Tax Exemption Statute (currently, December 31, 2061), all units shall be rented to individuals or families whose income, adjusted for family size, does not, exceed one hundred twenty percent (120%) of the AMI for the County, as established by HUD, at the time of such household's initial occupancy of a unit within the Project.

III.8 **Deposits**. Within three (3) business days following the Lease Date, Tenant shall deposit as an earnest money deposit, the sum of Fifty Thousand Dollars ($50,000.00) ("***Initial Deposit***") with Shutts & Bowen LLP, a Florida limited liability partnership (the "***Escrow Agent***"). If this Lease is not sooner terminated, Tenant shall make an additional deposit payable to Escrow Agent in the amount of One Hundred Thousand Dollars ($100,000.00) (the "***Second Deposit***") within three (3) business days following the expiration of the Due Diligence Period (as hereinafter defined). The Initial Deposit and the Second Deposit (sometimes collectively referred to herein as the "***Escrow Deposits***") shall be credited to the Capital Lease Payment on the Commencement Date, unless a party is in default under this Lease or is otherwise entitled under this Lease to receive the Escrow Deposits, in which case the Escrow Deposits shall be disbursed by Escrow Agent to the appropriate party in accordance with the applicable provisions of this Lease. Escrow Agent shall hold the Escrow Deposits in an interest-bearing account, and any interest earned on the Escrow Deposits shall be paid to or credited to the party entitled to receive the Escrow Deposits.

ARTICLE IV

INDEMNITY, LIENS AND INSURANCE

IV.1 **Indemnity for Tenant's Acts**. Landlord shall continue to operate the Premises until the Commencement Date as provided in Section V.1, below. From and after the Commencement Date, Tenant shall indemnify and hold harmless the Landlord and its officers, employees, agents and instrumentalities from any and all liability, losses or damages, including attorneys' fees and costs of defense, which the Landlord or its officers, employees, agents or instrumentalities (the "***Indemnified Parties***") may incur as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance of this Lease by the Tenant or its employees, agents, servants, members, principals or subcontractors. Tenant shall pay all claims and losses in connection therewith and shall investigate and defend all claims, suits or actions of any kind or nature in the name of the Landlord, where applicable, including appellate proceedings, and shall pay all costs, judgments, and reasonable attorneys' fees which may issue thereon (except to the extent arising from any Indemnified Parties' gross negligence or willful misconduct), provided, however, nothing herein contained shall obligate or hold Tenant responsible prior to the Commencement Date for any costs, expenses, claims or demands made by any party associated with the Premises or for any claims stemming from Landlord's and/or its officers', employees' or agents' acts or omissions, unless such costs, expenses, claims or demands to the extent same arise from the acts or omissions of the Tenant, its agents, contractors, employees, members, or invitees. Tenant expressly understands and agrees that any insurance protection required by this Lease or otherwise provided by Tenant shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Landlord or its officers, employees, agents and instrumentalities as herein provided.

IV.2 **Landlord's Environmental Responsibility and Representations**.

(a) Except to the extent that an environmental condition is aggravated or exacerbated by the negligent or willful acts or omissions of Tenant, its agents or contractors, Tenant shall not be responsible under this Lease for any claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, remedial action requirements, enforcement action of any kind, and all costs and expenses incurred in connection therewith arising out of: (i) the presence of any Hazardous Substances in, on, over, or upon the Premises first affecting the Premises as of or prior to the Commencement Date, whether now known or unknown; or (ii) the failure of Landlord or its agents or contractors prior to the Commencement Date to comply with any Environmental Laws relating to the handling, treatment, presence, removal, storage, decontamination, cleanup, transportation or disposal of Hazardous Substances into, on, under or from the Premises at any time, whether or not such failure to comply was known or knowable, discovered or discoverable prior to the Commencement Date.

(b) Landlord represents and warrants to Tenant that, as of the date hereof:

1. except as may be referenced in the Environmental Assessments, and to the best of Landlord's actual knowledge, neither the Land nor any part thereof has been used for the disposal of refuse or waste, or for the generation, processing, storage, handling, treatment, transportation or disposal of any Hazardous Substances;

2. except as may be referenced in the Environmental Assessments, and to the best of Landlord's actual knowledge, no Hazardous Substances have been installed, used, stored, handled or located on or beneath the Land, which Hazardous Substances, if found on or beneath the Land, or improperly disposed of off of the Land, would subject the owner or occupant of the Premises to damages, penalties, liabilities or an obligation to perform any work, cleanup, removal, repair, construction, alteration, demolition, renovation or installation in or in connection with the Premises ("***Environmental Cleanup Work***") in order to comply with any Environmental Laws;

3. except as may be referenced in the Environmental Assessments, and to the best of Landlord's actual knowledge, no notice from any governmental authority or any

person has ever been served upon Landlord, its agents or employees, claiming any violation of any Environmental Law or any liability thereunder, or requiring or calling any attention to the need for any Environmental Cleanup Work on or in connection with the Premises, and neither Landlord, its agents or employees has ever been informed of any threatened or proposed serving of any such notice of violation or corrective work order; and

4. except as may be referenced in the Environmental Assessments, and to the best of Landlord's knowledge, no part of the Land is affected by any Hazardous Substances contamination, which for purposes hereof, shall mean: (i) the contamination of any improvements, facilities, soil, subsurface strata, ground water, ambient air, biota or other elements on or of the Land by Hazardous Substances, or (ii) the contamination of the buildings, facilities, soil, subsurface strata, ground water, ambient air, biota or other elements on, or of, any other property as a result of Hazardous Substances emanating from the Land.

(c) Landlord shall be responsible at its sole cost and expense for all Environmental Cleanup Work with respect to any and all Hazardous Substances on or within the Premises at or prior to the Commencement Date.

IV.3 **Liens.**

(a) Tenant agrees that it will not permit any mechanic's, materialmen's or other liens to stand against Landlord's fee simple interest in the Land for work or materials furnished to Tenant; it being provided, however, that Tenant shall have the right to contest the validity thereof. Tenant shall not have any right, authority or power to bind Landlord, or Landlord's fee simple interest in the Land or any other interest of the Landlord in the Premises and will pay or cause to be paid all costs and charges for work done by it or caused to be done by it, in or to the Premises, for any claim for labor or material or for any other charge or expense, lien or security interest incurred in connection with the development, construction or operation of the Improvements or any change, alteration or addition thereto. IN THE EVENT THAT ANY MECHANIC'S LIEN SHALL BE FILED, TENANT SHALL EITHER (A) PROCURE THE RELEASE OR DISCHARGE THEREOF WITHIN NINETY (90) DAYS EITHER BY PAYMENT OR IN SUCH OTHER MANNER AS MAY BE PRESCRIBED BY LAW OR (B) TRANSFER SUCH LIEN TO BOND WITHIN NINETY (90) DAYS FOLLOWING THE FILING THEREOF. NOTICE IS HEREBY GIVEN THAT LANDLORD SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED TO THE TENANT OR TO ANYONE HOLDING ANY OF THE PREMISES THROUGH OR UNDER THE TENANT, AND THAT NO MECHANICS' OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF THE LANDLORD IN AND TO ANY OF THE PREMISES. THE LANDLORD SHALL BE PERMITTED TO POST ANY NOTICES ON THE PREMISES REGARDING SUCH NON-LIABILITY OF THE LANDLORD.

(b) Tenant shall make, or cause to be made, prompt payment of all monies due and legally owing to all persons, firms, and corporations doing any work, furnishing any materials or supplies or renting any equipment to Tenant or any of its contractors or subcontractors in connection with the construction, reconstruction, furnishing, repair, maintenance or operation of the Premises, and in all events will bond or cause to be bonded, with surety companies reasonably satisfactory to Landlord, or pay or cause to be paid in full forthwith, any mechanic's, materialmen's or other lien or encumbrance that arises, whether due to the actions of Tenant or any person other than Landlord, against the Premises.

(c) Tenant shall have the right to contest any such lien or encumbrance by appropriate proceedings which shall prevent the collection of or other realization upon such lien or encumbrance so contested, and the sale, forfeiture or loss of Landlord's fee simple interest in the Land to satisfy the same; provided that such contest shall not subject Landlord to the risk of any criminal liability or civil penalty, and provided further that Tenant shall give reasonable security to insure payment of such lien or encumbrance and to prevent any sale or forfeiture of Landlord's fee simple interest in the Land by reason of such nonpayment, and Tenant hereby indemnifies Landlord for any such liability or penalty. Upon the termination after final appeal of any proceeding relating to any amount contested by Tenant pursuant to this Section IV.3, Tenant shall immediately pay any amount determined in such proceeding to be due, and in the event Tenant fails to make such payment, Landlord shall have the right after fifteen (15) business days' notice to Tenant to make any such payment on behalf of Tenant and charge Tenant therefor.

(d) Nothing contained in this Lease shall be construed as constituting the consent or request of Landlord, expressed or implied, to or for the performance of any labor or services or the furnishing of any materials for construction, alteration, addition, repair or demolition of or to the Premises or of any part thereof, such that the fee simple interest in the Premises of Landlord could be subjected to a lien with respect to any work performed by or on behalf of Tenant; provided, however, nothing contained in this Section IV.3(d) shall in any way be construed as or otherwise operate to limit Tenant's right to construct, repair or replace the Improvements in accordance with the terms and conditions of this Lease.

IV.4 **Insurance Requirements**. Beginning on the Commencement Date and continuing until the expiration or earlier termination of the Term, Tenant shall at all times obtain and maintain, or cause to be maintained, insurance for Tenant and the Premises as described in **Exhibit B**.

ARTICLE V

USE OF PREMISES; COVENANTS RUNNING WITH THE LAND

V.1 **Use; Covenants**.

(a) In accordance with and subject to the terms and conditions of this Lease, Tenant and Landlord agree that Tenant shall construct the Project, which may include multifamily residential housing for low-income, workforce, family, elderly, disabled, special needs or other population and uses reasonably acceptable to the Landlord on the Land.

(b) Tenant covenants, promises and agrees that during the Term of this Lease it shall not devote the Premises or any part thereof to uses other than those consistent with this Lease and the requirements of all applicable documents to be executed between Landlord and Tenant in connection with the Project (collectively, the "***Landlord/Tenant Documents***").

(c) If, prior to the Commencement Date, the Premises becomes subject to a taking by virtue of eminent domain, to any extent whatsoever, Tenant may, in its sole discretion, terminate this Lease by written notice to the Landlord, whereupon neither party hereto shall have any further rights or obligations hereunder.

