COLISEUM REDEVELOPMENT

DEVELOPMENT AND LAND DISPOSITION AGREEMENT

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DEVELOPMENT AND LAND DISPOSITION AGREEMENT

This Development and Land Disposition Agreement (this "Agreement") is entered into as of the 31st day of December, 2013 (the "Effective Date"), by and among the City of New Haven, a municipal corporation organized and existing under the laws of the State of Connecticut, with a mailing address of 165 Church Street, New Haven, Connecticut 06510 (the "City") and Live Work Learn Play New Haven LLP, a limited liability partnership organized and existing under the laws of the State of Delaware, with a mailing address at 147 St. Paul West, Suite 100, Montreal, Quebec H2Y 1Z5, Canada (the "Developer") being an Affiliate of Live Work Learn Play Inc. a corporation organized and existing under the laws of the country of Canada with a mailing address at 147 St. Paul West, Suite 100, Montreal, Quebec H2Y 1Z5, Canada, (the "Master Developer").

BACKGROUND

In 2008, a year after the demolition of the New Haven Coliseum, the City of New Haven issued a Request for Qualifications (the "RFQ") seeking a team to redevelop the former Coliseum site (the "Property" as hereafter defined) in order to achieve the following goals:

- Continue the growth and renewal of downtown as a commercial and residential neighborhood
- Generate new tax revenue
- Create jobs for New Haven residents
- Support projects that are high quality and economically feasible
- Complement the surrounding neighborhoods and uses
- Support and leverage New Haven's high quality institutions of education and the arts
- Support transit-oriented projects
- Complement the nearby developments already in progress
- Further establish New Haven as a destination
- Continue to make the historic Ninth Square district and the rest of the downtown an attractive and unique place
- Advance New Haven as a city of diversity

Through the RFQ, the City selected a preferred developer. However, in 2010 the City and the preferred developer mutually agreed that the preferred developer would no longer pursue its proposed development due to the severe recession and economic downturn. Since the City received multiple high-quality responses to the original RFQ, in 2011 the City reached out to the other original respondents to determine whether they had continued interest in developing the Property. Newman Architects responded to such solicitation for renewed development proposals together with the Developer (as hereafter defined) as the principal developer and financier. The City then selected the Developer as the preferred developer for the Property after a favorable review of the Developer's proposal by City staff and an ad-hoc Coliseum Development Review Committee, consisting of the Ward 7 Alderwoman, the President of the Greater New Haven Chamber of Commerce, the Chairman of the New Haven Redevelopment Authority, the Chairman of the New Haven Development Commission, the Executive Director of the Town Green Special Services District, a downtown resident, and a member of the City Plan Commission.

The City and the Developer then entered into a Memorandum of Understanding, dated August 22, 2011, outlining the basic elements to be included in the Project as well as other terms and conditions. The City and the Developer then began working together collaboratively to plan the Project and integrate the Project with Downtown Crossing. Planning a multiple phase, mixed-use project covering over 4.5 acres and integrating the project with major public improvements has been a complicated two year process, and thus required a Second Memorandum of Understanding dated August 22, 2012, and a Third Memorandum of Understanding dated May 1, 2013.

Through the two year planning process, the City and the Developer developed a shared aspirational vision for the Property as a human-scale, mixed-use, community-gathering place centered on an activated public square and laneway. The City and the Developer identified shared goals for the type and mix of development that would foster such a vision, which consists of approximately 719 residential rental units (20% of which will be Affordable), 76,900 square feet of retail, 160 hotel rooms, 200,000 square feet of class A office, 52,620 square feet of public space and 785 parking spaces. Recognizing that these goals are not intended to prescribe the

specific form and density of the Project and that the exact combination, detail and amount of each of the aforementioned uses and typologies may change due to unanticipated circumstances, the City and the Developer share a clear aspiration to create a vibrant, pedestrian and transit-oriented setting that grows New Haven's jobs and tax base, and have structured this Agreement as such.

The Project also furthers New Haven's Downtown Crossing Project, which will replace Route 34, a limited access highway, with a pair of 21st century at-grade urban boulevards and reconnect the Medical District, Union Station, Downtown and the Hill Neighborhood. Downtown Crossing Phase I began construction in March 2013 and this Agreement would begin Downtown Crossing Phase II by reconnecting the two halves of South Orange Street separated by Route 34 and creating an at-grade street for pedestrians, cyclists and automobiles. This at-grade, multimodal design allows the City and the Developer to achieve our shared vision for the Property and Downtown Crossing and greatly enhances the job-generating development potential of the Property.

This Project will serve as a lynchpin for creating an iconic sense of arrival into New Haven as well as for reconnecting the City's urban fabric, increasing the potential for redevelopment of other nearby land and creating new working and living opportunities for New Haven residents. For over two years, the City and the Developer have worked closely together with members of the community and Board of Aldermen to develop a mutually beneficial vision and plan for redeveloping the Property. Both the City and the Developer look forward to continuing this collaboration over the coming years in making this project a reality.

ARTICLE I

INTERPRETATION AND DEFINITIONS

Section 1.1 Interpretation

(A) Words such as "hereunder," "hereto," "hereof" and "herein" and other words of similar import shall, unless the context requires otherwise, refer to the whole of this Agreement and not to any particular article, section, subsection, paragraph or clause hereof.

(B) A reference to "including" means including without limiting the generality of any description preceding such term and for purposes of this Agreement the rule of ejusdem generis shall not be applicable to limit or restrict a general statement, followed by or referable to an enumeration of specific matters, to matters similar to, or of the same type, class or category as, those specifically mentioned.

(C) Any reference to "days" shall mean calendar days unless otherwise expressly specified.

(D) Any reference to any statute, law or regulation includes all statutes, laws or regulations amending, consolidating or replacing the same from time to time, and a reference to a law or statute includes all regulations, codes or other rules issued or otherwise applicable under such law or statute unless otherwise expressly provided in such law or statute or in this Agreement. This rule of interpretation shall be applicable in all cases notwithstanding that in some cases specific references in this Agreement render the application of this rule unnecessary.

(E) Capitalized terms used herein shall have the meanings set forth in Section 1.2.

(F) Each party agrees to work diligently and in good faith to provide any and all approvals, consents, waivers, acceptances, concurrences and permissions required to be given or made by any party hereunder, which approval, consent, waiver, acceptance, concurrence or permission shall not be unreasonably withheld, delayed or conditioned by the party whose approval, consent, waiver, acceptance, concurrence or permission is required, whether or not expressly so stated, unless otherwise expressly provided herein.

(G) The City and the Developer have participated in the drafting of this Agreement and any ambiguity contained in this Agreement shall not be construed against the City or the Developer solely by virtue of the fact that the City or the Developer may be considered the drafter of this Agreement or any particular part hereof.

(H) With regard to interpretation of individual words in this Agreement, the singular version shall be construed to include the plural version, and vice versa, except

where the context or a reasonable reading of a word could only mean either a singular or plural version of such word.

(I) With respect to any Exhibit made part of this Agreement, the Developer, and the City may amend, alter or change such Exhibit in a writing signed by the Developer and the Economic Development Administrator of the City, provided that any such amendment shall not constitute a "Substantive Amendment" as described in the Order of the Board of Aldermen. In the event that there is a conflict between an Exhibit to this Agreement and the text of this Agreement, the text of this Agreement shall control, unless otherwise provided for in the text of this Agreement.

(J) Any time limits which are imposed upon the performance of the parties hereto by the terms of this Agreement shall, if applicable, be subject to adjustment for Excusable Delays.

(K) Whenever this Agreement requires that a party make a payment to another party or to a third party, such payment shall be made in a timely manner and on a prompt basis.

(L) Reference to obligations surviving in any section of this Agreement does not imply either survivability or nonsurvivability of obligations of another section.

(M) Any reference to "demonstration of financing sufficient" or the like shall include, but shall not be limited to, a term sheet, commitment letter, or other writing from an institutional lender or equity investor.

Section 1.2 **Definitions**

For the purposes of this Agreement:

(1) "Additional Property" means that portion of the Road not comprising any portion of the Property, together with any further adjacent property or any further land underlying adjacent and nearby streets (including without limitation State Street, Orange Street, George Street, North Frontage Road, the Reverend Dr. Martin Luther King Jr. Boulevard,

State Route 34, and Water Street) acquired from the State of Connecticut or any other entity as a result of the reconfiguration of the State Route 34 corridor. .

(2) "Affordable" means housing restricted to low income and workforce households with household incomes between 50% and 120% of the Area Median Income as defined by the applicable affordable housing programs.

(3) "Affiliate" means any entity which is fifty percent (50%) or more owned directly or indirectly by the Developer or by the Master Developer.

(4) "Agreement" means the four corners of this instrument, and includes any appendices, exhibits or schedules incorporated by reference, as well as any amendments, modifications, or supplements which may be executed by the City and the Developer subsequent to the effective date of this instrument, but does not include any agreement, understanding or other arrangement between the City and the Developer, including (without limitation) the MOUs which are hereby superseded in their entirety.

(5) "Alternative Phase II Proposal" shall have the meaning set forth in Section 6.1(G).

(6) "Architect Completion Certificate" means that document to be executed and delivered to the Developer and the City by the Developer's architect, pursuant to which the Developer's architect shall certify to the Developer and the City that, to the best knowledge of the Developer's architect and based on appropriate inspection under the applicable standard of care, that the portion of the Developer Improvements then being certified has been Substantially Completed, and identifying those Punch List Items that have not been completed with respect to such portion of the Developer Improvements.

(7) "Block F" has the meaning ascribed under "Background".

(8) "CDOT" means the Connecticut Department of Transportation.

(9) "City" has the meaning ascribed in the first sentence of this Agreement.

(10) "City Architect" shall have the meaning set forth in Section 5.2(A)(i)(b) of this Agreement.

(11) "City Default" means an event of default by the City as more particularly described in Article XII of this Agreement.

(12) "City Design Reviewers" means the City's Economic Development Administrator and City Plan Director or, in the event that either position is vacant, then such appropriate official(s) shall be designated by the Mayor of the City.

(13) "City Improvements" means those public infrastructure improvements which are the Phase I City Improvements and the Phase II City Improvements.

(14) "Completed Space" shall have the meaning set forth in Section 10.4 (E) of this Agreement.

(15) "DEEP" means the Connecticut Department of Energy and Environmental Protection.

(16) "Default Notice" means any notice of eligible City Default or Developer Default delivered by either the City or the Developer under provisions of Article XII of this Agreement.

(17) "Developer" has the meaning ascribed in the first sentence of this Agreement and shall include any permitted successor or assign of Developer.

(18) "Developer Default" means an event of default by the Developer as more particularly described in Article XII of this Agreement.

(19) "Developer Improvements" means the Phase I Developer Improvements and the Phase II Developer Improvements.

(20) "Dispute Resolution Procedure" means the procedure for resolving disputes more particularly described in Article XII of this Agreement

(21) "Downtown Crossing Project" means the City project to transform State Route 34 East, from Union Avenue to Park Street, to a pair of at-grade urban boulevards, thereby reconnecting the Downtown with the Medical District and Hill neighborhood.

(22) "Environmental Conditions" means any conditions which, under applicable Environmental Laws, require testing, remediation or monitoring.

(23) "Environmental Laws" means any and all laws, statutes, ordinances, rules, regulations, and orders of any Governmental Authority pertaining to the environment, including the federal Clean Water Act, the federal Clean Air Act, the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, the federal Water Pollution Control Amendments, the federal Resource Conservation and Recovery Act of 1976, the federal Hazardous Materials Transportation Act of 1975, the Federal Safe Drinking Water Act, the federal Toxic Substances Control Act, and any comparable or similar environmental laws of the State of Connecticut, including Title 22a of the General Statutes.

(24) "Event of Bankruptcy" means any of the following: (a) if a receiver or custodian is appointed for all or a substantial portion of the Developer's property or assets, which appointment is not dismissed within one hundred eighty (180) days; (b) if the Developer files a voluntary petition under the United States Bankruptcy Code or any other bankruptcy or insolvency laws, which petition is not withdrawn within thirty (30) days; (c) if there is an involuntary petition filed against the Developer as the subject debtor under the United States Bankruptcy Code or any other bankruptcy or insolvency laws, which is not dismissed within one hundred eighty (180) days of filing, or which results in the issuance of an order for relief against the debtor; or (d) if the Developer makes or consents to an assignment of its assets, in whole or in part, for the benefit of creditors, or a common law composition of creditors, which assignment is not withdrawn in thirty (30) days.

(25) "Exclusive Developer" means the Developer during the Exclusivity Period.

(26) "Exclusivity Period" shall have the meaning set forth in Section 6.1(G)(iv) of this Agreement.

(27) "Excusable Delay" means any delay in any party's performance under this Agreement caused by any "Force Majeure" event.

(28) "Existing Environmental Conditions" means any Environmental Conditions at the Property existing on the date of this Agreement.

(29) "Force Majeure" means any event, act or failure to act caused by: strikes, lockouts, or other labor or industrial disturbance; court or administrative or other governmental order directing that the construction of the Project be stopped; acts of terrorism; insurrection, civil disturbance, act of the public enemy, war, riot, sabotage, blockade, embargo; lightning, earthquake, fire, casualty, storm, hurricane, tornado, flood, washout, explosion; casualty at the job site or proximately causing physical damage to the Project or proximately causing a disruption or delay in the supply chain of labor or materials to the Project; an act or omission of the City in violation of the terms of this Agreement; any other event or circumstance which is outside the Developer's immediate reasonable control; or any other cause whatsoever beyond the reasonable control of the party responsible for performance.

(30) "General Statutes" means the General Statutes of the State of Connecticut, 1958 Revision, as amended.

(31) "Governmental Authorities" means all federal, state or local governmental bodies, instrumentalities or agencies (including municipalities, taxing, fire and water districts and other governmental units).

(32) "HANH" shall mean the Housing Authority of New Haven.

(33) "Hazardous Materials" means (i) any chemical, compound, material, mixture or substance that is now or hereafter defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "extremely hazardous waste," "restricted hazardous waste" or "toxic substances" or terms of similar import under any applicable federal, state or local law, or under the regulations adopted or promulgated pursuant thereto, including Environmental Laws; (ii) any oil, petroleum or petroleum derived substance, any flammable substances or explosives, any radioactive materials, any hazardous wastes or substances, any toxic wastes or substances, or any other materials or pollutants which cause any part of any facility, structure or improvement to

be in violation of any Environmental Laws; and (iii) asbestos in any form, urea formaldehyde foam insulation, and electrical equipment which contains any oil or dielectric fluid containing levels of polychlorinated biphenyls in excess of applicable legal or regulatory limits.

(34) "Legal Requirements" means any and all judicial decisions, orders, injunctions, writs, and any and all statutes, laws, rulings, rules, regulations, permits, certificates, or ordinances of any Governmental Authority in any way applicable to the Project including, but not limited to, any of the aforesaid dealing with the subdivision, design, construction, ownership, use, leasing, handicapped accessibility, maintenance, service, operation, sale, exchange, or condition of the Project. "Legal Requirements" shall not include Environmental Laws.

(35) "Master Developer" means LiveWorkLearnPlay Inc.

(36) "OSTA" means the Connecticut Office of the State Traffic Administration.

(37) "Other Commercial Uses" shall have the meaning set forth in Section 5.5(B)(iv).

(38) "Partial Certificates of Completion" means partial certificates of completion issued in accordance with the provisions of Section 10.4 (E) of this Agreement.

(39) "Partial Phase II Land" means either (i) that portion of the Phase II Land located north of the Retail Laneway or (ii) that portion of the Phase II Land located south of the Retail Laneway.

(40) "Permitted Encumbrances" means only those encumbrances and restrictions affecting the Property as listed on Exhibit A, which the Developer has approved.

(41) "Phase I Certificate of Completion" means the certificate issued in accordance with Section 10.4 of this Agreement with respect to the Phase I Developer Improvements.

(42) "Phase I City Improvements" means the roadway and other infrastructure improvements that are necessary prerequisites to the Phase I Developer Improvements, as more particularly described in Exhibit B.

(43) "Phase I Closing" shall have the meaning set forth in Section 6.2(B) of this Agreement.

(44) "Phase I Construction Conditions Precedent" shall have the meaning set forth in Section 6.1.

(45) "Phase I Construction Deadline" means that date that is eighteen (18) months following the date on which the Developer acquires the Phase I Land..

(46) "Phase I Developer Improvements" means the buildings, infrastructure and open space comprising that portion of the Project to be located on the Phase I Land and as more particularly defined in Exhibit C.

(47) "Phase I Developer Improvements Start Date" means the date on which the Developer commences construction activities in support of the Phase I Developer Improvements.

(48) "Phase I Land" means that portion of the Property described in Exhibit D, which includes the Retail Laneway, together with any portion of the Additional Property abutting the Phase I Land.

(49) "Phase I Land Acquisition Conditions Precedent" shall have the meaning set forth in Section 6.1.

(50) "Phase I Land Acquisition Deadline" shall have the meaning set forth in Section 6.1.

(51) "Phase I Project Minimum Requirements" shall have the meaning set forth in Section 5.5(A) of this Agreement.

(52) "Phase II Certificate of Completion" means the certificate issued in accordance with Section 10.4 of this Agreement with respect to the Phase II Developer Improvements.

(53) "Phase II City Improvements" means the roadway and other infrastructure improvements that are more particularly described in Exhibit B.

(54) "Phase II Closing" shall have the meaning set forth in Section 6.2(D) of this Agreement.

(55) "Phase II Construction Conditions Precedent" shall have the meaning set forth in Section 6.1.

(56) "Phase II Developer Improvements" means the buildings, infrastructure and open space comprising that portion of the Project to be located on the Phase II Land.

(57) "Phase II Land" means that portion of the Property described in Exhibit D, together with any portion of the Additional Property abutting the Phase II Land.

(58) "Phase II Land Acquisition Conditions Precedent – Early Take Down" shall have the meaning set forth in Section 6.1.

(59) "Phase II Land Acquisition Conditions Precedent – Full Take Down" shall have the meaning set forth in Section 6.1.

(60) "Phase II Land Acquisition Conditions Precedent – Partial Take Down" shall have the meaning set forth in Section 6.1.

(61) "Phase II Land Acquisition Deadline" shall have the meaning set forth in Section 6.1.

(62) "Phase II Land Lease" means the lease providing the Developer with the exclusive use and possession of the Phase II Land for a term ending upon ((i) the City's delivery of the Phase II Land Deed to the Developer (in the event of a Full Take Down pursuant to Section 6.1(D) below), or (ii) the City's delivery of a deed conveying the remaining Partial Phase II Land in accordance with Section 6.1(E)(iii) below (in the event of a Partial Take Down), or (iii) the date that is fourteen (14) years after the Effective Date, in the event that the Developer does not elect to exercise its option to serve as the Exclusive Developer for the Phase II Land pursuant to Section 6.1(G)(iv), or (iv) the City

conveying the remaining Partial Phase II Land to any third party during the Exclusivity Period in accordance with the provisions of Section 6.1(G)(vi), or (v) that date that is twenty (20) years after the Effective Date in the event that the Developer elects to exercise its right to serve as the Exclusive Developer for the Phase II Land pursuant to Section 6.1(G)(iv), whichever shall be the first to occur.

(63) "Plans" means (a) with respect to the City Improvements, the final plans, specifications, construction drawings and construction phasing plans for the City Improvements, as the same may be amended from time to time, and (b) with respect to the Developer Improvements, the final plans, specifications, construction drawings and construction phasing plans for the Developer Improvements, as the same may be amended from time to time.

(64) "Property" means Block F and the real estate underlying that section of the Road adjacent to Block F, to the centerline thereof, combined, as more particularly described in Exhibit E, and as shown as "Block F" on the survey entitled "Property Survey, Land of New Haven, 275 South Orange Street, Portion of North Frontage Road, New Haven, Connecticut", prepared by URS Corporation AES, Rocky Hill, Connecticut, Job No. 36939821, dated October, 2013, consisting of approximately 4.867 acres.

(65) "Project" means the entire development at the Property and any Additional Property, being both the Developer Improvements and the City Improvements.

(66) "Project Schedule" means the projected schedule for the City Improvements and the Developer Improvements as more particularly described in Exhibit F.

(67) "Public Open Space" means the Retail Laneway and public plaza included in the Developer Improvements and/or any other space the Economic Development Administrator and Developer mutually agree to define as public open space.

(68) "Punch List Items" means those items of construction, decoration, landscaping and mechanical adjustment relating to a City Improvement or Developer Improvement which, individually or in the aggregate, are minor in character and do not materially interfere with the full use, enjoyment and occupancy of the applicable City Improvements

or Developer Improvements, as appropriate, or any material amenity constituting a part of such City Improvements or Developer Improvements, as appropriate, and the appurtenances thereto, and for which it may be reasonably anticipated that the completion shall occur within one hundred eighty (180) days after Substantial Completion, subject to extension for Excusable Delay.

(69) "Right of Re-Entry" means, subject to Mortgagee rights under Section 11.2 and Section 11.3, the right of the City pursuant to Section 6.2 of this Agreement to re-enter property acquired by Developer from the City upon written notice by the City to Developer and all Mortgagees of its exercise of such right of re-entry and to terminate Developer's estate therein, and pursuant to which fee title to said property and all buildings and improvements thereon shall revert to the City.

(70) "Retail Laneway" means that portion of the Project comprised of a private road or driveway and pedestrian walkway connecting Orange Street and State Street.

(71) "Road" means that portion of North Frontage Road/The Reverend Dr. Martin Luther King Jr. Boulevard abutting Block F, which is a public right-of-way running between State Street and South Orange Street.

(72) "The State" means the State of Connecticut.

(73) "Substantial Completion", "Substantially Completed" and similar terms:

i. means, with respect to the City Improvements, the completion of the construction of the City Improvements in substantial accordance with the Plans therefor, all applicable Legal Requirements and this Agreement, in a good and workmanlike manner, and in accordance with good construction and engineering practices, free from known defects (structural, mechanical, or otherwise) in design, workmanship, and materials, and the only additional construction that has to be effected are Punch List Items, which shall be completed within one hundred eighty (180) days.

ii. means, with respect to the Developer Improvements, either:

1. notwithstanding any Punch List Items, the issuance of a Certificate of Occupancy or Temporary Certificate of Occupancy is presumptive evidence of the substantial completion of the building, structure, or other improvement in question; or,
2. in the case of a building, structure, or other improvement, with respect to which the Developer has completed the building shell, it being intended that the Developer or one or more tenants would complete the improvements necessary to obtain a Certificate of Occupancy or a Temporary Certificate of Occupancy at a later date, then the Developer shall deliver an Architect Completion Certificate with respect thereto, which shall be presumptive evidence of the substantial completion of the building, structure, or other improvement in question unless the City shall dispute the same in writing delivered within thirty (30) days of receipt thereof. In the event of any such dispute, the parties shall use the Dispute Resolution Procedure to resolve such dispute.

(74) "Compulsory Taxation PILOT Period" means the period of time beginning on December 31, 2013 (the Effective Date) and ending on December 31, 2043 (the date that is 30 years after the Effective Date).

(75) "Total Project Minimum Requirements" shall have the meaning set forth in Section 5.5(B) of this Agreement.

(76) "Transportation Demand Management Plan" means that plan concerning transportation demand management, as more particularly described in Section 5.2(B)(iii) of this Agreement.

(77) "Working Group" means a group consisting of the City's Project Manager, the City's engineering consultant for the City Improvements, a representative of the Developer, the Developer's engineer, the City's construction manager/general contractor, and the Developer's construction manager/general contractor, as well as any other City

employees or consultants deemed necessary by the City's Economic Development Administrator, which shall meet to coordinate the work of the City and the Developer.

ARTICLE II

REPRESENTATIONS AND WARRANTIES

Section 2.1 Representations and Warranties of the Developer

The Developer represents, warrants and covenants that (a) the Developer is a Limited Liability Partnership duly organized and existing under the laws of the State of Delaware; (b) the Developer has the legal authority to enter into and carry out the transactions to which it is proposed to be a party; (c) the execution and delivery of this Agreement by the Developer has been duly and validly authorized by all necessary action; and (d) this Agreement is a legal, valid and binding obligation of the Developer, enforceable against the Developer in accordance with its terms.

Section 2.2 Representations and Warranties of the City

The City represents and warrants that (a) the City is a municipal corporation validly existing under the laws of the State of Connecticut, (b) the City has the legal power and authority to execute and deliver this Agreement and to carry out its terms and provisions, (c) said execution and delivery have been duly and validly authorized by all necessary action, and (d) this Agreement is a legal, valid and binding obligation of the City, enforceable against the City in accordance with its terms.

ARTICLE III

PROPERTY AND PROPERTY TRANSFER

Section 3.1 Property

(A) The Project is anticipated to be developed on the Property and any Additional Property affirmatively accepted by the Developer, and on the adjacent public roadways.

(B) The City shall use all reasonable best efforts to obtain a good and marketable title to the Additional Property, provided that in the event that the City is unable to obtain such good and marketable title despite such efforts, then the City shall have no liability of any nature whatsoever as regards such inability to obtain title to all or any portion of the Additional Property.

(C) At the Developer's option, it may elect to accept or reject taking title to any or all Additional Property.

(D) For purposes of the Project, and except as provided in Section 6.1(E), the Property will be conveyed to Developer in two parcels, referred to as the Phase I Land and the Phase II Land, each as more particularly described on Exhibit D attached hereto and made a part hereof.

(E) To the extent that the City shall acquire good and marketable title to all or any portion of the Additional Property, and provided that the Developer affirmatively elects to accept the same, the City shall convey the same as part of the Phase I Land or the Phase II Land (as appropriate, dependent upon whether the Additional Property in question adjoins the Phase I Land or the Phase II Land).

(F) Notwithstanding any of the provisions contained in this Agreement, it is agreed and understood between the City and the Developer that provided that the overall shapes of the Phase I Land and the Phase II Land shall not be substantially affected thereby and provided that the total square footage of the Phase I Land and Phase II Land shall not vary by more than ten (10%) percent, the City and the Developer may mutually agree to adjust the boundary lines between the Phase I Land and the Phase II Land.

Section 3.2 **Property Transfer**

(A) Subject to the Developer and the City satisfying all Phase I Land Acquisition Conditions Precedent, the City shall convey the Phase I Land by Quit Claim deed in the form attached hereto as Exhibit G (the "Phase I Land Deed"), subject only to the permitted Encumbrances and to the terms and conditions of this Agreement,

and the City and the Developer shall enter into the Phase II Land Lease (as defined herein). It is agreed, stipulated and understood that this Agreement shall be recorded on the Land Records of the City of New Haven immediately prior to the recording of the Phase I Land Deed.

(B) The delivery of the Phase I Land Deed shall take place at a closing to be held within thirty (30) days of satisfaction of the Phase I Land Acquisition Conditions Precedent at such place and time as the parties hereto shall agree (the "Phase I Closing").

(C) Subject to the Developer and the City satisfying all Phase II Land Acquisition Conditions Precedent, and except as provided in Section 6.1(E), the City shall convey the Phase II Land by Quit Claim deed in the form attached hereto as Exhibit H (the "Phase II Land Deed"), subject only to the Permitted Encumbrances and to the terms and conditions of this Agreement. It is agreed, stipulated and understood that a copy of this Agreement shall be made an exhibit to the Phase II Land Deed.

(D) The delivery of the Phase II Land Deed shall take place at a closing to be held within thirty (30) days of satisfaction of the Phase II Land Acquisition Conditions Precedent at such place and time as the parties hereto shall agree (the "Phase II Closing").

Section 3.3 **Purchase Price**

(A) The Phase I Land shall be conveyed to the Developer in consideration of the sum of One ($1.00) Dollar.

(B) The Phase II Land shall be conveyed to the Developer in consideration of the sum of One ($1.00) Dollar.

ARTICLE IV

THE CITY IMPROVEMENTS

Section 4.1 **Description of the City Improvements**

(A) The City shall work diligently and in good faith towards the realization of its Downtown Crossing Project and to convert the existing State Route 34 East to urban boulevards and extending Orange Street at-grade across those portions of North Frontage Road /The Reverend Dr. Martin Luther King Jr. Boulevard abutting the Property, as part of the "Second Phase/Full Build" as more particularly described in Exhibit B.

(B) Subject to the provisions of this Agreement, including (without limitation) Section 12.2(B) below, throughout Phase I and Phase II, the City shall work to cause to be designed and constructed, at no cost to the Developer, the Phase I City Improvements and Phase II City Improvements, in accordance with the Project Schedule as set forth in Exhibit F, to prepare the Phase I Land and Phase II Land, respectively, for development by the Developer.

Section 4.2 **City Improvements Plan and Design**

(A) The Developer Improvements will provide an essential component of the Downtown Crossing Project and will serve as a connection between Union Station, Downtown, the Hill and the Medical District. In light of this, and the proximity of the City Improvements to the Developer Improvements and that the City Improvements are necessary prerequisites to the Developer Improvements, the parties agree to work collaboratively in the design of the City Improvements, meaning that the Developer shall, at no material cost to the City or delay to the City Improvements Schedule, have an opportunity to participate and collaborate in the design and planning of the Phase I City Improvements and the Phase II City Improvements, provided that it is understood by the Developer that the City has ultimate authority to decide the final design of all City Improvements.

(B) In light of the interrelationship and interdependence of surrounding land uses, the Downtown Crossing Project and the Developer Improvements, the City acknowledges that the Developer may make periodic inquiries concerning the status of planning and development with respect to the land adjacent to the Property and, in which event, the City agrees to provide the Developer with a written response communicating all available information concerning the status of the same, subject to any confidentiality agreement(s) to which the City may be a party.

Section 4.3 **Financing**

(A) Phase I City Improvements

i. The estimate of the cost of the Phase I City Improvements is attached hereto in Exhibit L.

ii. The City shall pay for up to 40% of the total cost of the Phase I City Improvements using its own Capital Funds, provided that the City payment for Phase I City Improvements does not exceed five (5) million dollars.

iii. The City shall work diligently and in good faith to obtain sufficient financing for the remaining cost of the Phase I City Improvements, including, without limitation, the following:

a. Federal funding as may currently or in the future become available;

b. State funding as may currently or in the future become available; and

c. Other public or private funding as may currently or in the future become available.

(B) Phase II City Improvements

i. The estimate of the cost of the Phase II City Improvements is attached hereto in Exhibit L.

ii. The City shall pay up to 40% of the total Phase II City Improvements using its own Capital Funds, provided the City payment for Phase II City Improvements does not exceed seven (7) million dollars.

iii. The City shall work diligently and in good faith to obtain sufficient financing for the remaining cost of the Phase II City Improvements, including, without limitation, the following:

a. Federal funding as may currently or in the future become available;

b. State funding as may currently or in the future become available; and

c. Other public or private funding as may currently or in the future become available.

Section 4.4 Priority

Until issuance of the Phase II Certificate of Completion, the City agrees to prioritize its obligations under this Agreement and its commitment to secure financing in support of the City Improvements.

Section 4.5 Permits

The City agrees to apply expeditiously and no later than the times set forth on the Project Schedule, for all permits and approvals required for the construction and operation of the City Improvements, including without limitation permits from CDOT, OSTA, DEEP, the City Plan Commission and any permits required under the National Environmental Policy Act, at the times set forth in the Project Schedule. Notwithstanding the foregoing, it is agreed and understood that provided that the City shall use all reasonable efforts to pursue such applications, the City shall not be liable for failure to obtain the same or delays in obtaining the same. The City agrees to comply with all conditions and terms of such permits.

Section 4.6 **Funding Sources**

(A) The City shall provide the Developer with copies of all materials submitted to its funding agencies within thirty (30) days after each such submission.

(B) Both the City and the Developer agree to comply with the terms and conditions of any agreements under which the City has obtained financing in support of the City Improvements.

Section 4.7 **Single Phase City Improvements**

Notwithstanding the provisions of Section 4.3 above or any other Section of this Agreement, the City and the Developer hereby acknowledge and agree that combining the Phase I City Improvements and the Phase II City Improvements into one phase may be financially beneficial to the Project as a whole and that if the City is able to obtain sufficient financing to carry out the City Improvements in one phase, the City shall be entitled to do so.

Section 4.8 **Cooperation and Coordination Between the City and the Developer**

The Developer shall fully and expeditiously assist the City in obtaining all approvals and permits required for the City Improvements. The Developer agrees to cooperate with the City and support in good faith all applications to Government Authorities required in connection with the City Improvements. The Developer shall work cooperatively with the City in seeking all necessary approvals from CDOT, OSTA and DEEP, and all other relevant local, state or federal agencies.

ARTICLE V

THE DEVELOPER IMPROVEMENTS

Section 5.1 **General**

The Developer agrees, at its own cost and expense, to design and construct the Developer Improvements in accordance with the terms and conditions of this Agreement. The Developer shall retain the services of the Master Developer to provide the Developer with experience, market knowledge and public and private relationships in the planning and execution of all

aspects of the Developer Improvements throughout completion of the Developer Improvements and the integration of the Developer Improvements and City Improvements.

Section 5.2 **Developer Improvements Plan and Design**

(A) Recognizing the importance of the Developer Improvements to the Downtown Crossing Project, the City and the Developer agree to work collaboratively in the design of the Developer Improvements, meaning that the City Design Reviewers shall, at no material cost to the Developer and at no material delay to the Project Schedule, have the opportunity to provide input in the design of the Developer Improvements as follows:

i. Phase I and Phase II Design Process

a. Prior to seeking site plan approval for both the Phase I and Phase II Developer Improvements and with sufficient time to allow for the herein described Design Process, the Developer shall deliver to the City Design Reviewers schematic design drawings reasonably consistent with the obligations of the Developer set forth in this Agreement (the "Schematics"). The City Design Reviewers shall have the opportunity to provide written comments on the Schematics that specify recommended alterations (the "City Comments") provided that such City Comments must be limited to design considerations that do not cause any material change to the cost structure or viability of the Phase I Developer Improvements or Phase II Developer Improvements.

b. It is agreed and understood that the City Design Reviewers may consult with an independent third party architect (the "City Architect") and the Developer shall attend such meetings with the City Architect and/or the City Design Reviewers as may be reasonably necessary to effectuate the intentions of this Section 5.2.

c. If the City Design Reviewers do not provide the City Comments within twenty-one (21) working days after receipt of the

Schematics by the City, the City Design Reviewers shall be deemed to have no City Comments, it being agreed and understood that provided the City Comments are delivered within said twenty-one (21) day working period, nothing shall preclude the City from additional comments during the Discussion Period referred to in Section 5.2 below, which additional comments shall have the same weight if he same were contributed in the original City Comments.

d. The Developer shall respond to the City Comments, and, at the option of the Developer, it may respond to any or all City Comments by submitting revised Schematics (the "Response"), in which event the City Design Reviewers and the Developer shall meet within ten (10) days after the date on which the Response is delivered to the City Design Reviewers to discuss the City Comments and the Response (the "Discussion Period"). The Developer agrees to use reasonable efforts to respond to the City Comments within the bounds of financial feasibility.

e. Throughout the Design Process, the Developer agrees to work with the City Design Reviewers to incorporate the City Comments that are compatible with the design of the Developer Improvements as determined by the Developer in its sole, but reasonable, discretion.

ii. Notwithstanding the foregoing, nothing herein contained in this Section 5.2(A) shall empower the City with the authority to deny, approve, or otherwise condition the design of the Developer Improvements as part of the Phase I and Phase II Design Process. The parties agree that the Developer has the ultimate authority to decide the final design of all Developer Improvements to be submitted to the City Plan Commission for site plan approval and that the City Plan Commission retains ultimate authority to decide any or all applications for the Phase I Developer Improvements and the Phase II Developer Improvements in accordance with all Legal Requirements.