(d) The provisions of this Section V.1 are intended to create a covenant running with the land and to encumber and benefit the Premises and to bind for the Term Landlord and Tenant and each of their successors and assigns and all subsequent owners of the Premises, including, without limitation, any entity which succeeds to Tenant's interest in the Premises by foreclosure of any Leasehold Mortgage or instrument in lieu of foreclosure.

V.2 **Construction of the Improvements**.

(a) Tenant shall, at its sole cost and expense, construct the Improvements on the Land in conformance with the Plans and Specifications. Tenant shall commence construction of the Improvements within 120 days following the Commencement Date (as such date may be extended for Unavoidable Delay, and shall cause the Improvements to be substantially completed in accordance with the Landlord/Tenant Documents. Tenant shall construct the Improvements and make such other repairs, renovations and betterments to the Improvements as it may desire (provided that such renovations and betterments do not reduce the number of units or bedroom count at the Premises) all at its sole cost and expense, in accordance with (i) the Landlord/Tenant Documents and (ii) any mortgage encumbering the Tenant's leasehold estate, in a good and workmanlike manner, with new materials and equipment whose quality is at least equal to that of the initial Improvements, and in conformity with all applicable federal, state, and local laws, ordinances and regulations. Tenant shall apply for, prosecute, with reasonable diligence, procure or cause to be procured, all necessary approvals, permits, licenses or other authorizations required by applicable governmental authorities having jurisdiction over the Improvements for the construction and/or rehabilitation, development, zoning, use and occupation of the Improvements, including, without limitation, the laying out, installation, maintenance and replacing of the heating, ventilating, air conditioning, mechanical, electrical, elevator, and plumbing systems, fixtures, wires, pipes, conduits, equipment and appliances and water, gas, electric, telephone, drain and other utilities that are customary in developments of this type for use in supplying any such service to and upon the Premises. Landlord shall, without expense to Landlord absent consent therefor, cooperate with Tenant and assist Tenant in obtaining all required licenses, permits, authorizations and the like, and shall sign all papers and documents at any time needed in connection therewith, including without limitation, such instruments as may be required for the laying out, maintaining, repairing, replacing and using of such services or utilities. Any and all buildings, fixtures, improvements, trade fixtures and equipment placed in, on, or upon the Premises shall remain the sole and exclusive property of Tenant and its subtenants, notwithstanding their affixation to, annexation to, or incorporation into the Premises, until the termination of this Lease, at which time title to any such buildings, fixtures, Improvements trade fixtures and equipment that belong to Tenant shall vest in Landlord.

(b) Tenant shall take no action to effectuate any material amendments, modifications or any other alterations to the Development proposals and applications, Plans and Specifications, or to increase or decrease the total number of Workforce Housing Units, and/or other uses on the Land, unless authorized in accordance with the Landlord/Tenant Documents or otherwise approved by Landlord in writing and in advance.

V.3 **Tenant's Obligations**.

(a) Tenant shall, at its sole cost and expense, maintain the Premises, reasonable wear and tear and casualty excepted, and make repairs, restorations, and replacements to the Improvements, including without limitation the landscaping, irrigation, heating, ventilating, air conditioning, mechanical, electrical, elevator, and plumbing systems; structural roof, walls, floors and foundations; and the fixtures and appurtenances as and when needed to preserve them in good working order and condition, and regardless of whether the repairs, restorations, and replacements are ordinary or extraordinary, foreseeable or unforeseeable, capital or non-capital, or the fault or not the fault of Tenant, its agents, employees, invitees, visitors, and contractors. All such repairs, restorations, and replacements will be in quality and class, as elected by Tenant, either equal to or better than the original work or installations and shall be in accordance with all applicable building codes.

(b) Tenant may make any alterations, improvements, or additions to the Premises as Tenant may desire, if the alteration, improvement, or addition will not change the use of the Property as workforce, multifamily rental housing and there is no resulting reduction in Workforce Housing Units required at the Property, or permanent reduction of Project amenities and such alterations, improvements or additions to the Premises comply with applicable law and do not materially and adversely impair the value of the Project. Tenant shall, prior to commencing any such actions, give written notice to Landlord and provide Landlord with complete plans and specifications therefor.

V.4 **Compliance with Law**.

(a) Tenant shall, at its expense, perform all its activities on the Premises in compliance, and shall cause all occupants of any portion thereof to comply, with all applicable laws, ordinances, codes and regulations affecting the Premises or its uses, as the same may be administered by authorized governmental officials.

(b) Without limitation of the foregoing, but expressly subject to the provisions of Section 5.4, Tenant agrees to fulfill the responsibilities set forth below with respect to environmental matters:

1. Tenant shall operate the Premises in compliance with all Environmental Laws applicable to Tenant relative to the Premises and shall identify, secure and maintain all required governmental permits and licenses as may be necessary for the Premises. All required governmental permits and licenses issued to Tenant and associated with the Premises shall remain in effect or shall be renewed in a timely manner, and Tenant shall comply therewith and cause all third parties to comply therewith. All Hazardous Substances present, handled, generated or used on the Premises will be managed, transported and disposed of in a lawful manner. Tenant shall exercise due care and not cause or allow on or upon the Premises, or as may

affect the Premises, any act which may result in the discharge of any waste or hazardous materials, or otherwise damage or cause the depreciation in value to the Premises, or any part thereof due to the release of any waste or hazardous materials on or about the Premises. Tenant shall not knowingly permit the Premises or any portion thereof to be a site for the use, generation, treatment, manufacture, storage, disposal or transportation of Hazardous Substances, except in such amounts as are ordinarily used, stored or generated in similar projects, or otherwise knowingly permit the presence of Hazardous Substances in, on or under the Premises in violation of any applicable law.

2. Tenant shall promptly provide Landlord with copies of all forms, notices and other information concerning any releases, spills or other incidents relating to Hazardous Substances or any violations of Environmental Laws at or relating to the Premises upon discovery of such releases, spills or incidents, when received by Tenant from any government agency or other third party, or when and as supplied to any government agency or other third party. Additionally, Tenant hereby agrees to immediately notify Landlord, in writing, should an accident or incident occur in which any Hazardous Substances are released or otherwise discharged on or about the Premises.

3. Tenant will construct and maintain the Premises to be compliant with Section 504 and the Americans With Disabilities Act and their amendments.

V.5 **<u>Ownership of Improvements/Surrender of Premises</u>**. At all times during the Term, Tenant shall be deemed to exclusively own the Improvements and the Personal Property for federal tax purposes, and Tenant alone shall be entitled to all of the tax attributes of ownership thereof, including, without limitation, the right to claim depreciation or cost recovery deductions with respect to the Improvements and the Personal Property, and Tenant shall have the right to amortize capital costs and to claim any other federal tax benefits attributable to the Improvements and the Personal Property. At the expiration or earlier termination of the Term of this Lease or any portion thereof, Tenant shall peaceably leave, quit and surrender the Premises, and the Improvements thereon (or the portion thereof so terminated), subject to the rights of tenants in possession of residential units under leases with Tenant, provided that such tenants are not in default thereunder and attorn to Landlord as their lessor. Upon such expiration or termination, the Premises (or portion thereof so terminated) shall become the sole property of Landlord at no cost to Landlord and shall be free of all liens and encumbrances and in the condition set forth in Section V.3 (consistent with prudent and appropriate property management and maintenance during the Term) and, in the event of a casualty, to the provisions of Article VI. Tenant acknowledges and agrees that upon the expiration or sooner termination of this Lease any and all rights and interests it may have either at law or in equity to the Premises shall immediately cease.

V.6 **<u>Easements</u>**. Landlord agrees that Landlord shall not unreasonably withhold, condition or delay its consent, and shall join with Tenant from time to time during the Term in the granting of easements affecting the Premises which are for the purpose of providing utility services for the Premises in accordance with an approved development or redevelopment plan. If any monetary consideration is received by Tenant as a result of the granting of any such easement, such consideration shall be paid to Landlord. As a condition precedent to the exercise by Tenant of any of the powers granted to Tenant in this Section, Tenant shall give written notice to Landlord of the action to be taken, shall certify to Landlord, that in Tenant's opinion such action will not materially and adversely affect either the market value of the Premises or the use of the Premises for the Development.

V.7 **Transfer; Conveyance; Assignment**.

(a) Except as otherwise permitted hereunder (including, without limitation, Section VIII.9 hereof), Tenant agrees for itself and its successors and assigns in interest hereunder that it will not (1) assign this Lease or any of its rights under this Lease as to all or any portion of the Premises generally, or (2) make or permit any voluntary or involuntary total or partial sale, lease, assignment, license, conveyance, mortgage, pledge, encumbrance or other transfer of any or all of the Premises, or the Improvements, or the occupancy and use thereof, other than in accordance with this Lease (including, but not limited to (i) any sale at foreclosure or by the execution of any judgment of any or all of Tenant's rights hereunder, or (ii) any transfer by operation of law), to any entity other than an affiliate of Tenant without first obtaining Landlord's express written consent thereto, which consent shall not be unreasonably withheld, conditioned or delayed.

(b) If applicable, Tenant shall have the right to enter a sublease of any part of the premises (a "***Sublease***") to an entity that is affiliated with Tenant, subject to the approval and consent of Landlord, which consent shall not be unreasonably withheld, conditioned or delayed. Additionally, no Sublease shall relieve Tenant of any obligations under the terms of this Lease unless a release is granted by Landlord. Additionally, each Sublease must be for a use compatible with the standards and requirements set forth in this Section V.7(b). Tenant must give written notice to Landlord specifying the name and address of any Sublessee to which all notices required by this Lease shall be sent, and a copy of the Sublease. Tenant shall provide Landlord with copies of all Subleases entered into. Landlord agrees to grant Non- Disturbance Agreements for any Sublessee which will provide that in the event of a termination of this Lease which applies to the portion of the Premises covered by such Sublease, due to an Event of Default committed by the Tenant, such Sublessee will not be disturbed and will be allowed to continue peacefully in possession directly under this Lease as the successor tenant, provided that the Sublessee shall be in compliance with the terms and conditions of its Sublease; and the Sublessee shall agree to attorn to Landlord. Landlord further agrees that it will grant such assurances to such Sublessee so long as it remains in compliance with the terms of its Sublease, and provided further that any such Sublease does not extend beyond the expiration of the Term of this Lease.