(B) Design Elements

i. The Developer agrees to work within the Design Guidelines for the Gateway Downtown Municipal Development Project.

ii. To the extent that any parking structure must be above grade due to financial feasibility concerns, it is agreed that the garage shall be "wrapped" by active uses and/or screening on all street frontages, the precise method of wrapping or screening to be determined by the Developer in consultation with the City (taking into account both design issues and economic feasibility) with the overall intent of ensuring that the parking blends into the overall Project, while still allowing for natural ventilation.

Section 5.3 **Cooperation and Coordination Between the Developer and the City**

(A) The City shall fully and expeditiously assist the Developer in obtaining all approvals and permits required for the Developer Improvements. The City agrees to cooperate with the Developer and support in good faith all applications to Government Authorities required in connection with the Developer Improvements. The City shall work cooperatively with the Developer in seeking all necessary approvals from CDOT, OSTA and DEEP, and all other relevant local, state or federal agencies.

(B) The City shall make commercially reasonable efforts to prioritize the City's review and processing of any and all applications made by the Developer in connection with any and all permits and approvals required for the Project, and to support, cooperate with, and assist the Developer in all aspects of the Developer's efforts to procure any and all permits and approvals required for the Project from any Governmental Authority, provided that it is agreed and understood that the City shall have no liability if any such permits or approvals are not forthcoming and that the City does not have any control of any state or federal agencies with respect to any such permits or approvals. Furthermore, the City and the Developer recognize that all boards and commissions of the City, including without limitation, the New Haven Board of Aldermen, the New Haven City Plan

Commission, the New Haven Board of Zoning Appeals, the Greater New Haven Water Pollution Control Authority, the New Haven Redevelopment Agency, and the New Haven Development Commission, exercise independent powers pursuant to Law, and this Agreement does not purport to control or influence such independent decision making in any way. In the event that an appeal is taken by a third party against any land use approvals granted to the Developer, the City agrees to work equally with the Developer's legal counsel to take all reasonable steps to defend against such appeal. Notwithstanding the foregoing, the Developer is not required to appeal a denial of any land use application, provided that a zoning application (whether to the Board of Aldermen with respect to a zone change, or to the New Haven Board of Zoning Appeals with respect to a variance, special exception, or other such application) is not explicitly or implicitly required under this Agreement for the Developer to meet the Developer's obligations hereunder (in which event the City shall be required to support the application) the City shall not be under any obligation to support such zoning application in the event that the City does not approve of the application in question.

(C) Any changes to any matters contemplated by this Agreement approved by the City Plan Commission as part of its Site Plan Review or special permit application review, shall, when agreed to in writing by the Developer, be deemed to modify the matters contemplated by this Agreement without any need for any modification or amendment to this Agreement.

Section 5.4 **Acknowledgment of Unforeseen Events and Duty to Cooperate**

The City and the Developer acknowledge that all events and conditions impacting the Project cannot be foreseen at this time. As such, they agree to cooperate in the attempted resolution of problems and unforeseen events that may arise under this Agreement.

Section 5.5 **Minimum Project Requirements**

The City and the Developer envision the Project as a human-scale mixed-use, community-gathering place centered on an activated public square and laneway, and aspire to integrate a diversity of potential uses (residential, retail, restaurant, office, hotel/hospitality/multifunctional

space, wellness, and recreational, among others) in a vibrant, pedestrian and transit-oriented setting. The City and the Developer also recognize that a phased project across many years may be subject to circumstances that are currently unanticipated and may require altering the Project details while preserving the City and the Developer's shared vision. For that reason, the City and the Developer have agreed to Project Minimums that provide long-term flexibility, but preserve the overall Project vision:

(A) The Phase I Developer Improvements shall contain not less than the following (the "Phase I Project Minimum Requirements"):

i. Sixteen-thousand (16,000) square feet of gross leasable area for retail and restaurant uses.

ii. Twenty-five thousand (25,000) square feet of public open space.

iii. Two-hundred (200) residential units.

(B) The combination of the Phase I Developer Improvements and the Phase II Developer Improvements (to be known as the "Total Project Minimum Requirements"), shall contain not less than the following:

i. Thirty-thousand (30,000) square feet of gross leasable area for retail and restaurant uses.

ii. Thirty-thousand (30,000) square feet of public open space.

iii. Five-hundred (500) residential units.

iv. Eighty-thousand (80,000) square feet of a combination of all or some of the following uses: small business office, office, educational, cultural, or hotel space, or such other use reasonably acceptable to the Economic Development Administrator (collectively, the "Other Commercial Uses").

Section 5.6 Project Schedule

The Developer will commence construction of the Project substantially in accordance with the Project Schedule. It is agreed and understood that the Project Schedule may require periodic modification to take account of unforeseen conditions (both physical and economic, whether or not constituting Excusable Delay for the purpose of this Agreement), and to the extent that the Developer provides the City with reasonable evidence of the need for such modifications, then the City and the Developer shall amend the Project Schedule in such manner as may be mutually acceptable. If the City and the Developer cannot agree upon such Project Schedule amendments, then such dispute shall be submitted to the Dispute Resolution Procedure.

Section 5.7 Permits

The Developer agrees to apply expeditiously, and no later than the times set forth on the Project Schedule, for all permits and approvals required for the construction and operation of the Developer Improvements, including without limitation permits from CDOT, OSTA, DEEP, the City Plan Commission (including without limitation site plan review, soil erosion and sedimentation control, and special permit for parking) and any permits required under the National Environmental Policy Act, at the times set forth in the Project Schedule. The Developer agrees to comply with all conditions and terms of such permits. To the extent required by Section 4 of the Greater New Haven Water Pollution Control Authority ("GNHWPCA") Sewer Ordinance, as amended the City's Board of Aldermen consents and approves any extension of the GNHWPCA collection system.

Section 5.8 Casualty

In the event of any damage or destruction to any of the Phase I Developer Improvements prior to the issuance of the Phase I Certificate of Completion, or in the event of any damage or destruction to any of the Phase II Developer Improvements prior to the issuance of the Partial Phase II Certificate of Completion or the issuance of the Phase II Certificate of Completion (as appropriate), then, subject to the rights of any Mortgagee, and subject to any agreement to the contrary with the City, the Developer agrees, to the extent feasible, to use insurance proceeds obtained as a result of such damage or destruction to restore the portion of the Developer Improvements so damaged or destroyed to the condition existing prior thereto.

Section 5.9 Prohibited Uses

The Developer hereby agrees that no portion of the retail spaces within the Project shall be occupied by a discount department store, "dollar" store, firearms and/or ammunition store, charity thrift shop or the like, or adult bookstore/adult entertainment establishment.

ARTICLE VI

PROJECT PHASING

Section 6.1 Project Phasing

(A) The City and the Developer agree that the Developer Improvements shall be divided in two (2) development phases.

(B) Phase I Land Acquisition and Phase II Leasehold Conditions Precedent

i. The following conditions shall be satisfied before the conveyance of the Phase I Land by the City to the Developer (the "Phase I Land Acquisition Conditions Precedent"):

a. The City shall have abandoned and discontinued the Road in accordance with all relevant City procedures and shall have acquired fee simple title to the land underlying that portion of the Road adjoining the Property, to the centerline thereof.

b. The City shall have delivered to the Developer documentation, to a level of detail reasonably satisfactory to the Developer, of funding sources sufficient to carry out the Phase I City Improvements.

c. The City shall have obtained all permits and approvals required for the construction and operation of the Phase I City Improvements from any and all applicable Governmental Authorities, including without limitation from CDOT, OSTA, DEEP, the City Plan Commission and any required under the National Environmental Policy Act.

d. The zoning designation of the Property (and any Additional Property) shall be Business D-3 District.

e. The Developer shall have secured all land use approvals required for the Phase I Developer Improvements, provided that any such land use approvals shall not be subject to any conditions that are objectionable to the Developer in its sole, but reasonable, discretion, and further provided that all related regulatory and statutory appeal periods shall have lapsed with no appeals, claims, or other challenges having been asserted.

f. The Developer shall have delivered to the City documentation, such as a term sheet, in such form and detail as shall be reasonably satisfactory to the City, demonstrating funding sources for the Phase I Developer Improvements.

g. The Developer shall have submitted to the City an Interim Use Plan for the Phase I Land in a form and in such detail as shall be reasonably satisfactory to the Economic Development Administrator incorporating some or all of the potential uses set forth in Exhibit I, addressing the use and maintenance of the Phase I Land during the time period beginning on the date of the Phase I Closing and ending on the Phase I Developer Improvements Start Date.

ii. Upon satisfaction of the Phase I Land Acquisition Conditions Precedent, the following shall occur:

a. The City shall convey the Phase I Land by delivering the Phase I Land Deed to Developer at the Phase I Closing in accordance with the requirements herein.

b. Contemporaneously with the Phase I Closing, the City and the Developer shall enter into the Phase II Land Lease in the form

attached hereto as Exhibit J, which Lease provides the Developer with the exclusive use and possession of the Phase II Land for a term ending upon (i) the City's delivery of the Phase II Land Deed to the Developer (in the event of a Full Take Down pursuant to Section 6.1(D) below), or (ii) the City's delivery of a deed conveying the remaining Partial Phase II Land in accordance with Section 6.1(E)(iii) below (in the event of a Partial Take Down), or (iii) the date that is fourteen (14) years after the Effective Date, in the event that the Developer does not elect to exercise its option to serve as the Exclusive Developer for the Phase II Land pursuant to Section 6.1(G)(iv), or (iv) the City conveying the remaining Partial Phase II Land to any third party during the Exclusivity Period, provided that any such conveyance is made in accordance with the rights of the City in accordance with the provisions of Section 6.1(G)(vi)(v) that date that is twenty (20) years after the Effective Date in the event that the Developer elects to exercise its right to serve as the Exclusive Developer for the Phase II Land pursuant to Section 6.1(G)(iv), whichever shall be the first to occur, and the City and the Developer shall execute a Notice of Lease in the form attached hereto as Exhibit K to be recorded in the City of New Haven Land Records.

iii. In the event that the Phase I Land Acquisition Conditions Precedent are not satisfied within eighteen (18) months after the Effective Date (the "Phase I Land Acquisition Deadline"), the Developer, in its sole discretion, shall have the option to extend the Phase I Land Acquisition Deadline for three (3) consecutive twelve (12)-month periods by way of written notice to the City. Alternatively, the Developer may waive the Phase I Land Acquisition Conditions Precedent set forth in Sections 6.1(B)(i)(a), (b), (c), (d) and (e), in which event the Phase I Closing shall take place within thirty (30) days of the effective date of such waiver. In the event that the

Developer elects to waive the Phase I Land Acquisition Conditions Precedent set forth in Sections 6.1 (B) (i) (a),(b), (c) of the Phase I Acquisition Conditions Precedent, then the City shall have no further obligations, responsibility or liability with respect to the City Improvements. In the event that the Developer elects to waive the Phase I Land Acquisition Conditions Precedent set forth in Sections 6.1 (B)(i) (d), (e) of the Phase I Acquisition Conditions Precedent, then the City shall have no further obligation, responsibility or liability with respect thereto.

(C) Phase I Construction Conditions Precedent

i. The following conditions shall be satisfied before the Developer commences construction of the Phase I Developer Improvements (the "Phase I Construction Conditions Precedent"):

a. The City shall have delivered the Phase I Land Deed to the Developer.

b. The Developer shall have received from the City a written notice, in form and substance satisfactory to the Developer in its sole, but reasonable, discretion, evidencing that the City has entered into a construction contract for the Phase I City Improvements.

ii. Upon satisfaction of the Phase I Construction Conditions Precedent, the Developer shall notify the City of its planned Phase I Developer Improvements Start Date, which Start Date shall be no later than one (1) year following the date on which the Developer receives the written notice evidencing that the City has entered into a construction contract for the Phase I City Improvements.

iii. In the event that the Phase I Construction Conditions Precedent are not satisfied on or before the Phase I Construction Deadline, the Developer, in its sole discretion, shall have the option to extend the

Phase I Construction Deadline for three (3) consecutive twelve (12)-month periods. Notwithstanding the foregoing, and subject to the provisions of Section 6.1(C)(ii), the Phase I Developer Improvements Start Date shall be no later than the date that is six (6) years after the Effective Date.

iv. In the event that the Phase I Construction Conditions Precedent are not satisfied within the extensions of time set forth above, or the Developer elects not to exercise any or all of said extensions, the Developer shall have, in its sole discretion, the option, at its sole cost and expense, to complete the Phase I City Improvements or such portion thereof as the Developer may consider necessary or desirable.

v. At any time prior to the Phase I Construction Deadline, the Developer may waive any or all of the Phase I Construction Conditions Precedent, in which event the Developer may commence construction activities in support of the Phase I Developer Improvements at any time after the effective date of such waiver, subject to Section 6.1(C)(iii). In the event that the Developer elects to waive any or all of the Phase I Construction Conditions Precedent, then the City shall have no further obligation, responsibility or liability with respect thereto.

(D) Phase II Land Acquisition Conditions Precedent – Full Take Down

i. The following conditions shall be satisfied before the conveyance of the Phase II Land by the City to the Developer (the "Phase II Land Acquisition Conditions Precedent – Full Take Down"):

a. The City shall have obtained all permits and approvals required for the construction and operation of the Phase II City Improvements from any and all applicable Governmental Authorities, including

without limitation from CDOT, OSTA, DEEP, the City Plan Commission and any required under the National Environmental Policy Act.

b. The City shall have delivered to the Developer documentation, to a level of detail reasonably satisfactory to the Developer, of funding sources sufficient to carry out the Phase II City Improvements.

c. The Developer shall have received from the City a written notice, in form and substance satisfactory to the Developer in its sole, but reasonable, discretion, evidencing that the City has entered into a construction contract for the Phase II City Improvements.

d. The City shall have delivered the Phase I Land Deed to the Developer.

e. The Developer shall have obtained permits for construction of improvements sufficient to meet at least the Phase I Project Minimum Requirements as defined in Section 5.5(A) and has commenced construction thereunder.

f. The Developer shall have provided written documentation of plans and financing sufficient for the Phase II Developer Improvements that, in combination with the Phase I Developer Improvements either constructed or permitted for construction, meets all Total Project Minimum Requirements.

ii. Upon satisfaction of the Phase II Land Acquisition Conditions Precedent – Full Take Down, the Developer may, in its sole discretion, elect to notify the City of its intent to acquire the Phase II Land and the City shall convey the Phase II Land within thirty (30) of receipt of such notice.

(E) Phase II Land Acquisition Conditions Precedent – Partial Take Down

i. In the event that the Phase II Land Acquisition Conditions Precedent – Full Take Down cannot be satisfied, the following must occur before the conveyance of the Partial Phase II Land by the City to the Developer (the "Phase II Land Acquisition Conditions Precedent – Partial Take Down"):

a. All of the Phase II Land Acquisition Conditions Precedent – Full Take Down are satisfied, with the exception of Section 6.1(D)(i)(f).

b. The Developer provides to the City written documentation of plans and financing sufficient for the Phase II Developer Improvements that, in combination with the Phase I Developer Improvements either constructed or permitted for construction, meets the Total Project Minimum Requirements for residential, retail, and public open space, but not the Total Project Minimum Requirement for the Other Commercial Uses set forth in Section 5.5(B)(iv).

ii. Upon satisfaction of the Phase II Land Acquisition Conditions Precedent – Partial Take Down, the Developer may provide a written request to the Economic Development Administrator for the acquisition of a portion of the Phase II Land, which request shall identify the Partial Phase II Land to be acquired, and the Economic Development Administrator, taking into account then existing economic conditions, time remaining in this agreement and such other relevant factors, shall not unreasonably withhold, condition or delay consent to such conveyance.

iii. Thereafter, the Developer can acquire the remaining Partial Phase II Land upon demonstration to the City of plans and financing sufficient for the Phase II Developer Improvements and schedule that, in combination with the Phase I Developer Improvements either constructed or under construction and the Phase II Developer

Improvements either constructed or under construction for construction, meets all Total Project Minimum Requirements.