(c) The Leasing of residential dwelling units by Tenant in the ordinary course of business constitutes a permitted transfer and is not subject to the provisions of this Article V, and no consent or approval of Landlord is required in connection therewith.

ARTICLE VI

CASUALTY AND TAKING

VI.1. **Casualty**. In the event the Premises should be destroyed or damaged by fire, windstorm, or other casualty to the extent that the Premises is rendered unfit for the intended purpose of Tenant, Tenant may cancel this Lease after thirty (30) days written notice to Landlord, but only after removing any trash and/or debris therefrom, subject to the terms and provisions of any Leasehold Mortgage, as defined in Section VIII.9. If the Premises is partially damaged due to any other reason than the causes described immediately above, but the Premises is not rendered unusable for Tenant's purposes subject to the terms and provisions of any Leasehold Mortgage, the same shall be repaired by Tenant to the extent Tenant receives sufficient proceeds to complete such repairs from its insurance carrier under its insurance policy. Any such repairs will be completed within a reasonable time after receipt of such proceeds. If the damage to the Premises shall be so extensive as to render it unusable for Tenant's purposes but shall nonetheless be capable of being repaired within One Hundred Twenty (120) days, subject to the terms and provisions of any Leasehold Mortgagee the damage shall be repaired with due diligence by Tenant to the extent Tenant receives sufficient proceeds under its insurance policy to complete such repairs.

Notwithstanding anything contained in this Section VI.1, or otherwise in this Lease to the contrary, as long as the Tenant's leasehold interest is encumbered by any Leasehold Mortgage, this Lease shall not be terminated by Landlord or Tenant in the event that the Premises is partially or totally destroyed, and, in the event of such partial or total destruction, all insurance proceeds from casualty insurance as provided herein shall be paid to and held by the Leasehold Mortgagee, or an insurance trustee selected by the Leasehold Mortgagee to be used for the purpose of restoration or repair of the Premises or otherwise applied by such Leasehold Mortgagee in accordance with the terms and conditions of the Leasehold Mortgage. Leasehold Mortgagee shall have the right to participate in adjustment of losses as to casualty insurance proceeds and any settlement discussion relating to casualty.

VI.2 **Taking**.

(a) Notice of Taking. Upon receipt by either Landlord or Tenant of any notice of Taking, or the institution of any proceedings for Taking the Premises, or any portion thereof, the party receiving such notice shall promptly give notice thereof to the other, and such other party may also appear in such proceeding and may be represented by an attorney.

(b) Award. Subject to the terms of the Leasehold Mortgages (as defined in Section VIII.9), the Landlord and the Tenant agree that, in the event of a Taking that does not result in the termination of this Lease pursuant to Section VI.2(c) or VI.2(d), this Lease shall continue in effect as to the remainder of the Premises, and the net amounts owed or paid to the Landlord or pursuant to any agreement with any condemning authority which has been made in settlement of any proceeding relating to a Taking, less any costs and expenses incurred by the Landlord in collecting such award or payment (the "***Award***") will be disbursed in accordance with Section VI.2(c) or VI.2(d) (as the case may be) to the Landlord and/or Tenant. The Tenant and, to the extent permitted by law, any Leasehold Mortgagee, shall have the right to participate in negotiations of and to approve any such settlement with a condemning authority (which approval shall not be unreasonably withheld, conditioned or delayed).

(c) Total Taking. In the event of a permanent Taking of the fee simple interest or title of the Premises, or control of the entire leasehold estate hereunder (a "***Total Taking***"), this Lease shall thereupon terminate as of the effective date of such Total Taking, without liability or further recourse to the parties, provided that each party shall remain liable for any obligations required to be performed prior to the effective date of such termination and for any other obligations under this Lease which are expressly intended to survive termination. The Taking of any portion of the Improvements, fifteen percent (15%) or more of the then existing parking area, or the loss of the rights of ingress and egress as then established, shall be, at Tenant's election, but not exclusively considered, such a substantial taking as would render the use of the Premises not suitable for Tenant's use. Notwithstanding any provision of the Lease or by operation of law that leasehold improvements may be or shall become the property of Landlord at the termination of the Lease, the loss of the building and other improvements paid for by Tenant, the loss of Tenant's leasehold estate and such additional relief as may be provided by law shall be the basis of Tenant's damages against the condemning authority if a separate claim therefor is allowable under applicable law, or the basis of Tenant's damages to a portion of the total award if only one award is made.

(d) Partial Taking. Subject to the terms of the Leasehold Mortgages, in the event of a permanent Taking of less than all of the Premises (a "***Partial Taking***"), if Tenant reasonably determines that the continued development, use or occupancy of the remainder of the Premises by Tenant cannot reasonably be made to be economically viable, structurally sound, then Tenant may terminate this Lease, and the Tenant's portion of the Award shall be paid to Tenant, provided that any and all obligations of Tenant have been fully and completely complied with by Tenant as of the date of said Partial Taking. If Tenant shall not elect to terminate this Lease, Tenant shall be entitled to a reduction of rent of such amount as shall be just and equitable. Subject to the terms of the Leasehold Mortgages, if there is a Partial Taking and the Tenant does not terminate this Lease, the Tenant shall be entitled to receive and retain an equitable portion of the Award and shall apply such portion of the Award necessary to repair or restore the Premises or the Improvements as nearly as possible to the condition the Premises or the Improvements were in immediately prior to such Partial Taking. Subject to the terms of the Leasehold Mortgages, if there is a Partial Taking which affects the use of the Premises after the term hereof, the Award shall be apportioned between the Tenant and the Landlord based on the ratio of the remaining term hereof and the remaining expected useful life of the Premises following the term hereof. Subject to the terms of the Leasehold Mortgages, notwithstanding any provision herein to the contrary, the Landlord shall be entitled to receive and retain any portion of the Award apportioned to the land upon which the Improvements are located. Should such award be insufficient to accomplish the restoration, such additional costs shall be paid by Tenant. Notwithstanding any provision of the Lease or by operation of law that leasehold improvements may be or shall become the property of Landlord at the termination of the Lease, the loss of the building and other improvements paid for by Tenant and such additional relief as may be provided by law shall be the basis of Tenant's damages against the condemning authority if a separate claim therefor is allowable under applicable law, or the basis of Tenant's damages to a portion of the total award if only one award is made.

(e) Resolution of Disagreements. Should Landlord and Tenant be unable to agree as to the division of any singular award or the amount of any reduction of rents and other charges payable by Tenant under the Lease, such dispute shall be submitted for resolution to the court exercising jurisdiction of the condemnation proceedings, each party bearing its respective costs for such determination. Landlord shall not agree to any settlement in lieu of condemnation with the condemning authority without Tenant's consent.

(f) No Existing Condemnation. Landlord represents and warrants that as of the Commencement Date it has no actual or constructive knowledge of any proposed condemnation of any part of the Premises. In the event that subsequent to the Lease Date, but prior to the

Commencement Date, a total or partial condemnation either permanent or temporary, is proposed by any competent authority, Tenant shall be under no obligation to commence or continue construction of the building and other improvements and rent and other charges, if any, payable by Tenant under the Lease shall abate until such time as it can be reasonably ascertained that the Premises shall not be so affected. In the event the Premises is so affected, Tenant shall be entitled to all rights, damages and awards pursuant to the appropriate provisions of this Lease.

VI.3 **Termination upon Non-Restoration**. Following a Partial Taking, if a decision is made pursuant to this Article VI that the remaining portion of the Premises is not to be restored, and Tenant shall have determined that the continued development, use or occupancy of the remainder of the Premises by Tenant cannot be made economically viable or structurally sound, Tenant shall surrender the entire remaining portion of the Premises to Landlord and this Lease shall thereupon be terminated without liability or further recourse to the parties hereto, provided that any Rent, impositions and other amounts payable or obligations hereunder owed by Tenant to Landlord as of the date of the Partial Taking shall be paid in full.

ARTICLE VII

CONDITION OF PREMISES

VII.1 **Condition; Title**. The Premises are demised and let in an "as is" condition as of the Commencement Date. Notwithstanding anything to the contrary contained herein, upon Tenant taking possession of the Premises, Tenant shall be deemed to have accepted the Premises in its "as-is" and "where-is" condition, with any and all faults, and with the understanding that the Landlord has not offered any implied or expressed warranty as to the condition of the Premises and/or as to it being fit for any particular purpose, provided, however, that the foregoing shall not in any way limit, affect, modify or otherwise impact any of Landlord's representations, warranties and/or obligations contained in this Lease.

Tenant shall, within sixty (60) days following the Lease Date, obtain a title commitment to insure Tenant's leasehold interest in the Premises and a survey of the Premises. Tenant shall advise Landlord as to any title and survey matters that Tenant deems objectionable and Landlord shall address same in accordance with Section VII.3, below.

VII.2 **No Encumbrances**. Landlord covenants that Landlord has full right and lawful authority to enter into this Lease in accordance with the terms hereof and to grant the estate demised hereby. Landlord represents and warrants that there are no existing mortgages, deeds of trust, easements, liens, security interests, encumbrances and/or restrictions encumbering Landlord's fee interest in the Land other than the Permitted Encumbrances. Landlord's fee interest shall not hereafter be subordinated to, or made subject to, any mortgage, deed of trust, easement (other than as provided in Section V.6 hereof), lien, security interest, encumbrance and/or restriction except for an encumbrance that expressly provides that it is and shall remain subject and subordinate at all times in lien, operation and otherwise to this Lease and to all renewals, modifications, amendments, consolidations and replacements hereof (including new leases entered into pursuant to the terms hereof and extensions). Landlord covenants that it will not encumber or lien the title of the Premises or cause or permit said title to be encumbered or liened in any manner whatsoever, and Tenant may reduce or discharge any such encumbrance or lien by payment or otherwise at any time after giving thirty (30) days' written notice thereof to Landlord. Tenant may recover or recoup all costs and expenses thereof from Landlord if the Landlord fails to discharge any such encumbrance within the said thirty (30) day period. Such recovery or recoupment may, in addition to all other remedies, be made by setting off against the amount of Rent payable by Tenant hereunder. Landlord and Tenant agree to work cooperatively together to create such easements and rights of way as may be necessary or appropriate for the Premises.

VII.3 **Landlord's Title and Quiet Enjoyment**. Landlord represents and warrants that Landlord is seized in fee simple title to the Premises, free and clear and unencumbered, other than as affected by the Permitted Encumbrances. Landlord covenants that, so long as Tenant pays Rent and performs the covenants herein contained on its part to be paid and performed, Tenant will have lawful, quiet and peaceful possession and occupancy of the Premises and all other rights and benefits accruing to Tenant under the Lease throughout the Term, without hindrance or molestation by or on the part of Landlord or anyone claiming through Landlord. Landlord further represents and warrants that it has good right, full power and lawful authority to enter into this Lease. Tenant shall have the right to order a title insurance commitment on the Premises. In the event the title insurance commitment or survey shall reflect encumbrances or other conditions not acceptable to Tenant ("***Defects***"), then, Landlord, upon notification of the Defects, shall immediately and diligently proceed to cure same and shall have a reasonable time within which to cure the Defects. If, after the exercise of all reasonable diligence, Landlord is unable to clear the Defects, then Tenant may accept the Defects or Tenant may terminate the Lease and the parties shall be released from further liability so long as Tenant is not in default hereunder beyond any grace period applicable thereto, Tenant's possession of the Premises will not be disturbed by Landlord, its successors and assigns.

VII.4 **Right to Inspect**. Notwithstanding Section VII.3 above, Landlord and its agents, upon reasonable prior notice to Tenant, shall have the right not more frequently than once in any twelve (12) consecutive month period absent an Event of Default, to enter the Premises for purposes of reasonable inspections performed during reasonable business hours in order to assure compliance by Tenant with its obligations under this Lease.

VII.5 **Approval Period**. Commencing on the Lease Date and ending at 5:00 p.m. Eastern Time on the date that is thirty-six (36) months thereafter (the "***Approvals Period***"), Tenant shall seek to obtain all site plan approvals, development and building permits, variances, subdivision approvals, re-zonings and any other municipal and/or governmental approvals deemed by Tenant to be necessary or appropriate for Tenant to develop and operate the Project, with all time to appeal such approvals and/or permits having expired and with no appeal then pending, and no appeal instituted or petition filed (collectively, the "***Final Development Approvals***"). Tenant obtaining all of the Final Development Approvals is a condition precedent to Tenant's obligations under this Lease. Landlord acknowledges that as fee owner of the Premises, it may be required to consent to, join in or otherwise submit applications for development approvals and/or permits in its name, and as such, Landlord agrees to execute, join in or consent to all such applications promptly upon Tenant's request for same provided same is at no cost or expense to Landlord. Tenant shall have the right to extend the Approvals Period for up to three (3) consecutive periods of thirty (30) days each by sending written notice to Landlord at any time prior to the last day of the then current Approvals Period. If Tenant is unable to obtain all of the Final Development Approvals, in form and in substance acceptable to Tenant, prior to the end of the Approval Period (as it may have been extended pursuant to this Section VII.5), then Tenant may terminate this Lease by delivering written notice of such termination to Landlord prior to the expiration of the Approvals Period, in which event, the Escrow Deposits shall be returned to Tenant, and all rights, duties and obligations of Tenant and Landlord under this Lease will immediately terminate, except for those which specifically survive termination. Notwithstanding the foregoing, Tenant shall have the right at any time during the Approvals Period upon written notice to Landlord to waive the remaining term of the Approvals Period.

ARTICLE VIII

DEFAULTS AND TERMINATION

VIII.1 **Default**. The occurrence of any of the following events shall constitute an event of default ("***Event of Default***") hereunder:

(a) if Tenant fails to pay when due any Rent or other impositions due hereunder pursuant to Article III (except where such failure is addressed by another event described in this Section VIII.1 as to which lesser notice and grace periods are provided), and any such default shall continue for thirty (30) days after the receipt of written notice thereof by Tenant from Landlord; or

(b) if Tenant fails in any material respect to comply with the use restrictions set forth in Section V.1(a), or fails to comply with the construction obligations set forth in Section V.1(b), or otherwise fails to observe or perform any covenant, condition, agreement or obligation hereunder not addressed by any other event described in this Section VIII.1, and shall fail to cure, correct or remedy such failure within thirty (30) days after the receipt of written notice thereof, unless such failure cannot be cured by the payment of money and cannot with due diligence be cured within a period of thirty (30) days, in which case such failure shall not be deemed to continue if Tenant proceeds promptly and with due diligence to cure the failure and diligently completes the curing thereof within a reasonable period of time; provided, however, that for such time as Landlord or its affiliate is the management agent retained by Tenant, Tenant shall not be in default hereunder due to actions or inactions taken by Landlord which materially impede Tenant's ability to cure such default; or

(c) If any representation or warranty of Tenant set forth in this Lease, in any certificate delivered pursuant hereto, or in any notice, certificate, demand, submittal or request delivered to Landlord by Tenant pursuant to this Lease shall prove to be incorrect in any material and adverse respect as of the time when the same shall have been made and the same shall not have been remedied to the reasonable satisfaction of Landlord within thirty (30) days after notice from Landlord; or if Tenant shall be adjudicated bankrupt or be declared insolvent under the Federal Bankruptcy Code or any other federal or state law (as now or hereafter in effect) relating to bankruptcy, insolvency, reorganization, winding-up or adjustment of debts (collectively called "***Bankruptcy Laws***"), or if Tenant shall (a) apply for or consent to the appointment of, or the taking of possession by, any receiver, custodian, trustee, United States Trustee or liquidator (or other similar official) of Tenant or of any substantial portion of Tenant's property; (b) admit in writing its inability to pay its debts generally as they become due; (c) make a general assignment for the benefit of its creditors; (d) file a petition commencing a voluntary case under or seeking to take advantage of a Bankruptcy Law; or (e) fail to controvert in a timely and appropriate manner, or in writing acquiesce to, any petition commencing an involuntary case against Tenant pursuant to any Bankruptcy Law; or

(d) if an order for relief against Tenant shall be entered in any involuntary case under the Federal Bankruptcy Code or any similar order against Tenant shall be entered pursuant to any other Bankruptcy Law, or if a petition commencing an involuntary case against Tenant or proposing the reorganization of Tenant under the Federal Bankruptcy Code shall be filed in and approved by any court of competent jurisdiction and not be discharged or denied within ninety (90) days after such filing, or if a proceeding or case shall be commenced in any court of competent jurisdiction seeking (a) the liquidation, reorganization, dissolution, winding-up or adjustment of debts of Tenant, (b) the appointment of a receiver, custodian, trustee, United States Trustee or liquidator (or other similar official of Tenant) of any substantial portion of Tenant's property, or (c) any similar relief as to Tenant pursuant to Bankruptcy Law, and any such proceeding or case shall continue undismissed, or any order, judgment or decree approving or ordering any of the foregoing shall be entered and continued unstayed and in effect for ninety (90) days; or

(e) Tenant vacates or abandons the Premises or any substantial part thereof for a period of more than sixty (60) consecutive days (or, if applicable, such longer period as may be permitted in accordance with Section VI.1 or VI.2); or

(f) This Lease, the Premises or any part thereof are taken upon execution or by other process of law directed against Tenant, or are taken upon or subjected to any attachment by any creditor of Tenant or claimant against Tenant, and such attachment is not stayed or discharged within ninety (90) days after its levy; or

(g) Tenant makes any sale, conveyance, assignment or transfer in violation of this Lease.

VIII.2 **Remedies for Tenant's Default**. Upon or after the occurrence of any Event of Default which is not cured within any applicable cure period, and so long as same remains uncured, Landlord may terminate this Lease by providing not less than thirty (30) days' written notice (which notice may be contemporaneous with any notice provided under Section VIII.1) to Tenant, setting forth Tenant's uncured, continuing default and Landlord's intent to exercise its rights to terminate, whereupon this Lease shall terminate on the termination date therein set forth unless Tenant's default has been cured before such termination date. Upon such termination, Tenant's interest in the Premises shall automatically revert to Landlord, Tenant shall promptly quit and surrender the Premises to Landlord, without cost to Landlord, and Landlord may, without demand and further notice, reenter and take possession of the Premises, or any part thereof, and repossess the same as Landlord's former estate by summary proceedings, ejectment or otherwise without being deemed guilty of any manner of trespass and without prejudice to any remedies which Landlord might otherwise have for arrearages of Rent or other impositions hereunder or for a prior breach of the provisions of this Lease. The obligations of Tenant under this Lease which arose prior to termination shall survive such termination.

VIII.3 **Termination**. Termination by Landlord: The occurrence of any of the following shall give Landlord the right to terminate this Lease upon the terms and conditions set forth below, subject to the provisions of Section VIII.9 hereof:

(a) Tenant fails to cause the Commencement Date to occur, within four (4) years following the Lease Date.

(b) Institution of proceedings in voluntary bankruptcy by the Tenant.

(c) Institution of proceedings in involuntary bankruptcy against the Tenant if such proceedings continue unstayed for a period of ninety (90) days or more.

(d) Assignment of Lease by Tenant for the benefit of creditors.

(e) A final determination of termination of this Lease in a court of law in favor of the Landlord in litigation instituted by the Tenant against the Landlord or brought by the Landlord against Tenant.

(f) Tenant's failure to cure, within thirty (30) days following Tenant's receipt of written notice from Landlord with respect to Tenant's failure to cure a condition posing a threat to health or safety of the public or patrons (or such longer period if the default is not capable of being cured in such thirty (30) day period).

VIII.4 **Remedies Following Termination**. Upon termination of this Lease, Landlord may:

1. retain, at the time of such termination, any Rent or other impositions paid hereunder, without any deduction, offset or recoupment whatsoever; and

2. enforce its rights under any bond outstanding at the time of such termination; and

3. require Tenant to deliver to Landlord, or otherwise effectively transfer to Landlord any and all governmental approvals and permits, and any and all rights of possession, ownership or control Tenant may have in and to, any and all financing arrangements, plans, specifications, and other technical documents or materials related to the Premises.

VIII.5 **Intentionally Deleted**.

VIII.6 **Intentionally Deleted**.

VIII.7 **Performance by Landlord**. If Tenant shall fail to make any payment or perform any act required under this Lease, Landlord may (but need not) after giving not less than thirty (30) days' notice (except in case of emergencies and except where a shorter time period is specified elsewhere in this Lease) to Tenant and without waiving any default or releasing Tenant from any obligations, cure such default for the account of Tenant. Tenant shall promptly pay Landlord the amount of such charges, costs and expenses as Landlord shall have incurred in curing such default.