(F) Phase II Land Acquisition Conditions Precedent – Early Take Down

i. In the event that, prior to satisfying the Phase II Land Acquisition Conditions Precedent – Full Take Down or the Phase II Land Acquisition Conditions Precedent – Partial Take Down, the Developer demonstrates plans, letter of intent and financing sufficient for one of the Other Commercial Uses set forth in Section 5.5(B)(iv), which, in combination with the Phase I Developer Improvements either constructed or permitted for construction, meets all Total Project Minimum Requirements for the Other Commercial Uses set forth in Section 5.5(B)(iv), then the Economic Development Administrator, taking into account then existing economic conditions, time remaining in this Agreement and such other relevant factors, shall not unreasonably withhold, condition or delay consent to the conveyance of the Phase II Land, in which event, the City shall remain responsible for the remaining Phase II Land Acquisition Conditions Precedent – Full Take Down.

(G) Phase II Construction Conditions Precedent

i. The following condition shall be satisfied before the Developer commences construction of the Phase II Developer Improvements (the "Phase II Construction Conditions Precedent"):

a. The City shall convey the Phase II Land or Partial Phase II Land by delivering the Phase II Land Deed to the Developer at the Phase II Closing in accordance with the requirements herein.

ii. Upon satisfaction of the Phase II Construction Conditions Precedent, the Developer shall have the option to commence construction of the Phase II Developer Improvements, which the

Developer shall commence no later than fourteen (14) years after the Effective Date.

iii. In the event that the Developer has not satisfied the Total Project Minimum Requirements on or before the date that is fourteen (14) years after the Effective Date, and provided the Developer has demonstrated to the Economic Development Administrator that the Developer has the construction permits necessary to complete the Phase II Developer Improvements, which, in combination with the Phase I Developer Improvements, will meet or exceed the Total Project Minimum Requirements, then the Developer shall complete the Phase II Developer Improvements within a reasonable timeframe.

iv. In the event that the Developer has not commenced construction sufficient to achieve the Total Project Minimum Requirements for the Other Commercial Uses set forth in Section 5.5(B)(iv), but has obtained the construction permits necessary to complete Phase II Developer Improvements that would meet or exceed all other Total Project Minimum Requirements set forth in Sections 5.5(B)(i), (ii), and (iii), on or before the date that is fourteen (14) years after the Effective Date, the Developer shall serve as the Exclusive Developer of all retail and residential development for all or any portion of the Phase II Land not yet developed for a period ending on the date that is twenty (20) years after the Effective Date unless the Developer provides written notice to the City of its election to not serve as the Exclusive Developer (the "Exclusivity Period"). It is agreed and understood that in the event that the Developer has not met all other Total Project Minimum Requirements (as set forth in Sections 5.5(B)(i), (ii), and (iii)), on or before the date that is fourteen (14) years after the Effective Date, the Developer shall not be entitled to the Exclusivity Period.

v. The Developer, in its capacity as Exclusive Developer, may elect to submit one or more alternative development plans at any point in time during the Exclusivity Period.

vi. If, during the Exclusivity Period, a third party submits to the Economic Development Administrator or any office of the City an alternative development plan that in any way does not meet the Total Project Minimum Requirements for the Other Commercial Uses set forth in Section 5.5(B)(iv), and the Economic Development Administrator has reviewed such alternative development plan and determined that it is appropriate and otherwise satisfactory to the City (the "Alternative Phase II Proposal"), the City shall provide written notice of such Alternative Phase II Proposal to the Developer within thirty (30) days of receipt of the same, and the Developer, in its capacity as Exclusive Developer, may respond in writing to the City within forty-five (45) days of receipt of such notice to notify the City of its election to undertake the Alternative Phase II Proposal, in which event the Developer shall develop the Alternative Phase II Proposal in a manner at least equal to the level of quality proposed by the third party that originally submitted the Alternative Phase II Proposal. . If during the Exclusivity Period a third party submits to the Economic Development Administrator or any other office of the City and alternative development plan that does meet all Total Project Minimums Requirements, and is otherwise satisfactory to the City, then the City shall notify the Developer, and upon receipt of such notice the Exclusivity Period shall terminate and the Developer shall have no further rights under this Agreement with respect to the Phase II Land or portion thereof appropriate. It is agreed and understood that the City shall not accept any alternative Phase II Proposal unless the submitting developer demonstrates plans, letter of intent and financing sufficient to carry out the same

in such form as may be reasonably acceptable to the City, and such alternative Phase II Proposal shall satisfactorily utilizes all of the Phase II Land. Upon the expiration of the Exclusivity Period, the Developer's role as Exclusive Developer shall terminate and the Developer shall have no further rights or obligations under this Agreement with respect to the Phase II Land or portion thereof, as appropriate.

vii. In the event that the Phase II Construction Conditions Precedent are not satisfied within the time frames set forth herein, the Developer shall have, in its sole discretion, the option, at its sole cost and expense, to complete the Phase II City Improvements or such portion thereof as the Developer may consider necessary or desirable.

Section 6.2 **Right of Re-Entry**

(A) Phase I Land Right of Re-Entry

i. In the event of an uncured Developer Default, the Phase I Land shall be subject to the City's Right of Re-Entry, provided that such Right of Re-Entry shall be subject to the rights of any Mortgagee, as hereinafter described. The Right of Re-Entry shall terminate as regards the Phase I Land upon the issuance of the Phase I Certificate of Completion.

(B) Phase II Land Right of Re-Entry

i. In the event of an uncured Developer Default, the Partial Phase II Land or Phase II Land (as appropriate) shall be subject to the City's Right of Re-Entry, provided that such Right of Re-Entry shall be subject to the rights of any Mortgagee, as hereinafter described. The Right of Re-Entry shall terminate as regards the Partial Phase II Land or Phase II Land (as appropriate) upon the issuance of the

Partial Phase II Certificate of Completion or Phase II Land Certificate of Completion (as appropriate).

Section 6.3 **Easements and Licenses**

It is acknowledged that the construction and operation of the Project will require the City's granting of various easements or licenses to Developer with respect to City owned rights of way or City owned property needed for the Project.

In light of the foregoing, the City hereby approves the grant of any easements and licenses which may reasonably be needed to construct, complete and operate the Project, provided that the Developer shall provide the City with detailed plans of those improvements that will be the subject of the easements or license in question for final approval by the City's Economic Development Administrator (which approval will not be unreasonably withheld, conditioned or delayed) and further provided that with respect to any such easement or license granted by the City, the Developer shall comply with customary City requirements with respect to insurance. The City will work with the Developer to secure any approvals needed for such easements or licenses from any Governmental Authority.

Section 6.4 **Title**

(A) Notwithstanding any other provisions of this Agreement, it is agreed and understood that the Developer shall not be required to accept the Phase I Land Deed and/or any Phase II Land Deed unless it shall be able to obtain Title Insurance, insuring a good and marketable fee simple title. Marketability of title shall be determined in accordance with the Standards of Title of the Connecticut Bar Association.

(B) Notwithstanding the above, if the City shall be unable to convey such good and marketable title, then the Developer shall have the option of (i) accepting such title as the City can transfer, or (ii) requiring the City to use its best efforts (within a timeframe agreed upon between the City and the Developer) to provide such title, or (iii) rejecting any or all of the Phase I Land or the Phase II Land (as appropriate); provided, however, that the remainder of this Agreement shall not

be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 6.5 Real Estate Conveyance Tax and other Closing Costs

The Developer shall pay the cost of obtaining any policy of title insurance, and all other closing costs, including the cost of recording, if any, this Agreement, the Phase I Land Deed and any Phase II Land Deed and all other licenses, agreements and easements granted to the Property. The City shall pay the cost, if any, of the real estate conveyance tax for each of the transfers of the Phase I Land and the Phase II Land. Each party shall be responsible for payment of the legal fees of its own counsel in the negotiation and execution of this Agreement.

Section 6.6 Access and Inspections

For so long as the City owns the Phase I Land or the Phase II Land, the Developer and its designees and consultants shall have the right of reasonable access to the Property to perform such inspections and testing (including all types of investigations, invasive or otherwise, above ground or below ground) as deemed reasonably necessary by the Developer. It is agreed and understood that the Developer shall provide its employees, designees and consultants with appropriate safety equipment for accessing the Property, and that the Developer shall be responsible for causing the Developer's contractor to observe all applicable workplace safety rules and regulations. The Developer shall itself carry and shall cause its designees and consultants to carry appropriate insurance for their anticipated activities on the Property with limits reasonably acceptable to the Economic Development Administrator, naming the City as additional insured on such insurance policies.

Section 6.7 Approvals

It is understood by the Developer that the Property falls within the Gateway Downtown Municipal Development Project thereby falling within the authority of the City of New Haven Development Commission (the "Commission") and is also a parcel falling within the residual authority of the City of New Haven Redevelopment Agency (the "Agency"). Accordingly, approval of the Project by the Commission will be required and the approval of the disposition of the Property by the Agency will be required.

ARTICLE VII

COMMUNITY BENEFITS

Section 7.1 Permanent Jobs

The City and the Developer recognize the importance of creating economic opportunities for New Haven residents and agree to work collaboratively and on an ongoing basis to connect New Haven residents to jobs resulting from the Project, both during construction and permanent jobs. Therefore, the Developer shall:

(A) negotiate a partner agreement with New Haven Works concerning employment opportunities with the Developer directly associated with the Project.

(B) advocate on behalf of New Haven Works with Developer's tenants with respect to their entry into partner agreements with New Haven Works in order to maximize opportunities for New Haven residents to obtain permanent jobs created as a result of the Project.

(C) sponsor at least two (2) job fairs prior to the completion of the Phase I Developer Improvements aimed at connecting the Developer's tenants with New Haven residents seeking jobs created as a result of the Project.

(D) sponsor at least one (1) job fair prior to the completion of the Phase II Developer Improvements aimed at connecting the Developer's tenants with New Haven residents seeking jobs created as a result of the Project.

(E) make good faith efforts to identify and support entrepreneurs and startup companies in New Haven and work collaboratively with the City and/or Economic Development Corporation of New Haven to recruit and assist small New Haven-based entrepreneurs to open businesses as part of the Project, including assistance with business concepts, business plans, financing and marketing.

Section 7.2 **Workforce Requirements During Construction**

(A) In carrying out the construction of the Project, the Developer shall comply with, or require that its general contractor for the Project comply with, all applicable City workforce requirements now and hereafter existing, including, without limitation, all Equal Employment Opportunity requirements and in particular, during the construction of the Project, the Developer agrees that it shall (and shall require its general contractor to):

i. comply with all provisions of Executive Order 11246 and Executive Order 11375, Connecticut Fair Employment Practices Act and Chapter 12 1/2, the contract compliance ordinance of the City of New Haven, including all standards and regulations which are promulgated by the government authorities who established such acts and requirements, and all standards and regulations are incorporated herein by reference, including 24 CFR Part 135, Davis Bacon Act & Related Acts (40 USC §276a; 29 CFR 1, 3, 5, 6 and 7), Copeland Act (18 USC §874 and 40 USC §276c; 29 CFR 3), 40 U.S.C. Section 327 et seq 29 CFR5, Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Americans with Disabilities Act, and the Equal Pay Act. Under Title VII (N-915.040), Immigration and Reform and Control Act of 1986 (IRCA) (8 USC 1101 as amended) Immigration and Nationality Act, Section 274A, FLSA's recordkeeping Regulations, 29 CFR Part 516. State of Conn. General Statues Section 31-53, State of Conn. P.A.97-263, Sec. 31-51d-5. Standards of apprenticeship;

ii. not to discriminate against any employee or applicant for employment because of race, color, religion, gender, age, sexual orientation, gender identity or expression, marital status, physical disability or national origin. The Developer shall take affirmative action to ensure that applicants are employed, and that employees

are treated during employment without regard to race, color, religion, gender, age, sexual orientation, gender identity or expression, marital status, physical disability or national origin, and such action shall include, but not be limited to, employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of any or other forms of compensation, and selection for training, including apprenticeship;

iii. post, in conspicuous places available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause;

iv. state, in all solicitations or advertisements for employees placed by or on behalf of the Developer, that all qualified applicants will receive consideration for employment without regard to race, color, religion, gender, age, sexual orientation, gender identity or expression, marital status, physical disability or national origin, and utilize the City-sponsored workforce program (Construction Workforce Initiative 2) as a source of recruitment, and to notify the City of New Haven Commission on Equal Opportunities of all job vacancies;

v. send to each labor union or representative of workers with whom the Developer has a collective bargaining agreement, or other contract or understanding, a notice advising the labor union or worker's representative of the Developer's commitments under the equal opportunity clause of the City of New Haven, and to post copies of the notice in conspicuous places available to employees and applicants for employment, and the Developer shall register all workers in the skilled trades, who are below the journeyman level, with the Apprentice Training Division of the Connecticut State Labor Department;

(B) work with the City's Commission on Equal Opportunities (the "Commission") in complying with the Section 12 ½ of the City of New Haven's Code of Ordinances and in particular (without limitations):

i. the Developer acknowledges that under Section 12 ½-26 all prime contractors, subcontractors and tiers must attend a pre-award conference scheduled and conducted by the Commission; and that during each such pre-award conference, meeting minutes are kept to be signed by each such party; and

ii. the Developer shall deliver the Commission notice of all contracts to be bid, together with the opportunity to review the same and opportunity to attend all prebid conferences or other such meetings concerning the same as may take place;

(C) furnish all information and reports required by the City Contract Compliance Director pursuant to Section 12-1/2-19 through section 12-1/2-32 of the City's Code of General Ordinances and to permit access to the Developer's books, records and accounts by the contracting agency, the City Contract Compliance Director, and the City Secretary of Labor for purposes of investigations to ascertain compliance with the program and file, along with its construction subcontractors, if any, compliance reports with the City in the form and to the extent prescribed in this Agreement by the City Contract Compliance Director and to file compliance reports at such times as directed which shall contain information as to the employment practices, policies, programs and statistics of the Developer and its subcontractors, if any;

(D) comply, as a United States employer, with the Immigration and Naturalization Service (INS)'s I-9 verification process, which requires employers to confirm the employment eligibility of workers. The Developer acknowledges that an employer can be fined or otherwise sanctioned for knowingly hiring an undocumented worker; that the I-9 forms also provide employers with a "good faith" defense if they hire someone who later turns out to be working illegally in

the United States; and that the City Commission on Equal Opportunities will monitor and report of any alleged violations of the I-9 verification process to the proper authorities;

(E) acknowledge that a finding, as hereinafter provided, of a refusal by the Developer, or subcontractor, to comply with any portion of this program as herein stated and described, may subject the offending party to any or all of the following penalties (subject to the provisions of Article XII Section 1):

i. refusal of all future bids for any public contract with the City of New Haven, or any of its departments or divisions, until such time as the Developer, or subcontractor, is in compliance with the provisions of this Agreement;

ii. cancellation of this Agreement;

iii. recovery of specified monetary penalties;

(F) include the provisions of sub-paragraphs (A) through (E) in every subcontract or purchase order so that said provisions will be binding upon each such subcontractor or vendor;

(G) take such action, with respect to any subcontractor, as the City may direct as a means of enforcing the provisions of this Section 7.2, including penalties and sanctions for noncompliance and fines and penalties related to the rules of practice enforced by the City Commission on Equal Opportunities or the SBC office, whichever is applicable, *provided however that*, in the event the Developer becomes involved in or is threatened with litigation as a result of such direction by the City, the City will intervene in such litigation to the extent necessary to protect the interest of the City and to effectuate the City's Equal Employment Opportunity program.