VIII.8 **Costs and Damages**. Tenant shall be liable to, and shall reimburse, Landlord for any and all actual reasonable expenditures incurred and for any and all actual damages suffered by Landlord in connection with any Event of Default, collection of Rent or other impositions owed under this Lease, the remedying of any default under this Lease or any termination of this Lease, unless such termination is caused by the default of Landlord, including all costs, claims, losses, liabilities, damages and expenses (including without limitation, reasonable attorneys' fees and costs) incurred by Landlord as a result thereof.

VIII.9 **Remedies Cumulative**. The absence in this Lease of any enumeration of events of default by Landlord or remedies of either party with respect to money damages or specific performance shall not constitute a waiver by either party of its right to assert any claim or remedy available to it under law or in equity.

VIII.10 **Leasehold Mortgages**. Tenant shall have the unrestricted right, at any time and from time to time, to encumber, hypothecate or mortgage Tenant's leasehold estate hereunder (each, a "***Leasehold Mortgage***") without the prior approval or consent of Landlord. With respect to any Leasehold Mortgage, the following provisions shall apply:

(a) When giving notice to the Tenant with respect to any default under the provisions of this Lease, the Landlord will also send a copy of such notice to the holder of each Permitted Leasehold Mortgage (each a "***Leasehold Mortgagee***"), provided that each such Leasehold Mortgagee shall have delivered to the Landlord in writing a notice naming itself as the holder of a Leasehold Mortgage and registering the name and post office address to which all notices and other communications to it may be addressed.

(b) Each Leasehold Mortgagee shall be permitted, but not obligated, to cure any default by the Tenant under this Lease within the same period of time specified for the Tenant to cure such default. The Tenant authorizes each Leasehold Mortgagee to take any such action at such Leasehold Mortgagee's option and does hereby authorize entry upon the Premises for such purpose.

(c) The Landlord agrees to accept payment or performance by any Leasehold Mortgagee as though the same had been done by the Tenant.

(d) In the case of a default by the Tenant other than in the payment of money, and provided that a Leasehold Mortgagee has commenced to cure the default and is proceeding with due diligence to cure the default, the Landlord will refrain from terminating this Lease for a reasonable period of time (not to exceed 120 days from the date of the notice of default, unless (i) such cure cannot reasonably be completed within 120 days from the date of the notice of default, and (ii) a Leasehold Mortgagee continues to diligently pursue such cure to the reasonable satisfaction of the Landlord) within which time the Leasehold Mortgagee may either (i) obtain possession of the Premises (including possession by receiver); (ii) institute foreclosure proceedings and complete such foreclosure; or (iii) otherwise acquire the Tenant's interest under this Lease. The Leasehold Mortgagee shall not be required to continue such possession or continue such foreclosure proceedings if the default which was the subject of the notice shall have been cured. Notwithstanding the foregoing, the Landlord will refrain from terminating this Lease in the event such Leasehold Mortgagee is enjoined or stayed in such possession or such foreclosure proceedings, and provided that the Leasehold Mortgagee has delivered to Landlord copies of any and all orders enjoining or staying such action, Landlord will grant such Leasehold Mortgagee such additional time as is required for such Leasehold Mortgagee to complete steps to acquire or sell Tenant's leasehold estate and interest in this Lease by foreclosure of its Leasehold Mortgage or by other appropriate means with due diligence; however, nothing in this Section shall be construed to extend this Lease beyond the Term.

(e) Any Leasehold Mortgagee or other acquirer of Tenant's leasehold estate and interest in this Lease pursuant to foreclosure, an assignment in lieu of foreclosure or other proceedings, any of which are permitted without the Landlord's consent, may, upon acquiring the Tenant's leasehold estate and interest in this Lease, without further consent of the Landlord, sell and assign the leasehold estate and interest in this Lease on such terms and to such persons and organizations as are acceptable to such Leasehold Mortgagee or acquirer and thereafter be relieved of all obligations under this Lease, provided such assignee has delivered to the Landlord its written agreement to be bound by all of the provisions of this Lease. Leasehold Mortgagee, or its nominee or designee, shall also have the right to further assign, sublease or sublet all or any part of the leasehold interest hereunder to a third party without the consent or approval of Landlord.

(f) In the event of a termination of this Lease prior to its stated expiration date, the Landlord shall enter into a new lease for the Premises with the Leasehold Mortgagee (or its nominee), for the remainder of the term, effective as of the date of such termination, at the same Rent payment and subject to the same covenants and agreements, terms, provisions, and limitations herein contained, provided that:

1. The Landlord receives the Leasehold Mortgagee's written request for such new lease within sixty (60) days from the date of such termination and notice thereof by the Landlord to the Leasehold Mortgagee (including an itemization of amounts then due and owing to the Landlord under this Lease), and such written request is accompanied by payment to the Landlord of all amounts then due and owing to Landlord under this Lease and, within ten (10) days after the delivery of an accounting therefor by the Landlord, pays any and all costs and expenses incurred by the Landlord in connection with the execution and delivery of the new lease, less the net income collected by the Landlord from the Premises subsequent to the date of termination of this Lease and prior to the execution and delivery of the new lease, any excess of such net income over the aforesaid sums and expenses to be applied in payment of the Rent payment thereafter becoming due under the new lease, provided, however, that the Leasehold Mortgagee shall receive full credit for all capitalized lease and Rent payments previously delivered by the Tenant to the Landlord; and

2. Upon the execution and delivery of the new lease at the time payment is made in (1) above, all subleases which thereafter may have been assigned and transferred to the Landlord shall thereupon be assigned and transferred without recourse by the Landlord to the Leasehold Mortgagee (or its nominee), as the new Tenant.

3. If a Leasehold Mortgagee acquires the leasehold estate created hereunder or otherwise acquires possession of the Premises pursuant to available legal remedies, Landlord will look to such holder to perform the obligations of Tenant hereunder only from and after the date of foreclosure or possession and will not hold such holder responsible for the past actions or inactions of the prior Tenant. Leasehold Mortgagee's liability shall be limited to the

value of such Leasehold Mortgagee's interest in this Lease and in the leasehold estate created thereby.

Notwithstanding the foregoing, the deadline to complete construction of the Improvements set forth in Article V shall be extended for such period of time as may be reasonably required by the Leasehold Mortgagee or its nominee to complete construction.

ARTICLE IX

RIGHT OF FIRST OFFER

IX.1 **Grant of Right; Offer Notice**. If, at any time during the Lease Term, Tenant wishes to sell its leasehold interest in the Premises (the "***Leasehold Estate***"), then Tenant shall first offer to sell the Leasehold Estate to Landlord (the "***Right of First Offer***") at a price specified by Tenant and upon such other terms as Tenant intends to hold the Leasehold Estate out for sale to a third party (the "***Offer Terms***") by delivering written notice of such Offer Terms to Landlord (the "***Offer Notice***").

IX.2 **Landlord's Election**. Landlord shall have fifteen (15) days after receipt of the Offer Notice to deliver to Tenant a written notice electing to purchase the Leasehold Estate on the Offer Terms (the "***Election Notice***"). If Landlord timely delivers such notice, then Landlord and Tenant shall proceed in good faith to negotiate and execute a purchase and sale agreement consistent with the Offer Terms (with customary representations, warranties, covenants, closing conditions, and other provisions reasonably acceptable to both parties) and close such transaction within forty-five (45) days after the Election Notice.

IX.3 **Failure to Elect**. If Landlord does not timely elect to purchase the Leasehold Estate, then Tenant shall be free to sell the Leasehold Estate to a third party at not less than 90% of the price set forth in the Offer Notice on terms that are no less favorable to such purchaser than the Offer Terms; provided, however, that if Tenant proposes to sell the Leasehold Estate to such third party for less than 90% of the price in the Offer Notice, Tenant shall first deliver written notice thereof to Landlord, and Landlord shall have ten (10) days thereafter to elect to purchase the Leasehold Estate at such reduced price. If Tenant does not enter into a binding agreement to sell the Leasehold Estate within one (1) year after Landlord's failure to elect (or if such agreement is terminated without closing), then before Tenant may again market or sell the Leasehold Estate, Tenant must again comply with this Article IX.

IX.4 **Exceptions**. The Right of First Offer does not apply to any of the following: (i) any form of financing, foreclosure sale, or deed or assignment in lieu of foreclosure or any subsequent sale by the person to which a certificate of title or assignment in lieu of foreclosure is issued; (ii) transfers in connection with a condemnation or under threat of condemnation or pursuant to a bankruptcy or court-ordered estate liquidation; (iii) any sale or transfer required due to a corporate reorganization or transfer to a single purpose entity in connection with obtaining financing for the Premises; (iv) transfers of ownership interests in Tenant (whether directly or indirectly) or transfers to any entity into which or with which Tenant is merged or consolidated, except as provided in Section IX.5 below; or (v) transfers to any Affiliate of Tenant. As used herein "Affiliate" means any person or entity which, directly or indirectly through one or more intermediaries controls, is controlled by, or is under control with Tenant. For purposes of this definition, control of Tenant means the power, direct or indirect, (x) to vote 50% or more of the ownership interests having ordinary voting power for the election of managers (or comparable equivalent) of Tenant, or (y) to direct or cause the direction of the management and policies of Tenant whether by contract or otherwise.

IX.5 **Transfers of Ownership Interests**. For purposes of this Section IX a "sale" or "transfer" of the Leasehold Estate shall be deemed to include, without limitation, (i) any direct or indirect transfer, assignment, conveyance, or other disposition of a controlling interest (fifty percent (50%) or more, whether by vote, value, or otherwise) in the ownership interests of Tenant, or (ii) any transaction or series of related transactions having the effect of transferring control of Tenant (a "***Change of Control Transaction***"). In the event of any proposed Change of Control Transaction, Tenant shall comply with the provisions of this Article IX as though Tenant were proposing to sell the Leasehold Estate, and Landlord shall have the same rights hereunder with respect to such Change of Control Transaction as would apply to a direct sale of the Leasehold Estate. The foregoing shall not apply to (A) transfers of interests in Tenant to or among Affiliates of Tenant, (B) transfers by devise, descent, or operation of law, or for bona fide estate planning purposes, or (C) any transfer, sale, or other disposition of equity interests in any direct or indirect parent entity of Tenant provided that such parent entity directly or indirectly owns, in addition to the Tenant, other material real estate assets or businesses.

IX.6 **Termination**. Notwithstanding anything to the contrary contained herein, Landlord's rights under this Article IX shall automatically terminate and be of no further force or effect upon the consummation of a bona fide sale of the Leasehold Estate by Tenant to a third party in compliance with the terms of this Article. For the avoidance of doubt, if Tenant does not consummate such sale within one (1) year after Landlord declines or fails to elect to purchase the Leasehold Estate (or if a purchase agreement entered into within such period is terminated without closing), then the provisions of this Article IX shall again apply to any subsequent proposed sale of the Leasehold Estate.

ARTICLE X

PUBLIC RECORDS ACT

X.1 **Public Records Keeping**. As it relates to this Lease and any subsequent agreements and other documents related to the Development, Tenant and any of its subsidiaries, pursuant to Section 119.0701, Florida Statutes, shall:

(a) Keep and maintain public records that ordinarily and necessarily would be required by Landlord in order to perform the service;

(b) Upon request from Landlord's custodian of public records identified herein, provide the public with access to public records on the same terms and conditions that Landlord would provide the records and at a cost that does not exceed the cost provided in the Florida Public

Records Act, Miami-Dade County Administrative Order No. 4-48, or as otherwise provided by law;

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Lease's term and following completion of the work under this Lease if Tenant does not transfer the records to Landlord; and

(d) Meet all requirements for retaining public records and transfer to Landlord, at no cost to Landlord, all public records created, received, maintained and/or directly related to the performance of this Lease that are in possession of Tenant upon termination of this Lease. Upon termination of this Lease, Tenant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to Landlord in a format that is compatible with the information technology systems of Landlord.

For purposes of this Article X, the term "***public records***" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business of Landlord. In the event Tenant does not comply with the public records disclosure requirements set forth in Section 119.0701, Florida Statutes, and this Article X, Landlord shall avail itself of the remedies set forth in Section VIII.2 of this Lease.

IF TENANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO TENANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LEASE, PLEASE CONTACT LANDLORD'S CUSTODIAN OF PUBLIC RECORDS AT:

Office of Communications
Records & Forms Management Office
1450 NE Second Avenue, Suite 250
Miami, FL 33132
Attention: Jaquelyn C. Diaz
Email: jacalzadilla@dadeschools.net
Phone: 305-995-2060

ARTICLE XI

DUE DILIGENCE PERIOD

XI.1 **Due Diligence Period**. From the Lease Date until 5:00 p.m. Eastern Time on the one hundred twentieth (120th) day thereafter (the "***Due Diligence Period***"), Tenant may at all reasonable times during the Due Diligence Period and upon reasonable prior notice (which notice may be verbal or written) from Tenant to Landlord, and at all times thereafter for so long as this Lease is in effect, Tenant and Tenant's contractors, consultants, employees and agents shall be entitled to enter upon the Premises, and any portions thereof, and to conduct such tests, studies, and analyses, including, but not limited to, soil tests, environmental and hazardous material (including asbestos) tests, studies and analyses, and to take any and all other steps or actions determined by Tenant to be necessary, proper, or appropriate to determine the feasibility (economic or otherwise) of the development of the Project.

XI.2 **Insurance**. Prior to entry upon the Premises, Tenant shall procure or causes to be procured commercial general liability insurance with combined single limit of not less than One Million Dollars ($1,000,000.00) per occurrence for bodily injury and property damage, for which the combination of commercial general liability insurance and umbrella/excess general liability coverage would be satisfactory, and Tenant shall provide to Landlord evidence of such insurance coverage naming Landlord as an additional insured.

XI.3 **Indemnity**. Tenant agrees to indemnify and hold Landlord harmless from and against all claims, demands and liabilities for damage or injury to persons or property to the extent caused by Tenant's investigations of the Premises. Notwithstanding the foregoing, Landlord acknowledges that Tenant's investigations may discover, disclose or document the presence of contamination by Hazardous Substances at or in connection with the Premises and that such discovery, disclosure or documentation and/or Tenant's pursuit of the Governmental Approvals (as hereinafter defined) may result in claims, demands and obligations for assessment, remediation, reimbursement, fines, penalties and/or other appropriate action under applicable federal, state or local law, and further, may result in a diminution of the value of the Premises (the "***Contamination Disclosure Implications***"). Landlord hereby expressly agrees that Tenant shall have no liability arising out of or relating to the Contamination Disclosure Implications and forever releases and waives any claim that Landlord may have against Tenant in connection with same. Landlord expressly consents to the disclosure by Tenant of all Environmental Conditions (as hereinafter defined) and results of all Environmental Assessments to all necessary third parties including, without limitation, prospective lenders, prospective investors, insurance companies, engineers, legal counsel, all governmental agencies and any other party which may be impacted by the Environmental Conditions. The provisions of this subparagraph shall survive the expiration of the Term or earlier termination of this Lease. For purposes of this Lease, the presence, potential presence, release and/or threatened release of Hazardous Substances at, on, under, above, adjacent to or otherwise impacting on the ownership, operation, use, development, construction, financing, leasing or sale of the Premises are individually referred to as an "***Environmental Condition***," and collectively, as the "***Environmental Conditions***."

XI.4 **Termination**. At any time prior to the expiration of the Due Diligence Period, Tenant may, in its sole and absolute discretion, and for any reason or for no reason whatsoever, terminate this Lease upon written notification to the other party, whereupon, the Escrow Deposits shall be returned to Tenant and all rights, duties and obligations of Tenant and Landlord under this Lease will immediately terminate, except for those which specifically survive termination.

XI.5 Notwithstanding anything contained in this Lease to the contrary, if Tenant discovers any unforeseen conditions during its inspection of the Premises, Tenant shall have right to propose an agreement with the Landlord which provides for an equitable means of remediating the unforeseen conditions such that the Project may be developed substantially as proposed by the Tenant. Such proposal must be submitted to the Landlord in writing within thirty (30) days after discovery and notification by the Tenant to the Landlord of the unforeseen conditions, subject to Unavoidable Delays and extensions of time approved by the Landlord in writing. The Landlord shall have the right, in its sole discretion, to determine the final form of any such agreement, which shall be in writing, or to reject any such proposal. Failure of the parties to agree to such agreement within sixty (60) days of the Landlord's receipt of Tenant's proposal, subject to Unavoidable Delays and extensions of time approved by the Landlord in writing, shall (i) result in the termination of this Lease or (ii) the Parties can agree to allow Tenant to develop the Project in substantially the form described in this Lease; or

XI.6 The right to request a redesign of the Project as may be reasonably required as a result of the unforeseen conditions found and request an equitable adjustment in the Rent based upon the reduction in the amount and character of the space or other aspect of the Project described in this Lease, which will be denied to the Tenant as a result of the unforeseen conditions. Such request and adjustment, as may be negotiated and amended, must be approved by the Landlord in its sole but reasonable discretion and agreed to by the Parties in writing within thirty (30) days after discovery and notification by the Tenant to the Landlord of the unforeseen conditions, subject to Unavoidable Delays and extensions of time approved by the Landlord in writing. Failure of the Parties to agree to such adjustment within such period of time shall (i) result in the termination of this Lease or (ii) the Parties can agree, if feasible, to allow Tenant to develop the Project in substantially the form described in this Lease.

XI.7 In the event that this Lease is terminated as provided above, Tenant shall restore the Premises to repair any damage caused by Tenant to the reasonable satisfaction of the Landlord.

XI.8 In the event that this Lease is not terminated, Tenant shall promptly make any design revisions to the Project necessitated by the unforeseen conditions and submit the revisions to the Landlord for its approval. Such revisions and adjustments shall not delay the Commencement Date for a period longer than one hundred and eighty (180) calendar days, subject to Unavoidable Delays and extensions of such period of time granted by the Landlord in writing.

XI.9 The rights provided by this Section shall not apply to any conditions which are discovered after the Due Diligence Period.

ARTICLE XII

INTENTIONALLY DELETED.

ARTICLE XIII

ADDITIONAL PROVISIONS PERTAINING TO REMEDIES

XIII.1 **Reinstatement**. Notwithstanding anything to the contrary contained in the Lease, in the event Landlord exercises its remedies pursuant to Article VIII and terminates this Lease, Tenant may, within 90 days following such termination reinstate this Lease for the balance of the Term by paying to Landlord an amount equal to the actual damages incurred by Landlord as a result of the breach that resulted in such termination and any actual costs or expenses incurred by Landlord as a result of such reinstatement of this Lease, if agreed in the sole and absolute discretion of the Landlord.

XIII.2 **Intentionally Deleted**.

XIII.3 **Intentionally Deleted**.

XIII.4 **Intentionally Deleted**.

ARTICLE XIV

LANDLORD'S AUTHORITY

XIV.1 **Designation of Landlord's Representatives**. The Superintendent of the School Board, or his or her designee, shall have the power, authority and right, on behalf of the Landlord, in its capacity as Landlord hereunder, and without any further resolution or action of the School Board, to:

(a) Review and approve documents, plans, applications, lease assignments pursuant to Section V.7 of this Lease, and requests required or allowed by Tenant to be submitted to Landlord pursuant to this Lease;

(b) Consent or agree to actions, events, and undertakings by Tenant or extensions of time periods for which consent or agreement is required by Landlord, including, but not limited to, extending the date by which the Commencement Date must occur under Section VIII.3) or granting extensions of time for the performance of any obligation by Tenant hereunder;

(c) Execute any and all documents on behalf of Landlord necessary or convenient to the foregoing approvals, consents, and appointments;

(d) Assist Tenant with and execute on behalf of Landlord any applications or other documents, needed to comply with applicable regulatory procedures and to secure financing, entitlements, permits or other approvals to accomplish the construction of any and all Improvements in and refurbishments of the Premises;

(e) Execute joinders and consents to easement and access agreements, for the purposes of granting any needed non-exclusive vehicular and/or pedestrian ingress and egress access routes and for any parking within and throughout the Project, and utilities to serve the Project;

(f) Amend this Lease and any Subleases and related recognition and non-disturbance agreements, to correct any typographical or non-material errors, to address revisions or supplements hereto of a non-material nature or to carry out the purposes of this Lease, including, without limitation, the successful closing of the construction financing for the Project;

(g) Execute Subleases with qualified assignees, including any amendments, extensions, and modifications thereto, and/or the subleases, occupancy agreements or use agreements with Tenant; and

(h) Execute recognition and non-disturbance agreements and issue estoppel statements as provided elsewhere in this Lease.

ARTICLE XV

MISCELLANEOUS

XV.1 **Construction**. Landlord and Tenant agree that all the provisions hereof are to be construed as covenants and agreements as though the words importing such covenants and agreements were used in each separate section thereof.