Section 7.3 **Small Contractor Utilization Requirements During Construction**

(A) In carrying out the construction of the Project, the Developer shall comply with, or require that its general contractor for the Project comply with, all applicable City small contractor utilization requirements now and hereafter existing, including, without limitation, the Small Business Construction Initiative requirements and in particular, during the construction of the Project, the Developer agrees that it shall (and shall require its general contractor to):

i. comply with all applicable City small contractor utilization requirements now and hereafter existing, including, without limitation, all small business construction initiative requirements and in particular, during the carrying out of the Project, the Developer agrees to require its construction manager, general contractors and its construction subcontractors;

ii. to comply with the provisions of Ordinance Section 12 1/4-9, which require that every effort be aggressively made to meet the MBE Utilization Goals. Pursuant to Ordinance Sections 12 1/4-9(d) and (f), the Developer and its contractors shall be considered to have achieved compliance with the MBE Utilization Goals if work totaling the value of twenty-five (25%) percent of all of the construction subcontracts is awarded to MBEs; in order to achieve MBE Utilization Goals, contracts may be awarded to MBE subcontractors and/or a contractor may enter into a joint venture or other commercially reasonable relationship that is satisfactory to the City with one or more MBEs for the purpose of performing construction work on the Development. In the event that the Developer is unable to meet the MBE Utilization Goals, then the Developer shall document in an affidavit its good faith efforts to achieve the MBE Utilization Goals, which efforts will be evaluated, verified and recognized by the City if the Developer or its general contractors, construction manager has accomplished at least four (4) of the following: (A) placing a notice of the subcontracting

opportunity on an approved City construction opportunity website at least ten (10) days in advance of selection of the subcontractor(s); (B) mailing notices (certified mail, return receipt requested) to at least four (4) business associations and/or development agencies which disseminate bid and other construction-related information to businesses within the Greater New Haven area not less than two (2) weeks prior to the Developer's requests for bids or proposals, which notice shall describe the type of work being solicited, set forth the name, address and telephone number of a contact person from the Developer's general contractors, construction manager with knowledge of the Development and state where appropriate plans and specifications can be obtained; (C) showing proof of quotes received from subcontractors whose bids or proposals were denied because of cost, quality, availability, and similar reasons; (D) showing proof of outreach to and collaboration with the New Haven Contractors' Alliance and the City's Small Business Development Program; (E) describing in detail any attempts to enter into joint ventures or other arrangements with MBEs and/or assistance provided to MBEs relating to (i) the review of plans and specifications or other documents issued by the Developer or its general contractors or construction manager (ii) the review of work to be performed by MBEs on its portion of the Project with a MBE, (iii) encouragement of other subcontractors to utilize MBEs, (iv) encouragement of participation of MBEs, and (v) all actions taken by the Developer and its general contractors, construction manager with respect to proposals received from MBEs, including where appropriate, the reasons for the rejection of such proposals; (F) conducting a networking event with the Developer's construction manager (if any) and general contractors; (G) holding individual trade meetings with the Developer's construction manager (if any) or its general contractors; and (H) undertaking other efforts to

encourage MBE participation in the Project as determined in advance by the City, such as making reasonable efforts to bid out work in packages of a suitable size for small contractors;

iii. to ensure equal opportunities for participation by MBEs and SBEs in the Project, the Developer agrees that it or its general contractors, construction manager shall notify the City's Small Business Development Program of all construction contracting opportunities for all portions of the Project carried out by the Developer. The Developer and/or its general contractors shall permit information about construction opportunities to be distributed to potential subcontractors via facsimile and email. The Developer together with the New Haven Contractor's Alliance and the City's Small Business Development Program shall hold a workshop detailing such portions of the Project to be carried out by the Developer and the contracting opportunities therefor;

iv. to cooperate with the City's Small Business Development Program in its efforts to encourage mentoring programs and management, technical, and developmental training skills through sub-contracting opportunities,

v. to furnish all information and reports required by the City's Small Business Development Program and to permit access to the Developer's records of and to require that its construction manager, general contractors and subcontractors provide access to their records in order verify compliance with the requirements of this subsection, to provide the City's Small Business Development Program with the opportunity to review proposed contracts prior to the award of the same and to provide such Program with notice of all prebid conferences and the opportunity to attend such conferences;

vi. to take all reasonable corrective actions requested by the City to comply and to effectuate compliance with the requirements of this Section 7.3;

(B) acknowledge that a finding, as hereinafter provided, of a refusal by the Developer, or subcontractor, to comply with any portion of this program as herein stated and described, may subject the offending party to any or all of the following penalties (subject to the provisions of Article XII Section 1):

i. refusal of all future bids for any public contract with the City of New Haven, or any of its departments or divisions, until such time as the Developer, or subcontractor, is in compliance with the provisions of this Agreement;

ii. cancellation of this Agreement;

iii. recovery of specified monetary penalties;

(C) include the provisions of sub-paragraphs (A) through (B) in every subcontract or purchase order so that said provisions will be binding upon each such subcontractor or vendor;

(D) take such action, with respect to any subcontractor, as the City may direct as a means of enforcing the provisions of this Section 7.3, including penalties and sanctions for noncompliance and fines and penalties related to the rules of practice enforced by the SBC office provided however that, in the event the Developer becomes involved in or is threatened with litigation as a result of such direction by the City, the City will intervene in such litigation to the extent necessary to protect the interest of the City.

Section 7.4 **Construction Business and Vendor Opportunities**

The City and the Developer recognize the importance of creating economic opportunities for New Haven construction businesses and vendors and agree to work collaboratively to connect New Haven construction businesses and vendors to opportunities resulting from the Project.

Therefore, the Developer's primary architects, engineers, and construction manager/general contractor shall attend one (1) business fair prior to commencing the Phase I Developer Improvements and one (1) business fair prior to commencing the Phase II Developer Improvements, both of which will be organized by the City, or the Economic Development Corporation of New Haven, and shall feature suppliers of goods and services with particular emphasis on New Haven-based businesses.

Section 7.5 Affordable Housing

The City and the Developer agree that, in order for the Project to thrive, it must be a diverse neighborhood comprised of individuals and families with a range of incomes and backgrounds. Therefore, the Developer Improvements shall incorporate Affordable rental units, in addition to market-rate rental units, for a variety of family sizes. To achieve this common goal, the City and the Developer have agreed as follows:

(A) No less than twenty percent (20%) of all residential units included in the Phase I Developer Improvements shall be Affordable.

(B) No less than twenty percent (20%) of all residential units included in the combination of the Phase I Developer Improvements and the Phase II Developer Improvements shall be Affordable.

(C) No less than 10% of the Affordable units will contain two (2) or three (3) bedrooms.

(D) It being acknowledged and agreed between the City and the Developer that the aim of a truly mixed-income community is to ensure that the income level of residents does not have any special impact upon location within a development, and in order to create a truly mixed-income community, no more than 50% of the residential units on any one floor of any residential or mixed use building developed as part of the Developer Improvements shall be Affordable units.

Section 7.6 **Commitment to Sustainability**

The City and the Developer agree that promoting environmental sustainability and alternative modes of transportation are critical to the success of the Project as well as the future success of New Haven as a whole. Therefore, the Developer shall:

(A) construct all small business office, office, educational or cultural buildings to a Silver Standard level set forth in the Leadership in Energy and Environmental Design ("LEED") Green Building Rating System developed by the United States Green Building Council (as the same may be defined as of the Effective Date or at the time of construction).

(B) construct all residential space to LEED sustainability standards to the extent such standards are financially feasible.

(C) construct all hotel space to the highest sustainability standard required by the applicable hotel flag company.

(D) participate in any Bike Share System developed by the City or Yale University at the request of the City or Yale University including at least one (1) facility on the Property.

(E) incorporate bike storage facilities and changing/shower facilities into any office or hotel space created as part of the Developer Improvements provided the office or hotel tenant agrees to such facilities.

(F) make reasonable, good faith efforts to establish rooftop farms and/or green roofs as part of the Developer Improvements.

(G) reasonable, good faith efforts to incorporate fuel cell or geothermal technology into the Project.

Section 7.7 **Transportation Demand Management**

The Developer shall, at the Developer's sole cost and expense, be responsible for carrying out a traffic study to determine the projected effect of the Project on traffic flow around the Property

and preparing a suitable Transportation Demand Management Plan to manage the same for the City's review. The Transportation Demand Management Plan shall include such road and signaling improvements and modifications as may be reasonably necessary in order to mitigate the impact of the additional traffic resulting from the completion of the Project, including strategies, such as, and not limited to, bike sharing programs, ridesharing programs, car sharing programs (i.e. Zip Car or its equivalent) and public transportation infrastructure. The City and the Developer shall work collaboratively to review the Transportation Demand Management Plan and seek to agree upon the same and to allocate responsibility for implementing the provisions of the Transportation Demand Management Plan and the costs associated therewith. To the extent that the input and/or approval of the OSTA to the Transportation Demand Management Plan is required, the Developer shall be responsible for obtaining all such approvals and for liaising with the OSTA to the extent necessary. The City shall support the Developer in this respect, including without limitation appearing at meetings and hearings to the extent reasonably requested by the Developer.

Section 7.8 **Public Open Space**

The City and the Developer agree that creating vibrant public space is essential to the success and vitality of the Project. Therefore, the Developer shall create, pay for, and maintain Public Open Space, including a new public plaza and Retail Laneway on the Property.

(A) The City and the Developer agree that the Developer shall have the right to reasonably regulate use of, and access to, the Public Open Space in consultation with the Economic Development Administrator. Notwithstanding the foregoing, the Developer shall not permanently close the Public Open Space, but the Developer may suspend public vehicular access to all or any portion of the Public Open Space for discrete periods of time for legitimate reasons that support and activate the mix of land uses in the Developer Improvements. Such uses shall include but are not limited to: festivals and events; pedestrian access; construction on or around the Public Open Space; public disturbance; or other reasons that support and complement the Developer Improvements.

(B) The design and location of the Public Open Space will be subject to Section 5.2 of this Agreement and will be designed to facilitate the redevelopment of the Property and to support the mix of land uses in the Developer Improvements. The Developer may thereafter relocate, reconfigure or otherwise redesign the Public Open Space to facilitate the appropriate use of the Developer Improvements, provided that such relocation, reconfiguration or redesign will not reduce the total area of the Public Open Space to less than thirty thousand (30,000) square feet, in which event the Developer shall submit a site plan application to the City Plan Commission for approval of the relocated or reconfigured Public Open Space.

ARTICLE VIII

DEVELOPER IMPROVEMENTS FINANCING

Section 8.1 Minimum Equity Contribution

The Developer and its associates and affiliates agree to secure the necessary equity required to finance the Project's pre-development costs, and the equity required to finance and launch and complete each development phase, all in keeping with good underwriting standards currently in use in comparable markets for comparable developments, and subject to the commercial feasibility of the Project and/or any phase thereof.

Section 8.2 City Support for Developer Improvements Financing

(A) The City and the Developer both believe the Project will create a unique, mixed-use, diverse, active and entrepreneurial place that provides a wide range of community benefits. Therefore, the City shall work with the Developer in locating and obtaining local, state and federal public financing in order to help fulfill the affordable housing provisions and to fill any Project funding gaps which would otherwise limit the Developer's ability to achieve the City and the Developer's vision for the Project. When requesting funding for financing affordable housing or other funding gaps, the Developer will share all relevant pro-formas with the City to review. Project funding sources may include (without limitation):

i. The City shall work with Developer to secure nineteen (19) units of Project Based Section 8 Vouchers (PBV) and $1.5 million in capital

funds from HANH. The City and HANH shall also seek to secure between 135% and 150% of Fair Market Rents for the Phase I Developer Improvements PBV units. All is subject to approval by the HANH Board and the United States Department of Housing and Urban Development. The Developer agrees to abide by all HANH and United States Department of Housing and Urban Development rules and regulations related to this funding;

ii. The City, the Developer and HANH may mutually agree to seek additional Project Based Section 8 Vouchers for the Phase II Developer Improvements subject to approval by the HANH Board and the United States Department of Housing and Urban Development;

iii. The City shall work with Developer in securing additional public financing, including without limitation CHAMP, FLEX, HOME funds from the State of Connecticut, or any other local, state or federal funding program, to be used to provide Affordable housing within the Project for the Phase I Developer Improvements and the Phase II Developer Improvements;

iv. The City shall contribute HOME, CDBG, or other applicable funds available to the City for the provision of Affordable housing in the Phase II Developer Improvements, provided that the City should obtain sufficient funding, and with the exact amount to be determined at the time the Phase II Developer Improvements are ready for financing and subject to normal City procedures for the review and financing affordable housing projects;

v. The City shall work with Developer in securing New Market Tax Credits and/or EB-5 Program funding, if available and applicable, in order to support retail and entrepreneurship or funding gaps as part of the Project; and

vi. The City shall work with Developer in securing additional applicable local, state or federal funding to be used to finance any funding gaps.

Section 8.3 Sales and Use Tax Relief

The sales and use tax relief program established under Conn. Gen. Stat. § 32-23h provides for sales and use tax relief on the purchase of tangible personal property and services for qualifying economic development projects. The City and the Developer acknowledge that the Developer intends to apply to Connecticut Innovations for sales and use tax relief under Conn. Gen. Stat. § 32-23h for purchases of taxable tangible personal property that will be made for the Development which are eligible for tax relief. The Developer will take all reasonable actions to pursue such tax relief, provided that the terms of such tax relief are acceptable to the Developer. The City agrees to provide support and assistance to the Developer with respect to such application.

ARTICLE IX

TAXES

Section 9.1 Payment of Taxes

(A) Subject to the Section 9.1(C) below, it is agreed and understood that the entire Project shall be and remain taxable in accordance with the customary assessment practices, and that the Developer for itself and all successors and assigns agrees to pay all taxes and assessments lawfully assessed against the Property and the improvements thereon, provided however that nothing herein shall be construed as waiving any right the Developer, or its successors in title or its tenants may have to contest or appeal, in the manner provided by law, any assessment made by the City with respect to all or any portion of the Project, including the Property and the improvements thereon.

(B) It is further agreed and understood that during the Compulsory Taxation PILOT Period no portion of the Property may be conveyed to a tax exempt entity without the prior written consent of the Economic Development Administrator (which

consent is not to be unreasonably withheld), unless such tax exempt entity shall enter into a Payment In Lieu Of Taxes (PILOT) Agreement with the City for a term of not less than the then balance of the Compulsory Taxation PILOT Period. It is hereby agreed, stipulated and understood that any conveyance, assignment or other transfer made to any tax exempt entity in breach of the provisions of this Section 9.1 (B) shall be null and void and of no effect and shall result in an automatic reversion of the portion of the Property in question to the City.

(C) It is hereby agreed, stipulated and understood that the Project may qualify for a tax deferment program (state or municipal), in which event, the Developer shall be entitled to make application therefor, and enter into an agreement with respect to the same.

ARTICLE X

CONSTRUCTION OF THE CITY IMPROVEMENTS AND THE DEVELOPER IMPROVEMENTS

Section 10.1 **Construction Progress Reports**

(A) The Developer shall provide the City with construction progress reports every thirty (30) days after its construction work commences on each Phase. Such reports, which shall be made publicly available, shall state whether any dates on the Project Schedule have been met and any anticipated difficulties in meeting such dates and shall include a list of any and all Force Majeure Events which are claimed to result in Excusable Delays.

(B) The City shall provide the Developer and the Working Group with construction progress reports every thirty (30) days after their construction work commences until the City Improvements are completed. Such reports, which shall be made publicly available, shall state whether any dates on the Project Schedule have been met and any anticipated difficulties in meeting such dates and shall include a list of any and all Force Majeure Events which are claimed to result in Excusable Delays.

Section 10.2 Working Group

In order to coordinate the work of the City and the Developer during the construction of the Project, the Working Group will be established as of the Effective Date. The Economic Development Administrator or her or his designee shall chair the Working Group. The Working Group shall coordinate the work of the City and the Developer, and shall endeavor to resolve issues regarding the coordination of the construction of the Project.

Section 10.3 Insurance

(A) The Developer itself shall obtain and shall cause its general contractor to obtain general liability insurance in the amount of Five Million Dollars ($5,000,000.00) and shall name the City as an additional insured on all such insurance policies. In addition, the Developer shall cause all construction subcontractors to obtain general liability insurance in the amount of Two Million Dollars ($2,000,000.00) and shall name the City as an additional insured on all such insurance policies.

(B) The City shall cause its general contractor to obtain general liability insurance in the amount of Five Million Dollars ($5,000,000.00) and shall name the Developer as an additional insured on all such insurance policies. In addition, the City shall cause all construction subcontractors to obtain general liability insurance in the amount of Two Million Dollars ($2,000,000.00) and shall name the Developer as an additional insured on all such insurance policies.

Section 10.4 Certificate of Completion

(A) After Substantial Completion of the Phase I Developer Improvements that meet or exceed Phase I Project Minimum Requirements set forth in Section 5.5(A), and after Substantial Completion of the Phase II Developer Improvements that meet or exceed Total Project Minimum Requirements set forth in Section 5.5(B), the Developer shall give notice via certified mail return receipt requested to the Economic Development Administrator, with a copy to their counsel, of the same. Notwithstanding any other provision of this Agreement, the Economic Development Administrator shall inspect or cause to be inspected the Phase I,

Developer Improvements or the Phase II Developer Improvements (as appropriate) within thirty (30) days of a request for a Certificate of Completion and shall furnish such Phase I Certificate of Completion or Phase II Certificate of Completion (as appropriate), within forty-five (45) days of the Developer's request therefor. The Phase I Certificate of Completion or the Phase II Certificate of Completion, shall be in such form as will enable each to be recorded on the New Haven Land Records.

(B) Both the the Phase I Certificate of Completion, or the Phase II Certificate of Completion shall be a conclusive determination of the satisfaction of the Developer's obligation to construct such phase, or portion thereof, of the Developer Improvements and shall state that the Developer's obligations to construct such phase of the Developer Improvements have been Substantially Completed. The parties agree that both the Phase I Certificate of Completion, or the Phase II Certificate of Completion shall not represent a determination that the Developer has satisfied any other of its other obligations under this Agreement.

(C) Notwithstanding any other provision of this Agreement, if the Economic Development Administrator shall refuse or fail to provide certification in accordance with the provisions of this Section, the Economic Development Administrator shall, within such forty-five (45) day period, provide the Developer with a written statement setting forth in adequate detail in what respects the Developer has failed to complete such phase of the Developer Improvements, and what measures or acts will be in necessary for the Developer to take or perform in order to obtain such certification. Following receipt of such written statement, the Developer shall promptly carry out the corrective measures or acts described in the written statement, and a Phase I Certificate of Completion or Phase II Certificate of Completion (as appropriate) will be delivered to the Developer within fifteen (15) days of the completion of the items by the Developer described in the written statement. In the event of any dispute between the City and the Developer with respect to the issuance of the Phase I Certificate of Completion or

Phase II Certificate of Completion, the parties shall participate in the Dispute Resolution Procedure.