XV.2 **Performance Under Protest**. In the event of a dispute or difference between Landlord and Tenant as to any obligation which either may assert the other is obligated to perform or do, then the party against whom such obligation is asserted shall have the right and privilege to carry out and perform the obligation so asserted against it without being considered a volunteer or deemed to have admitted the correctness of the claim, and shall have the right to bring an appropriate action at law, equity or otherwise against the other for the recovery of any sums expended in the performance thereof and in any such action, the successful party shall be entitled to recover in addition to all other recoveries such reasonable attorneys' fees as may be awarded by the Court.

XV.3 **No Waiver**. Failure of either party to complain of any act or omission on the part of the other party, no matter how long the same may continue, shall not be deemed to be a waiver by said party of any of its rights hereunder. No waiver by either party at any time, express or implied, of any breach of any other provision of this Lease shall be deemed a waiver of a breach of any other provision of this Lease or a consent to any subsequent breach of the same or any other provision. If any action by either party shall require the consent or approval of the other party, the other party's consent to or approval of such action on any one occasion shall not be deemed a consent to or approval of said action on any subsequent occasion. Any and all rights and remedies which either party may have under this Lease or by operation of law, either at law or in equity, upon any breach, shall be distinct, separate and cumulative and shall not be deemed inconsistent with each other; and no one of them whether exercised by said party or not, shall be deemed to be in exclusion of any other; and two or more or all of such rights and remedies may be exercised at the same time.

XV.4 **Headings**. The headings used for the various articles and sections of this Lease are used only as a matter of convenience for reference, and are not to be construed as part of this Lease or to be used in determining the intent of the parties of this Lease.

XV.5 **Partial Invalidity**. If any terms, covenant, provision or condition of this Lease or the application thereof to any person or circumstances shall be declared invalid or unenforceable by the final ruling of a court of competent jurisdiction having final review, the remaining terms, covenants, provisions and conditions of this Lease and their application to persons or circumstances shall not be affected thereby and shall continue to be enforced and recognized as valid agreements of the parties, and in the place of such invalid or unenforceable provision there shall be substituted a like, but valid and enforceable, provision which comports to the findings of the aforesaid court and most nearly accomplishes the original intention of the parties.

XV.6 **Decision Standards**. In any approval, consent or other determination by any party required under any provision of this Lease, the party shall act reasonably, in good faith and in a timely manner, unless a different standard is explicitly stated.

XV.7 **Bind and Inure**. Unless repugnant to the context, the words Landlord and Tenant shall be construed to mean the original parties, their respective successors and assigns and those claiming through or under them respectively. The agreements and conditions in this Lease contained on the part of Tenant to be performed and observed shall be binding upon Tenant and its successors and assigns and shall inure to the benefit of Landlord and its successors and assigns, and the agreements and conditions in this Lease contained on the part of Landlord to be performed and observed shall be binding upon Landlord and its successors and assigns and shall inure to the benefit of Tenant and its successors and assigns. No holder of a mortgage of the leasehold interest hereunder shall be deemed to be the holder of said leasehold estate until such holder shall have acquired indefeasible title to said leasehold estate.

XV.8 **Estoppel Certificate**. Each party agrees from time to time, upon no less than fifteen (15) days' prior notice from the other or from any Leasehold Mortgagee, to execute, acknowledge and deliver to the other, as the case may be, a statement certifying that (i) this Lease is unmodified and in full force and effect (or, if there have been any modifications, that the same is in full force and effect as modified and stating the modifications), (ii) the dates to which the Rent has been paid, and that no additional rent or other payments are due under this Lease (or if additional rent or other payments are due, the nature and amount of the same), and (iii) whether there exists any uncured default by the other party, or any defense, offset, or counterclaim against the other party, and, if so, the nature of such default, defense, offset or counterclaim.

XV.9 **Recordation**. Simultaneously with the delivery of the Lease the parties have delivered a memorandum, notice or short-form of this Lease or this Lease which Tenant shall record in the appropriate office of the Public Records of Miami-Dade County. If this Lease is terminated before the Term expires, the parties shall execute, deliver and record an instrument acknowledging such fact and the date of termination of this Lease.

XV.10 **Notice**. Any notice, request, demand, consent, approval, or other communication required or permitted under this Lease shall be in writing, may be delivered on behalf of a party by such party's counsel, and shall be deemed given when received, if (i) delivered by hand, (ii) sent by registered or certified mail, return receipt requested, or (iii) sent by recognized overnight delivery service such as Federal Express, addressed as follows:

If to the Landlord:

to the School Board of Miami-Dade County, Florida
1450 N.E. 2nd Avenue, Room 912
Miami, Florida, 33132
Attn: Superintendent of Schools

and a copy to:

the Office of Facilities Design and Construction
1450 N.E. 2nd Avenue, Room 300
Miami, Florida, 33132
Attn: Chief Facilities Officer

With a copy to:

School Board Office of General Counsel
1450 NE Second Avenue, Room 400
Miami, FL 33132
Attn: General Counsel.

If to Tenant:

Pinnacle Withers, LLC
c/o Pinnacle Communities II, LLC
9100 S. Dadeland Blvd., Suite 700
Miami, Florida 33156
Attn: David O. Deutch

and a copy to:

Shutts & Bowen LLP
200 S. Biscayne Blvd,, Suite 4100
Miami, Florida 33131
Attn: Robert Cheng, Esq.

A party may change its address by giving written notice to the other party as specified herein.

XV.11 **Entire Agreement**. This instrument contains all the agreements made between the parties hereto and may not be modified in any other manner than by an instrument in writing executed by the parties or their respective successors in interest.

XV.12 **Amendment**. This Lease may be amended by mutual agreement of Landlord and Tenant, provided that all amendments must be in writing and signed by both parties and that no amendment shall impair the obligations of Tenant to develop and operate the Premises. Tenant and Landlord hereby expressly stipulate and agree that, they will not modify this Lease in any way nor cancel or terminate this Lease by mutual agreement nor will Tenant surrender its interest in this Lease, including but not limited to pursuant to the provisions of Section VI.3, without the prior written consent of all Leasehold Mortgagees. No amendment to or termination of this Lease shall become effective without all such required consents. Tenant and Landlord further agree that they will not, respectively, take advantage of any provisions of the United States Bankruptcy Code that would result in a termination of this Lease or make it unenforceable.

XV.13 **Governing Law, Forum, and Jurisdiction**. This Lease shall be governed and construed in accordance with the laws of the State of Florida. Any dispute arising from this Lease or the contractual relationship between the Parties shall be decided solely and exclusively by State or Federal courts located in Miami-Dade County, Florida.

XV.14 **Relationship of Parties; No Third Party Beneficiary**. The parties hereto expressly declare that, in connection with the activities and operations contemplated by this Lease, they are neither partners nor joint venturers, nor does a principal/agent relationship exist between them.

XV.15 **Access**. Tenant agrees to grant a right of access to the Landlord or any of its authorized representatives, with respect to any books, documents, papers, or other records related to this Lease in order to make audits, examinations, excerpts, and transcripts until 3 years after the termination date of this Lease.

XV.16 **Radon Gas**. Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

XV.17 **Non-Merger**. Except upon expiration of the Term or upon termination of this Lease pursuant to an express right of termination set forth herein, there shall be no merger of either this Lease or Tenant's estate created hereunder with the fee estate of the Premises or any part thereof by reason of the fact that the same person may acquire, own or hold, directly or indirectly, (a) this Lease, Tenant's estate created hereunder or any interest in this Lease or Tenant's estate (including the Improvements), and (b) the fee estate in the Premises or any part thereof or any interest in such fee estate (including the Improvements), unless and until all persons, including any assignee of Landlord and, having an interest in (i) this Lease or Tenant's estate created hereunder, and (ii) the fee estate in the Premises or any part thereof, shall join in a written instrument effecting such merger and shall duly record the same.

XV.18 **Ground Lease Reversion Mechanics**.

(a) Condition of Improvements at Reversion. Upon the expiration or earlier termination of the Ground Lease, all improvements on the Parcel shall revert to Landlord in their then-current condition, ordinary wear and tear and casualty excepted, and Tenant shall deliver possession of the improvements to Landlord in a condition that is (a) structurally sound, (b) in compliance with all applicable building codes and laws (to the extent applicable to existing structures), (c) free and clear of all liens, encumbrances, and security interests other than permitted exceptions, and (d) free and clear of all tenants and occupants, except for those tenancies that Landlord has agreed in writing to assume.

(b) Wind-Down Obligations. During the final five (5) years of the Lease term (or, in the case of an early termination, during such period as Landowner may specify), Tenant shall (a) not enter into any new leases, subleases, or occupancy agreements with terms extending beyond the expiration of the Lease without Landlord's prior written consent, (b) prepare and deliver to

Landlord a transition plan addressing the orderly transfer of management, operations, and occupancy of the improvements, (c) cooperate with Landlord or Landlord's designee in transitioning management and operations, (d) deliver to Landlord all books, records, plans, permits, warranties, maintenance records, and other documentation relating to the improvements, and (e) remove all personal property of Tenant and its subtenants (other than building fixtures and systems that are part of the improvements).

(c) No Compensation for Residual Value. Unless otherwise expressly agreed by the parties in the Lease, Tenant shall not be entitled to any compensation, reimbursement, or payment from Landlord for the residual value of any improvements reverting to Landlord upon the expiration or earlier termination of the Lease. The parties acknowledge that the economic terms of the Lease, including the length of the term and the rental payments, have been negotiated to account for the reversion of the improvements to Landlord.

(**SIGNATURES ON FOLLOWING PAGE**)

IN WITNESS WHEREOF, the Landlord and the Tenant have caused this Agreement to be executed by their respective and duly authorized officers the day and year first written above.

WITNESSES AS TO LANDLORD:

By: ____________________________
Print Name:
____
Address: 1450 NE 2 Ave., Miami, FL 33132

By: ______________________________
Print Name:
____
Address: 1450 NE 2 Ave., Miami, FL 33132

LANDLORD:

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA

By: ____________________________
Dr. Jose L. Dotres
Superintendent of Schools
Date: _____________________

TO THE LANDLORD: APPROVED AS TO RISK MANAGEMENT ISSUES:

____
Office of Risk and Benefits Management
Date: _________________

RECOMMENDED:

____
Raul F. Perez
Chief Facilities Design & Construction Officer
Date: _____________________

TO THE LANDLORD: APPROVED AS TO TREASURY MANAGEMENT ISSUES:

____
Treasury Management
Date: _________________

TO THE LANDLORD: APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

____
General Counsel
Date: _____________________

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____day of _____________, 2026, by ______________________________ as ________________for The School Board of Miami-Dade County.