(D) Notwithstanding any other provision of this Agreement, if the Economic Development Administrator shall fail to provide the Developer with a Phase I Certificate of Completion or Phase II Certificate of Completion (as appropriate) or with a written statement within such forty-five (45) day period of a request for a Phase I Certificate of Completion or Phase II Certificate of Completion (as appropriate), such failure shall be deemed to constitute certification that such phase of the Developer Improvements has been completed. In such case, the Developer shall, in its sole discretion, record a Phase I Certificate of Completion or Phase II Certificate of Completion (as appropriate) on the New Haven Land Records, setting forth the failure of the City to issue a Phase I Certificate of Completion or Phase II Certificate of Completion (as appropriate) within the time required for issuing the same. The Developer's Phase I Certificate of Completion or Phase II Certificate of Completion (as appropriate) shall have the same force and effect as a Phase I Certificate of Completion or Phase II Certificate of Completion (as appropriate) issued by the Economic Development Administrator.

(E) Notwithstanding any of the provision of this Section 10.4, it is agreed and understood that with respect to any portion of the Project which has been completed by the Developer and for which a certificate of occupancy has been obtained ("Completed Space") the Developer shall apply to the City for a Partial Certificate of Completion in the event that the Developer intends to convey, mortgage/refinance or otherwise assign it's interest in the Completed Space in question, and in such event the City shall issue such Partial Certificate of Completion to the Developer within thirty (30) days of each request. It is agreed and understood that the issuance of any such Partial Certificate of Completion shall not derogate from the obligations of the Developer, and the role of the Master Developer.

ARTICLE XI

ASSIGNMENT AND MORTGAGE

Section 11.1 **Assignment and Mortgage by the Developer**

(A)

i. It is hereby agreed and stipulated that prior to the issuance of the Phase I Certificate of Completion or the Phase II Certificate of Completion (as appropriate), the Developer shall not, without the City's written permission , transfer or assign any of its rights and/or obligations under this Agreement or in the Property other than to an Affiliate, which Affiliate agrees in writing with the City to assume all of the obligations of the Developer under this Agreement. For purposes hereof, a "transfer" shall include a transfer of more than fifty (50%) percent of the ownership interests in the Developer other than to an Affiliate. The Developer shall provide the City with prior written notice of its intent to make an assignment to an Affiliate and the name and address of such Affiliate, and upon such assignment, the written agreement of the Affiliate to assume all of the obligations of this Agreement associated with the rights assigned.

ii. Notwithstanding the provisions of Section 11.1(A)(i) above in the case of a proposed development partner or investor or lender with respect to a non-residential component of the Developer Improvements where such development partner or investor or lender has a net worth of not less than the Master Developer (and upon delivery to the City of such documentation as the City shall reasonably require in order to establish the foregoing qualifications, together with details of the proposed partnership or investment or lender or other such development entity) then the consent of the City to an assignment to an entity created to accomplish such development owned or controlled by such non-Affiliate shall not be

unreasonably withheld or conditioned and shall be delivered by the City as soon as reasonably possible, and in no event more than thirty (30) business days from the date of request therefore, provided that the Master Developer shall continue in such role.

iii. Notwithstanding the provisions of Section 11.1(A)(i) above, the City shall not unreasonably delay condition or withhold its consent to an assignment of Completed Space to a non-Affiliate.

(B) Any assignment of any interest in this Agreement or in the Property which is in contravention of the provisions of Section XI shall be a Developer Default.

(C) It is further agreed by the parties that following the issuance of the Phase I Certificate of Completion, the Developer may sell, assign or transfer any or all of its interest in this Agreement with respect to the Phase I Developer Improvements or in the Phase I Land to any purchaser, assignee or transferee free and clear of the requirements of Section 11.1(A) without restriction as to the consideration to be received and without the City's consent, provided that if such sale, assignment or transfer is made prior to the issuance of the Phase I Certificate of Completion, the Developer shall require that the purchaser, assignee or transferee expressly assume all of the covenants, agreements, and obligations under this Agreement (including specifically, but without limitation, the obligation to pay taxes) which have not yet been performed and which expressly survive the issuance of the Certificate of Completion, by written instrument, reasonably satisfactory to the City filed and recorded in the New Haven Land Records.

(D) It is further agreed by the parties that following the issuance of the Phase II Certificate of Completion, the Developer may sell, assign or transfer any or all of its interest in this Agreement with respect to all or the relevant portion of the Phase II Developer Improvements or in the Phase II Land to any purchaser, assignee or transferee free and clear of the requirements of Section 11.1(A) without restriction as to the consideration to be received and without the City's consent, provided that if such sale, assignment or transfer is made prior to the Phase II Certificate of Completion , the Developer shall require that the purchaser,

assignee or transferee expressly assume all of the covenants, agreements, and obligations under this Agreement (including specifically, but without limitation, the obligation to pay taxes) which have not yet been performed and which expressly survive the issuance of the Certificate of Completion, by written instrument, reasonably satisfactory to the City filed and recorded in the New Haven Land Records.

Section 11.2 **Mortgage of the Property**

(A) Notwithstanding any other provisions of this Agreement, the Developer shall at all times have the right to encumber, pledge, or convey its right, title and interest in and to the Property, or any portion or portions thereof to which the Developer has obtained fee simple title pursuant to this Agreement, by way of a mortgage or mortgages (a "Mortgage"), provided that any mortgagee (a "Mortgagee") taking title to the Property or any part thereof (whether by foreclosure or deed in lieu of foreclosure or otherwise) shall be subject to the provisions of this Agreement, except as hereinafter provided and that the Developer shall give written notice to the City of the proposed grant of any such Mortgage, the amount thereof and the name and address of a Mortgagee. This Agreement shall be superior and senior to any lien placed upon the Property after the date of the recording of this Agreement, including the lien of any Mortgage, except for those liens that by law have superiority over this Agreement.

(B) The City agrees at any time and from time to time, upon not less than fourteen (14) days prior written notice, to execute, acknowledge and deliver without charge to a Mortgagee, or to any prospective Mortgagee designated by either Developer or any Mortgagee, or to any prospective purchaser of Developer's interest in the Property designated by Developer a statement in writing stating that this Agreement is in full force and effect and unmodified (or if there have been any modifications, identifying the same by the date thereof and including a copy thereof), that no notice of default or notice of termination of this Agreement has been served on Developer (or if the City had served such notice, the City shall provide a copy of such notice or state that the same has been revoked, if such be

the case), that to the City's knowledge no default exists under this Agreement or state or condition that, with the giving of notice, the passage of time, or both, would become a default (or if any such default does exist, specifying the same), and the amounts due under this Agreement and any other information as may be reasonably requested.

(C) No voluntary action by the Developer to cancel, surrender, terminate or modify this Agreement shall be binding upon the Mortgagee without its prior written consent, and the City shall not enter into an agreement with the Developer to amend, modify, terminate or cancel this Agreement and shall not permit or accept a surrender of this Agreement prior to the issuance of the Phase I Certificate of Completion or the Phase II Certificate of Completion (as appropriate) without, in each case, the prior written consent of a Mortgagee with respect to the phase in question. In the event the Developer and the City desire to enter into any of the aforementioned agreements, it shall be the responsibility of Developer to obtain the consent of a Mortgagee.

(D) The time permitted for a Mortgagee to complete construction of any portion of the Development shall be extended as long as the Mortgagee is diligently and continuously working towards completion of the construction and shall include any time necessary for the Mortgagee to exercise its rights under the Mortgage and to obtain possession of the mortgaged premises.

(E) If a Mortgagee, or its assignee, transferee, or designee (as may have acquired Developer's estate through foreclosure) acquires the Developer's estate in the Property or forecloses its Mortgage prior to issuance of a Certificate of Completion for that Phase, such Mortgagee shall, at its option:

i. Complete construction of the improvements required for such Phase in accordance with this Agreement and in all respects (other than time limitations) comply with the provisions of this Agreement; or

ii. Sell, assign or transfer with the prior written consent of the City, which consent shall not be unreasonably withheld, conditioned, or delayed (but without restriction as to the consideration received) and which shall be provided within thirty (30) days of the Mortgagee's written request for such consent, the Developer's estate in the portion of the Property covered by the Mortgage to a purchaser, assignee or transferee who shall expressly assume all of the covenants, agreements and obligations of the Developer under this Agreement to be performed and observed on the Developer's part thereafter arising in respect to the Development (and shall be deemed a "Developer" under the terms of this Agreement), by written and recordable instrument reasonably satisfactory to the City filed in the New Haven Land Records. Notwithstanding the foregoing, the City shall have a first option to purchase the portion of the Property in question upon the terms and conditions of the proposed sale, assignment, or transfer by the Mortgagee, such option to be exercised within thirty (30) days of the City receiving notice from the Mortgagee in question.

(F) In the event a Mortgagee, or its assignee, transferee, or designee completes the construction of any portion of the Phase I Developer Improvements in accordance with this Agreement (other than time limitations), the Mortgagee may sell, assign or transfer fee simple title to the Phase I Land to any purchaser, assignee or transferee, without restriction as to the consideration to be received and without the City's consent, provided that if such sale, assignment or transfer is prior to the issuance of the Phase I Certificate of Completion, the purchaser, assignee or transferee expressly assume all of the covenants, agreements, and obligations under this Agreement applicable to the portion of the Phase I Land so transferred which have not yet been performed and which survive the issuance of the Phase I Certificate of Completion by written instrument, reasonably satisfactory to the City and recorded in the New Haven Land Records.

(G) In the event a Mortgagee, or its assignee, transferee, or designee completes the construction of any portion of the Phase II Developer Improvements in accordance with this Agreement (other than time limitations), the Mortgagee may sell, assign or transfer fee simple title to the Phase II Land to any purchaser, assignee or transferee, without restriction as to the consideration to be received and without the City's consent, provided that if such sale, assignment or transfer is prior to the issuance of the Phase II Certificate of Completion , the purchaser, assignee or transferee expressly assume all of the covenants, agreements, and obligations under this Agreement applicable to the portion of the Phase II Land so transferred which have not yet been performed and which survive the issuance of the Phase II Certificate of Completion by written instrument, reasonably satisfactory to the City and recorded in the New Haven Land Records.

(H) If a Mortgagee, or its assignee, transferee, or designee acquires the Developer's estate in any portion of the Property after issuance of a Certificate of Completion, the Mortgagee shall comply with the applicable provisions of this Agreement which have not yet been performed and which survive the issuance thereof. In the event a Mortgagee, or its assignee, transferee, or designee acquires the Developer's estate in any portion of the Property, the City agrees to enter into a new Agreement ("New Agreement") with such Mortgagee or its designee upon the terms, covenants and conditions (but excluding requirements which are not applicable or which have already been fulfilled) of this Agreement, provided that the City will consider reasonable modifications of this Agreement with any succeeding Mortgagee, to take account of commercial conditions then existing, provided that any such proposed modification not affect the obligation of the Developer set forth herein.

(I) Notwithstanding anything contained in this Article XI or this Agreement, the parties agree that the rights and obligations of the Developer, or any Mortgagee, or its assignee, transferee, or designee, that acquires the Developer's estate in any portion of the Property, under this Agreement may be affected by changes in the then-prevailing financial and real estate market conditions from time to time, and,

in which event, the City and the Developer, or any Mortgagee, or its assignee, transferee, or designee, that acquires the Developer's estate in any portion of the Property, shall, acting reasonably and in good faith, work diligently to collaborate in identifying a mutually agreeable modification to any such obligation of the Developer affected by such changes in the financial and real estate market conditions. Notwithstanding the foregoing, the parties agree that any such modification shall not affect the Minimum Project Requirements or the parties' obligations with respect to the Project Schedule under Section 6.1 of this Agreement.

(J) The rights of the Mortgagee under this Article XI shall extend to any assignee, transferee or designee of Mortgagee.

Section 11.3 **Notice of Default to Mortgagee**

(A) The City shall simultaneously deliver any Default Notice to the Mortgagee at the address theretofore designated by the Mortgagee at the same time as it delivers a Default Notice to the Developer. Any such Default Notice shall be delivered in the same manner provided in this Agreement for delivering notices between the City and Developer.

(B) Mortgagee shall have the right, but not the obligation, to perform any term, covenant, or condition and to remedy any default by the Developer under this Agreement within the applicable time period afforded the Developer, plus an additional period of thirty (30) days, which period shall be reasonably extended if the default is not in the payment of money and a Mortgagee commences to remedy the default within such period and thereafter diligently prosecutes such remedy to completion.

(C) In the event that a Mortgagee elects to cure a default occasioned by the failure of the Developer to commence or complete the construction work in accordance with this Agreement, then, upon completion of such construction work, such curing Mortgagee or its permitted assignee shall be entitled to a Phase I Certificate of Completion, a Phase II Certificate of Completion, or (if appropriate) a Partial Certificate of Completion for Completed Space, all in accordance with

the provisions of Article X of this Agreement. Upon issuance of any such Certificate of Completion, all rights of the City arising as a result of a Developer Default with respect to the phase or the Completed Space in question shall terminate.

Section 11.4 **Condition of Property and Environmental Indemnification**

(A) The Developer hereby acknowledges and agrees that the City shall convey the Property to the Developer in an "as is" condition.

(B) The Developer shall indemnify, defend and hold harmless City and its officials, employees and agents from and against any and all liability, fines, suits, claims, demands, judgments, actions, or losses, penalties, damages, costs and expenses of any kind or nature, including, without limitation, reasonable attorneys' fees made or asserted by anyone whomsoever, due to or arising out of any Environmental Conditions on the Property, including Existing Environmental Conditions, but excluding any Environmental Conditions first arising after the date the Developer takes title to the Property which are caused or contributed to by the City or its agents, contractors or employees. If the Developer is required to defend any such action or proceeding to which action or proceeding the City is a party, the City shall be entitled to appear, defend, or otherwise take part in the matter involved, at the City's election (and sole cost and expense), by counsel of its own choosing, provided that any such action does not limit or make void any liability of any insurer hereunder with respect to the claim or matter in question. This indemnification shall expire at the termination or expiration of this Agreement.

ARTICLE XII

DEFAULT AND REMEDIES

Section 12.1 **Default by Developer and City Remedies**

(A) The occurrence of (i) an Event of Bankruptcy or (ii) any failure by the Developer to perform any obligation under this Agreement where such Event of Bankruptcy or failure to perform any obligation under this Agreement shall continue for more than thirty (30) days after the City's written notice of such event or failure (the

"Default Notice") is received by the Developer and the Developer shall fail to provide a response to the Default Notice specifying the actions undertaken or to be undertaken to effect a cure within thirty (30) days after receipt of the Default Notice, or shall respond to the Default Notice but shall fail to effect the cure specified in such response, shall be an event of default by the Developer ("Developer Default"); provided, however, that the Developer shall not be in default with respect to any matter referred to in a Default Notice which is susceptible of cure but cannot be reasonably cured within said thirty (30) day period, so long as the Developer responds to the Default Notice and sets out a reasonable plan and schedule to effect a cure and thereafter makes reasonable efforts to complete the same in accordance with such schedule.

(B) Except as otherwise provided in this Agreement, and subject to the provisions of Section 12.4 below, if a Developer Default occurs, the City shall be entitled to pursue its rights and remedies pursuant to this Agreement or as may otherwise be available at law or in equity.

Section 12.2 **Default by City and Developer Remedies**

(A) The occurrence of an (i) Event of Bankruptcy or (ii) any failure by the City to perform any obligation under this Agreement where such event or failure shall continue for more than thirty (30) days after the Developer's written notice of such event or failure (the "Default Notice") is received by the City and the City shall fail to provide a response to the Default Notice specifying the actions undertaken or to be undertaken to effect a cure within thirty (30) days after receipt of the Default Notice, or shall respond to the Default Notice but shall fail to effect the cure specified in such response shall be an event of default by the City ("City Default"); *provided, however,* that the City shall not be in default with respect to any matter referred to in a Default Notice which is susceptible of cure but cannot be reasonably cured within said thirty (30) day period, so long as the City responds to the Default Notice and sets out a reasonable plan and schedule to

effect a cure and thereafter makes reasonable efforts to complete the same in accordance with such schedule.

(B) Notwithstanding the foregoing, it is hereby agreed, stipulated and understood that with respect to City Improvements (and provided that the City shall have used all reasonable best efforts to achieve the Phase I Construction Conditions Precedent and, thereafter, the Phase II Construction Conditions Precedent) the City shall only be in default under this Agreement for failure to carry out the City Improvements (or any portion thereof) in the event that:

i. the Phase I Construction Conditions Precedent are satisfied, but (and in the absence of any waivers by the Developer as more particularly described in Section 6.1 above) the City shall then fail to carry out the Phase I City Improvements in accordance with the Phase I City Improvements Schedule then existing, subject to all other provisions of this Agreement including, without limitation, Excusable Delay, or

ii. the Phase II Construction Conditions Precedent have been satisfied, but the City shall then fail to carry out the Phase II City Improvements in accordance with the Project Schedule then existing, subject to all other provisions of this Agreement including, without limitation, Excusable Delay.

(C) Notwithstanding the foregoing, it is agreed and understood that to the extent that the Phase I Construction Conditions Precedent are satisfied, but unforeseen circumstances prevent the completion of the Phase I City Improvements, then the City shall notify the Developer in writing of such unforeseen circumstances, and the City and Developer shall meet to discuss potential solutions to the problems resulting from the unforeseen circumstances, and provided that the City shall continue to use all reasonable best efforts to carry out the Phase I City Improvements despite such unforeseen circumstances then the City shall not be in default under this Agreement. In the event that the Developer does not elect to use any of its options under Section 6.1 of this Agreement, then the City agrees to

remain committed to the Project and the Phase I City Improvements and to collaborate with the Developer in reaching a mutually agreeable solution.

(D) Notwithstanding the foregoing, it is agreed and understood that to the extent that the Phase II Construction Conditions Precedent are satisfied, but unforeseen circumstances prevent the completion of the Phase II City Improvements, then the City shall notify the Developer in writing of such unforeseen circumstances and the City and Developer shall meet to discuss potential solutions to the problems resulting from the unforeseen circumstances and provided that the City shall continue to use all reasonable best efforts to carry out the Phase I City Improvements despite such unforeseen circumstances then the City shall not be in default under this Agreement. In the event that the Developer does not elect to use any of its options under Section 6.1 of this Agreement, then the City agrees to remain committed to the Project and the Phase II City Improvements and to collaborate with the Developer in reaching a mutually agreeable solution.

(E) Except as otherwise provided in this Agreement, and subject to the provisions of Section 12.4 below, if a City Default occurs, the Developer shall be entitled to pursue its rights and remedies pursuant to this Agreement or as may otherwise be available at law or in equity.

Section 12.3 **Excusable Delay**

A delay or failure by the Developer or the City to comply with any time limits which are imposed upon the performance of the parties hereto by the terms of this Agreement due to an Excusable Delay shall not constitute a City Default or a Developer Default under this Agreement.

Section 12.4 **Dispute Resolution Procedure**

(A) The City and the Developer, agree that they shall endeavor to resolve any dispute that may arise under this Agreement through the Dispute Resolution Procedure prior to filing suit in court and prior to terminating this Agreement on account of a City Default or a Developer Default. Any party may initiate the Dispute Resolution Procedure by providing a Notice of Conflict to the other party setting

forth: (i) the subject of the dispute; (ii) the party's position; and (iii) the relief requested. Within five (5) business days of delivery of the Notice of Conflict, the receiving party shall respond in writing with a statement of its position.

(B) At the request of any party, representatives of each party with full settlement authority shall meet ("Initial Meeting") at a mutually acceptable time and place in the City within ten (10) days of the Notice of Conflict in order to attempt to negotiate in good faith a resolution to the dispute.

(C) If the dispute is not resolved by the parties through Initial Meeting, then either party may commence binding arbitration under the rules and procedures of the American Arbitration Association ("AAA"), which is hereby agreed to be the designated arbitrating party hereunder. Such arbitration shall take place in the City of New Haven and shall be final and binding. Each party shall pay its costs and expenses with respect to such arbitration.

(D) Notwithstanding the foregoing, the City and the Developer may mutually agree to submit the dispute to mediation under the Commercial or Construction Mediation Procedures of the AAA, whichever procedure is appropriate to the dispute among the parties, in effect on the Effective Date of the Agreement, or under such other rules as the parties may agree upon. Mediation shall be with the AAA, or, if agreed upon, through use of a private mediator chosen by the parties. Mediation shall occur in New Haven, Connecticut or as otherwise agreed upon. The mediator's fees and the filing fees, if any, shall be shared equally. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. If the parties agree to mediation, the conclusion of mediation proceedings shall be a condition precedent to arbitration. The parties shall conclude mediation proceedings within (60) days after the designation of the mediator.

(E) Notwithstanding the foregoing, the City and the Developer may mutually agree to refer the dispute for an advisory opinion to a neutral party who shall be retained by the parties, and such neutral shall establish such procedures as will allow him or her to promptly consider the dispute and issue a written advisory opinion with

regard to the issues in dispute. Costs and fees for the neutral shall be equally shared by the parties to the dispute. Third parties relevant to the adjudication of the dispute may be added to the advisory opinion proceedings if agreed to by the parties. The parties agree that the neutral's advisory opinion shall not be admissible in subsequent litigation. If an advisory opinion is agreed upon as a procedure, it shall be a condition precedent to arbitration.

(F) No passage of time or delay caused by pursuit of Dispute Resolution Procedure will prejudice the rights of any party, provided that the party seeking use of the Dispute Resolution Procedure has complied with the requirements for giving the Notice of Conflict. At the request of either party, the parties shall enter into an agreement to extend the statute of limitations with respect to the subject matter of the dispute for the period of time in which the procedures described above are being utilized. Although any party may commence litigation during the Dispute Resolution Procedure is being pursued, for tolling purposes only, such party must request that the Court stay the case until such time as completion of such Dispute Resolution Procedure.

ARTICLE XIII

GENERAL PROVISIONS

Section 13.1 **Notices**

(A) Except as otherwise provided in this Agreement, any notice or approval required or permitted to be given under this Agreement shall be in writing and shall be given by certified mail return receipt requested or by overnight delivery courier or such other means as may be agreed to by the parties in writing with a copy addressed to the party for whom it is intended as follows:

IF TO THE DEVELOPER: Live Work Learn Play New Haven LLP
c/o Live Work Learn Play Inc
147 St. Paul West, Suite 100
Montreal, Quebec, Canada H2Y 1Z5
Attention: Max Reim

with copies to:

Robinson Sheppard Shapiro
4600-800 du Square Victoria
Montreal, QC, Canada H4Z 1H6
Attention: Eric Boulva & Herb Pinchuk

and to:

IF TO THE CITY:

Economic Development Administrator
City of New Haven
165 Church Street
New Haven, CT 06510
Attention: Kelly Murphy, AICP

with copies to:

City of New Haven
165 Church Street
New Haven, CT 06510
Attention: John R. Ward
Special Counsel for Economic Development

(B) Any notice or approval required or permitted to be given under the insurance obtained by the City or the Developer in connection with this Agreement shall be in writing and shall be given by certified mail return receipt requested or by overnight delivery courier or such other means as may be agreed to by the parties in writing with a copy addressed to the party for whom it is intended as follows

IF TO THE DEVELOPER:

Live Work Learn Play New Haven LLP
c/o Live Work Learn Play Inc
147 St. Paul West, Suite 100
Montreal, Quebec, Canada H2Y 1Z5
Attention: Max Reim

IF TO THE CITY:

Corporation Counsel
City of New Haven
165 Church Street
New Haven, CT 06510
Attention: Victor A. Bolden

with copies to:

Controller
City of New Haven
165 Church Street
New Haven, CT 06510
Attention: Mike O'Neil

Public Works Director
City of New Haven
165 Church Street

New Haven, CT 06510
Attention: Douglas Arndt

Each party shall have the right to change the place or person or persons to which notices, requests, demands, and communications hereunder shall be sent or delivered by delivering a notice to the other parties in the manner required above.

Notice shall be deemed to have been given or made upon (i) the next business day after delivery to a regularly scheduled overnight delivery carrier with delivery fees prepaid, if notice is sent by overnight carrier; (ii) receipt if notice is sent by certified mail; or (iii) when agreed to by the parties in writing.

Section 13.2 No Waiver

No failure on the part of the City, or the Developer to enforce any covenant or provision herein contained, nor any waiver of any right hereunder by any other party, shall discharge or invalidate such covenant or provision or affect the right to enforce the same in the future. No default shall be deemed waived by any party unless such waiver is in writing and designated as such and signed by such party, and such waiver shall not be a continuing waiver but shall apply only to the instance of default for which it is granted.

Section 13.3 Rights Cumulative

The rights and remedies conferred upon any party hereby are in addition to any rights or remedies to which any party may be entitled to at law or in equity, except as otherwise provided in this Agreement.

Section 13.4 Successors

This Agreement shall be binding upon and inure to the benefit of the respective successors and assigns of the City and the Developer, provided that this Section shall not authorize any assignment not permitted by this Agreement under Article XI.

Section 13.5 Severability

If any term, provision or condition contained in this Agreement shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term, provision or

condition to persons or circumstances (other than those in respect of which it is invalid or unenforceable) shall not be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

Section 13.6 Governing Law and Jurisdiction

This Agreement is made in the State of Connecticut and shall be governed by and construed in accordance with the internal laws of the State of Connecticut, without regard to its conflicts of law principles. The parties consent and agree that the state courts of Connecticut shall have jurisdiction over any dispute arising under this Agreement. The parties further consent and agree that the federal courts sitting in Connecticut shall also have jurisdiction over any dispute arising under this Agreement if such courts have subject matter jurisdiction over the dispute.

Section 13.7 No Partnership, Joint Venture or Agency

Nothing contained herein or done pursuant hereto shall be deemed to create, as among the parties to this Agreement, any partnership, joint venture or agency relationship.

Section 13.8 Consents

Where consents, approval, waiver or acceptance of work by the City is required to any action (or inaction) pursuant to the provisions of this Agreement, other than land use approvals, building permits and certificates of occupancy, unless otherwise provided by this Agreement, such consent, approval, waiver or acceptance of work may be granted (or denied) by the Economic Development Administrator.

Section 13.9 Counterparts

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

Section 13.10 Members and Officers Barred From Interest

No member, official or employee of the City shall have any personal interest, direct or indirect, in this Agreement or the Developer, nor shall any such member, official, or employee participate in any decision relating to this Agreement which affects his or her personal interest or the interests of any corporation, partnership, or association in which he or she is directly or indirectly

interested. No member, official or employee of the City shall be personally liable to the Developer or any successor in interest in the event of any default by the City for any amount which may become due to the Developer or to its successor or with respect to any other obligations arising under the terms and conditions of this Agreement.

Section 13.11 Gender

Whenever herein used and the context so permits, the singular shall be construed to include the plural and the masculine or neuter shall be constructed to include both and the feminine gender.

Section 13.12 Estoppel Certificate

The parties agree that any time prior to the Phase II Certificate of Completion, upon the request of any party, the receiving party shall within fourteen (14) days of receipt deliver to the requesting party a recital of factual matters as requested including without limitation indicating that the requesting party is in compliance with all covenants and agreements binding upon the requesting party under this Agreement to the best knowledge of the receiving party, provided such is the case.

Section 13.13 No Third-Party Beneficiaries

This Agreement is made solely and specifically among and for the benefit of the parties hereto and their successors and assigns, where permitted, and no other person is to have any rights, interests or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.

Section 13.14 Survival

All provisions and conditions of this Agreement which by their terms are to be performed or satisfied prior to the transfer of the Property shall be deemed to be satisfied upon such transfer and shall not survive the transfer, unless the parties have waived or extended the time for performance by a written instrument as provided elsewhere in this Agreement or unless such provisions expressly provide for their survival after the transfer of the Property. All other provisions shall survive the transfer of the Property and shall expire upon the expiration of this Agreement or, if earlier, in accordance with the express provisions of this Agreement, including (without prejudice to the generality of the foregoing), the satisfaction of the construction

obligations of the Developer hereunder, as evidenced by the issuance of a Certificate of Completion.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth above.

In the presence of:

Jorge L. Perez

Chris Cannon

Approved as to form and correctness:

John R. Ward
Special Counsel to Economic Development

City of New Haven

By_____
John DeStefano, Jr.
Its Mayor
Duly Authorized to act herein

In the presence of:

Kelly Murphy

Chris Cannon

Live Work Learn Play New Haven LLP
Represented herein by its Manager,
Live Work Learn Play Inc.

By_____
Max Reim
Its President
Duly Authorized to act herein

In the presence of:

Kelly Murphy

Chris Cannon

Live Work Learn Play Inc.

By_____
Max Reim
Its President
Duly Authorized to act herein

STATE OF CONNECTICUT)

COUNTY OF NEW HAVEN)

On this 12th day of December, 2013, before me, the undersigned officer, personally appeared JOHN DESTEFANO, JR., who acknowledged himself to be the Mayor of the City of New Haven, and that as such Mayor, being authorized so to do by the Board of Aldermen, executed the foregoing instrument for the purposes contained therein, by signing on behalf of the City of New Haven, said act being the free act and deed of the City of New Haven and his free act and deed as such Mayor.

~~Notary Public~~
~~Commission expires~~:
Commissioner of the Superior Court

STATE OF CONNECTICUT)

COUNTY OF NEW HAVEN)

On this 12th day of December, 2013, before me, the undersigned officer, personally appeared Max Reim, who acknowledged himself to be the President of Live Work Learn Play Inc. acting as Manager of Live Work Learn Play New Haven LLP, and that as such President, being authorized so to do, executed the foregoing instrument for the purposes contained therein, by signing on behalf of Live Work Learn Play New Haven LLP, as his free act and deed.

~~Notary Public~~
~~Commission expires~~:
Commissioner of the Superior Court

STATE OF CONNECTICUT)

COUNTY OF NEW HAVEN)

On this 12th day of December, 2013, before me, the undersigned officer, personally appeared Max Reim, who acknowledged himself to be the President of Live Work Learn Play Inc, and that as such President, being authorized so to do, executed the foregoing instrument for the purposes contained therein, by signing on behalf of Live Work Learn Play Inc, as his free act and deed as such President.

~~Notary Public~~
~~Commission expires~~:
Commissioner of the Superior Court

Exhibit A
Permitted Encumbrances

None

Exhibit B
City Improvements Description

In its current form, the elevated configuration of Route 34, as it enters the city and truncates Orange Street, is a physical, visual, psychological, and economic development barrier, bisecting the City and significantly reducing the potential of leveraging investment and infrastructure to generate anchor business, institutional and transit-oriented development ("TOD"). The south half of the Property currently backs onto an elevated highway abutment of Route 34, which condition severely impacts the development and job-creation potential of the Property.

The Developer's large-scale, mixed-use, regional development vision for the Property is predicated on improvements to these existing physical conditions in order to create a context conducive to the Project, business attraction and retail activation. Combined, the City Improvements outlined below will create stronger vehicular, pedestrian and bicycle connections to nearby public transit and the broader City. They will also increase visibility, flow, access to, and general perceptions of safety around the Property and its adjacent lands – all setting the stage for positive development and maximizing opportunities for attracting the critical mass of targeted businesses to the development. The City and the Developer also recognize that a phased project across many years may be subject to circumstances that are currently unanticipated and may require altering the project details while preserving the City and the Developer's shared vision, and accordingly modifications to the timing and precise description of the City Improvements may take place as the Project unfurls provided that the overall vision is maintained.

Phase I City Improvements

The core elements of the Phase I City Improvements are as follows:

(A) The Intersection of South Orange Street and Reverend Dr. Martin Luther King Boulevard

i. The intersection will be a 90 degree, T-type, at-grade intersection

ii. Orange Street will have a four lane, two way configuration

iii. The Air Rights Garage westbound service drive entrance will be located to the west of South Orange Street

(B) The Pedestrian Environment on State Street under the Route 34 overpass

i. The underpass will be redesigned with lighting, signage, landscaping, music, public art and sidewalk surface reconstruction to transform the overpass into an inviting environment for pedestrians

(C) The Water Street Bike Lane

i. The buffered bike lane currently planned for Water Street will be extended to the South Orange Street and Reverend Dr. Martin Luther King Boulevard intersection

(D) Highway Transition to Urban Boulevard

i. Traffic calming, landscaping, lighting and signage features to be incorporated along Route 34 on the approach to South Orange Street intersection will beautify this entryway into the city, and ensure that the quality and memorable sense of arrival to downtown begins earlier, sending appropriate signals to motorists to slow down as they enter an urbanized context.

ii. The I-95 and I-91 highway/ramps should transition to grade at the Coliseum site easterly extremity into an urban boulevard, intersecting with Orange in the T-configuration

iii. Roadside measures such as landscaping, signage and streetlights should be used to create visual indication to motorists that they have transitioned to a city street condition

(E) Stormwater Improvements to Route 34 Corridor

i. The proposed first element is the construction of a subsurface detention and infiltration system below South Frontage Road. The prosed system will provide 5.8 acre feet of subsurface storage for stormwater runoff that historically had drained into the Route 34 flooding area. The water stored in these chambers would either be released when flood waters receded or would infiltrate into the ground and recharge groundwater.

ii. The second element of this project is creating a water amenity and additional stormwater storage in open space near the Route 34 and I-95 ramps.

Phase II City Improvements

The core elements of the Phase II City Improvements are as follows:

(A) A multi-modal, at-grade South Orange Street reconnected across the current Route 34 Corridor

(B) Roadside measures such as landscaping, signage and streetlights used to create visual indication to motorists that they have transitioned to a City street condition and to provide a comfortable and inviting atmosphere for cyclists and pedestrians

- 18,700 square feet of retail
- 200,000 square feet of office

The Developer anticipates completing the Phase II Developer Improvements in 2020.

Exhibit C
Developer Improvements Description

Through a two year planning process, the City and the Developer developed a shared aspirational vision for the Property as a human-scale, mixed-use, community-gathering place centered on an activated public square and laneway, consisting of 719 residential rental units (20% of which will be Affordable), 76,900 square feet of retail, 160 hotel rooms, 200,000 square feet of class A office, 52,620 square feet of public space and 785 parking spaces. While the exact combination, detail and amount of each of the aforementioned uses may change due to unanticipated circumstances, the City and the Developer share a clear aspiration to create a vibrant, pedestrian and transit-oriented setting that grows New Haven's jobs and tax base, and have structured this Agreement as such.