(Seal)

____
Notary Public, State of
____

____
Print, Type or Stamp Name [ ] Personally Known

OR
[ ] Produced Identification

Type of Identification:
____

TENANT:

PINNACLE WITHERS, LLC, a Florida limited liability company

By: PC2 Withers, LLC, a Florida limited liability company, its Authorized Member

By:______________________________
Name: David O. Deutch
Title: President

Date:________________________________
Address: 9100 S. Dadeland Boulevard, Suite 700, Miami, Florida 33156

____
Witness
Print Name:
____
Address:
____
____

____
Witness
Print Name:
____
Address:
____

STATE OF FLORIDA COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____day of ____________, 2026, by David O. Deutch, as President of PC2 Withers, LLC, a Florida limited liability company, the Authorized Member of Pinnacle Withers, LLC, a Florida limited liability company, on behalf of the companies.

(Seal)

____
Notary Public, State of
____

____
Print, Type or Stamp Name [ ] Personally Known

OR
[ ] Produced Identification

Type of Identification:
____

EXHIBIT A

LAND

LEGAL DESCRIPTION:

21300 SW 122nd Avenue, Miami FL

Parcel ID 30-6912-002-0010

All of Block 1 and 2 and all that portion of the Right-of-Way of SW 213th Street (assumed to be abandoned) lying between said Block 1 and 2, as shown on "Knowles Subdivision" according to the Plat thereof as recorded in Plat Book 47, Phase 95 of the Public Records of Miami-Dade County, Florida.

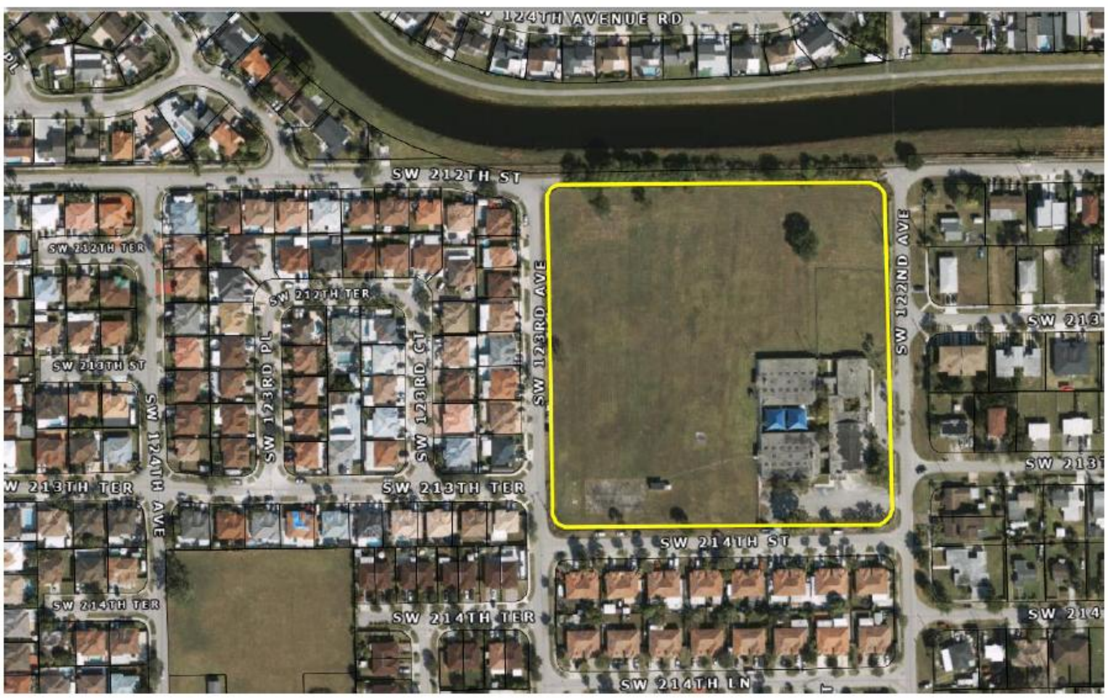


EXHIBIT B

[INSURANCE REQUIREMENTS]

(a) Prior to the commencement of construction by Tenant, Tenant shall furnish an "***All Risk Builder's Risk Completed Value Form***" policy for the full completed insurable value of the Premises in form satisfactory to Landlord.

(b) The Tenant shall furnish to the Office of Risk and Benefits Management, 1501 NE 2nd Avenue, Suite 335, Miami, Florida 33132, Certificate(s) of Insurance which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

A. Worker's Compensation Insurance for all employees of the vendor as required by Florida Statute 440. The Workers' Compensation policy shall be endorsed to state that the Workers' Compensation carrier waives its right of subrogation against **Landlord**, its officers, officials, employees, agents, or volunteers, which might arise by reason of payment under such policy in connection with performance under this Agreement by **Tenant**.

B. Commercial General Liability Insurance in an amount not less than $1,000,000 per occurrence, and $2,000,000 in the aggregate, not to exclude Explosion Collapse and Underground Hazards and Products and Completed Operations. **The School Board of Miami-Dade County must be shown as an additional insured with respect to this coverage**.

C. Automobile Liability Insurance covering all owned, non-owned and hired vehicles used in connection with the work, in an amount not less than $1,000,000 combined single limit per occurrence for bodily injury and property damage.

D. Professional Liability or Errors & Omissions insurance covering architectural and/or engineering project design, construction supervision, administration and any related professional qualifications or functions required by the project from the Tenant or the licensed design professional in an amount not less than $2,000,000 per claim.

E. During the construction of the Improvements, Completed Value Builders' Risk Insurance on an "***all risk***" basis in an amount not less than one hundred (100%) percent of the completed value of the building(s) or structure(s). The policy shall be in the name of The School Board of Miami-Dade County and the Contractor.

F. Umbrella Liability Insurance in an amount not less than $5,000,000 per occurrence. If Excess Liability is provided must be on a follow form basis.

G. Pollution Liability insurance, in an amount not less than $1,000,000 covering third party claims, remediation expenses, and legal defense expenses arising from on-site and off-site loss, or expense or claim related to the release or threatened release of Hazardous Materials that result in contamination or degradation of the environment and surrounding ecosystems, and/or cause injury to humans and their economic interest.

H. Property Insurance on an "***All Risk***" basis including Windstorm & Hail coverage in an amount not less than one hundred (100%) percent of the replacement cost of the building(s). The School Board of Miami-Dade County must be shown as a Loss Payee A.T.I.M.A. with respect to this coverage.

I. Flood Insurance coverage shall be provided for properties located within a flood hazard zone, in an amount not less than the full replacement value(s) of the completed structure(s) or the maximum amount of coverage available through the National Flood Insurance Program ("***NFIP***") whichever is greater. The School Board of Miami-Dade County must be shown as a Loss Payee A.T.I.M.A. with respect to this coverage.
Excess/Umbrella Liability may be used to supplement minimum liability coverage requirements. Follow form basis is required if providing Excess Liability.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:
The company must be rated no less than "**A-**" as to management, and no less than "**Class VII**" as to financial strength by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the Landlord Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services.

Certificates will indicate no modification or change in insurance shall be made without thirty (30) days in advance notice to the certificate holder.

CERTIFICATE HOLDER MUST READ:
The School Board of Miami-Dade County, Florida, and its members, officers and employees
1501 N.E. 2nd Avenue, Room 335
Miami, Florida, 33132

Compliance with the foregoing requirements shall not relieve Tenant of their liability and obligation under this section or under any other section of this agreement.

Execution of this Lease is contingent upon the receipt of the insurance documents, as required, within fifteen (15) calendar days after Landlord's notification to Tenant to comply before the award is made. If the insurance certificate is received within the specified time frame but not in the manner prescribed in this Lease, the Tenant shall be verbally notified of such deficiency and shall have an additional five (5) calendar days to submit a corrected certificate to the Landlord. If the Tenant fails to submit the required insurance documents in the manner prescribed in this Lease within twenty (20) calendar days after Landlord's notification to comply, it shall be an Event of Default pursuant to the Lease.

The Tenant shall be responsible for assuring that the insurance certificates required in conjunction with this Exhibit remain in force for the duration of the Term of the Lease, including any and all option years or extension periods that may be granted by the Landlord. If insurance certificates are scheduled to expire during the Term, the Tenant shall be responsible for submitting new or renewed insurance certificates to the Landlord at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates which cover the contractual period, the Landlord shall provide thirty (30) days written notice to Tenant to cure the noncompliance. In the event Tenant does not replace the expired certificates with new or renewed certificates which cover the contractual period, it shall be an Event of Default pursuant to the Lease.

(c) The Tenant agrees to cooperate with the Landlord in obtaining the benefits of any insurance or other proceeds lawfully or equitably payable to the Landlord in connection with this Lease.

(d) The "***All Risk Builder's Risk Completed Value Form***" policy with respect to the Premises shall be converted to an "***all risk***" or comprehensive insurance policy upon completion of the Improvements, naming Landlord as an additional insured thereunder and shall insure the Project in an amount not less than the full insurable replacement value of the Premises. The Tenant hereby agrees that all insurance proceeds from the All Risk Builder Risk Completed Value Form policy (or if converted, the "***all risk***" or comprehensive policy) shall be used to restore, replace or rebuild the Improvements, if the Tenant determines that it is in its best interest to do so, subject to the requirements of any approved mortgage lien holder's rights secured against the Premises and subject further to the terms of Article VI of the Lease.

(e) All such insurance policies shall contain (i) an agreement by the insurer that it will not cancel the policy without delivering prior written notice of cancellation to each named insured and loss payee thirty (30) days prior to canceling the insurance policy; and (ii) endorsements that the rights of the named insured(s) to receive and collect the insurance proceeds under the policies shall not be diminished because of any additional insurance coverage carried by the Tenant for its own account.

(f) If the Premises is located in a federally designated flood plain, an acceptable flood insurance policy shall also be delivered to the Landlord, providing coverage in the maximum amount reasonable necessary to insure against the risk of loss from damage to the Premises caused by a flood.

(g) Neither the Landlord nor the Tenant shall be liable to the other (or to any insurance company insuring the other party), for payment of losses insured by insurance policies benefiting the parties suffering such loss or damage, even though such loss or damage might have been caused by the negligence of the other party, its agents or employees.