The City and the Developer also recognize that a phased project across many years may be subject to circumstances that are currently unanticipated and may require altering the project details while preserving the City and the Developer's shared vision. For that reason the City and the Developer have agreed to Minimum Project Requirements, as described in Section 5.5 of this Agreement, which provide long-term flexibility for the Project, but preserve the overall project vision.

Phase I Developer Improvements

The City and the Developer's vision for the Phase I Developer Improvements is as follows:

- 342 residential units
- 58,200 square feet of retail
- 160 hotel rooms
- 52,630 square feet of public space.

The Developer anticipates completing the Phase I Developer Improvements in 2017.

Phase II Developer Improvements

The City and the Developer's vision for the Phase II Developer Improvements is as follows:

- 377 residential units

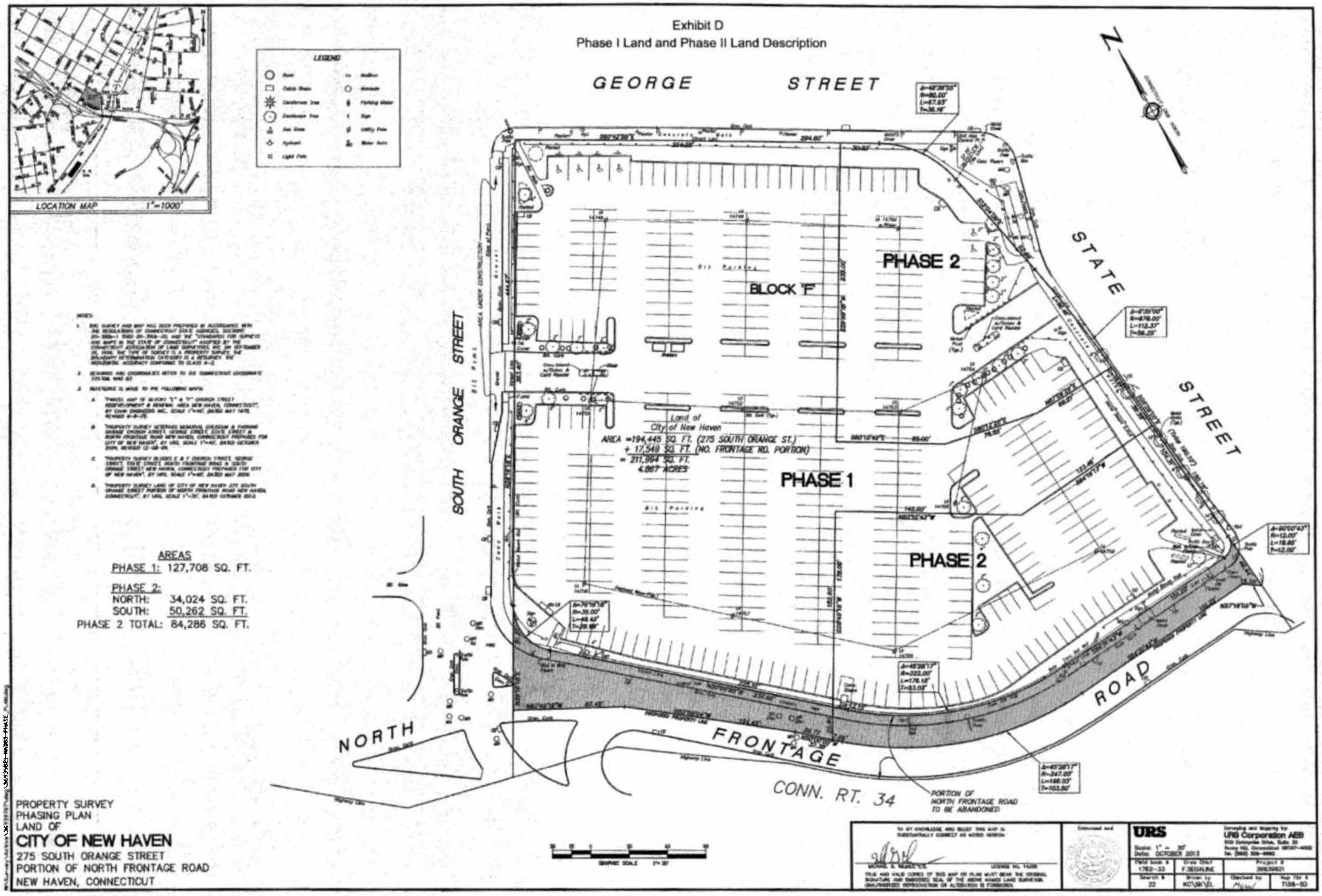


Exhibit D
Phase I Land and Phase II Land Description
GEORGE STREET
STATE STREET
SOUTH ORANGE STREET
NORTH FRONTAGE ROAD
CONN. RT. 34
LOCATION MAP 1"=1000'
BLOCK 'F'
PHASE 2
PHASE 1
PHASE 2
Land of
City of New Haven
AREA =194,445 SQ. FT. (275 SOUTH ORANGE ST.)
+ 17,549 SQ. FT. (NO. FRONTAGE RD. PORTION)
= 211,994 SQ. FT.
4.867 ACRES
AREAS
PHASE 1: 127,708 SQ. FT.
PHASE 2:
NORTH: 34,024 SQ. FT.
SOUTH: 50,262 SQ. FT.
PHASE 2 TOTAL: 84,286 SQ. FT.
PORTION OF
NORTH FRONTAGE ROAD
TO BE ABANDONED
PROPERTY SURVEY
PHASING PLAN
LAND OF
CITY OF NEW HAVEN
275 SOUTH ORANGE STREET
PORTION OF NORTH FRONTAGE ROAD
NEW HAVEN, CONNECTICUT
URS

Exhibit D
Phase I Land and Phase II Land Description

October 31, 2013

Land of City of New Haven
Phase 1
275 South Orange Street, a.k.a. Block F
Portion of North Frontage Road
New Haven, Connecticut

DESCRIPTION

A certain piece or parcel of land located in the City and County of New Haven and State of Connecticut being shown as Phase 1 on a map entitled "Property Survey Phasing Plan Land of City of New Haven 275 South Orange Street Portion of North Frontage Road New Haven, Connecticut", by URS, scale 1"=30', dated October 2013, said parcel being more particularly bounded and described as follows:

Beginning at a point marking the intersection of the southerly street line of George Street and the easterly street line of South Orange Street;

Thence running South 60° 42' 55" East, 254.28 feet along said southerly street line of George Street;

Thence running South 29° 49' 18" West, 233.00 feet, South 60° 10' 42" East. 85.00 feet, South 80° 12' 25" East, 75.55 feet and North 87° 09' 29" East, 68.21 feet along the northerly Phase 2 parcel;

Thence running southerly on a curve to the right having a radius of 978.00 feet and an arc length of 15.91 feet and South 05° 29' 00" East, 39.35 feet along the westerly street line of State Street;

Thence running South 84° 16' 17" West, 123.46 feet, North 60° 10' 42" West, 145.00 feet and South 29° 49' 18" West, 178.00 feet along the southerly Phase 2 parcel;

Thence running North 50° 00' 00" West, 29.72 feet, North 52° 58' 04" West, 134.45 feet and North 62° 49' 18" West, 87.45 feet along the centerline of North Frontage Road;

Thence running North 29° 16' 18" East, 444.67 feet along the easterly street line of South Orange Street to the point and place of beginning.

Containing 127,708 square feet

Exhibit D
Phase I Land and Phase II Land Description

Land of City of New Haven
Phase 2
275 South Orange Street, a.k.a. Block F
Portion of North Frontage Road
New Haven, Connecticut

DESCRIPTION

Those certain pieces or parcels of land located in the City and County of New Haven and State of Connecticut being shown as Phase 2 on a map entitled "Property Survey Phasing Plan Land of City of New Haven 275 South Orange Street Portion of North Frontage Road New Haven, Connecticut", by URS, scale 1"=30', dated October 2013, said parcels being more particularly bounded and described as follows:

Phase 2 – Northerly Parcel

Beginning at a point on the southerly street line of George Street marking the northwesterly corner of the herein described parcel, said point being located South 60° 42' 55" East, 254.28 feet from the intersection of the southerly street line of George Street and the easterly street line of South Orange Street when measured along said southerly street line of George Street;

Thence running South 60° 42' 55" East, 30.32 feet along said southerly street line of George Street;

Thence running southeasterly on a curve to the right having a radius of 80.00 feet and an arc length of 67.93 feet along a curve connecting the southerly street line of George Street and the westerly street line of State Street;

Thence running South 12° 04' 00" East, 92.89 feet and southerly on a curve to the right having a radius of 978.00 feet and an arc length of 96.46 feet along the westerly street line of State Street;

Thence running South 87° 09' 29" West, 68.21 feet, North 80° 12' 25" West, 75.55 feet, North 60° 10' 42" West. 85.00 feet and North 29° 49' 18" East, 233.00 feet along the Phase 1 parcel to the point and place of beginning.

Containing 34,024 square feet

Phase 2 – Southerly Parcel

Beginning at a point marking the intersection of the westerly street line of State Street and the northerly centerline of North Frontage Road;

Thence running North 57° 18' 09" West, 15.28 feet, South 84° 31' 43" West, 151.22 feet, westerly on a curve to the right having a radius of 247.00 feet and an arc length of 196.03 feet and North 50° 00' 00" West, 7.66 feet along the centerline of North Frontage Road;

Thence running North 29° 49' 18" East, 178.00 feet, South 60° 10' 42" East, 145.00 feet and North 84° 16' 17" East, 123.46 feet along the Phase 1 parcel;

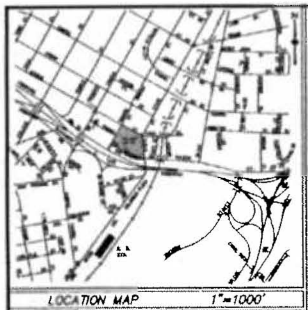
Exhibit D
Phase I Land and Phase II Land Description

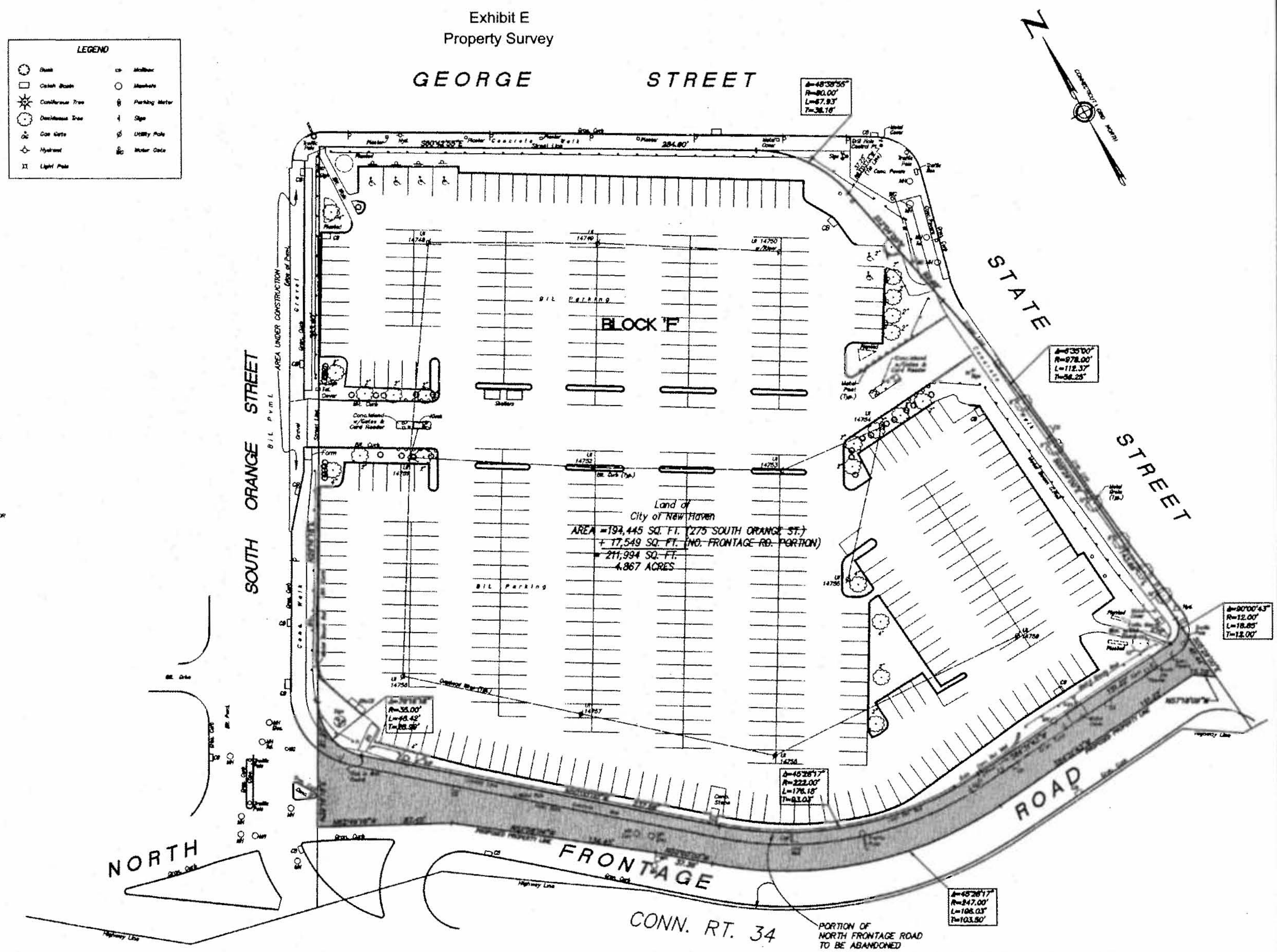
Thence running South 05° 29' 00" East, 150.75 feet along the westerly street line of State Street to the point and place of beginning.

Containing 50,262 square feet

36939821des Phase 2

Exhibit E
Property Survey





NOTES:

1. THIS SURVEY AND MAP HAS BEEN PREPARED IN ACCORDANCE WITH THE REGULATIONS OF CONNECTICUT STATE AGENCIES SECTIONS 20-300b-1 THRU 20-300b-20, AND THE "STANDARDS FOR SURVEYS AND MAPS IN THE STATE OF CONNECTICUT" ADOPTED BY THE CONNECTICUT ASSOCIATION OF LAND SURVEYORS, INC. ON SEPTEMBER 26, 1996. THE TYPE OF SURVEY IS A PROPERTY SURVEY. THE BOUNDARY DETERMINATION CATEGORY IS A RESURVEY. THE HORIZONTAL ACCURACY CONFORMS TO CLASS A-2.
2. BEARINGS AND COORDINATES REFER TO THE CONNECTICUT COORDINATE SYSTEM, NAD 83.
3. REFERENCE IS MADE TO THE FOLLOWING MAPS:
   A. "PARCEL MAP OF BLOCKS "E" & "F" CHURCH STREET REDEVELOPMENT & RENEWAL AREA NEW HAVEN, CONNECTICUT", BY CAHN ENGINEERS INC., SCALE 1"=40', DATED MAY 1975, REVISED 6-8-75.
   B. "PROPERTY SURVEY VETERANS MEMORIAL COLISEUM & PARKING GARAGE CHURCH STREET, GEORGE STREET, STATE STREET & NORTH FRONTAGE ROAD NEW HAVEN, CONNECTICUT PREPARED FOR CITY OF NEW HAVEN", BY URS, SCALE 1"=40', DATED OCTOBER 2004, REVISED 12-08-04.
   C. "PROPERTY SURVEY BLOCKS E & F CHURCH STREET, GEORGE STREET, STATE STREET, NORTH FRONTAGE ROAD & SOUTH ORANGE STREET NEW HAVEN, CONNECTICUT PREPARED FOR CITY OF NEW HAVEN", BY URS, SCALE 1"=40', DATED MAY 2008.
4. SOUTH ORANGE STREET IS CURRENTLY UNDER CONSTRUCTION.

PROPERTY SURVEY
LAND OF
CITY OF NEW HAVEN
275 SOUTH ORANGE STREET
PORTION OF NORTH FRONTAGE ROAD
NEW HAVEN, CONNECTICUT

URS
Surveying and Mapping by
URS Corporation AES
Scale: 1" = 30'
Date: OCTOBER 2013

Exhibit F
Project Schedule

This estimated schedule assumes Board of Alderman approval for this Agreement in 2013 as well as traffic and design approvals from the Connecticut Department of Transportation and sufficient funding from the State of Connecticut.

Phase I City Improvements	
10% Preliminary Engineering (PE) - Eastbound Only	**Target Date**
Draft 10% PE Report	11/11/2013
Final PE Report - CTDOT, FHWA, City Approval	12/31/2013
30% Preliminary Design	
Start PD	1/1/2014
30% PD Submission	3/1/2014
Final PD Report - CTDOT, FHWA, City Approval	3/15/2014
Permits	
Submit Permit Applications to Agencies	3/1/2014
Receive Last Permit	10/1/2014
Final Design (FD)	
Submit Semi-Final Plans (60%)	5/15/2014
Submit Final Plans (90%)	8/15/2014
Submit FD Plans (100%)	10/15/2014
Design Completion Date	11/1/2014
Contract Formation and Construction	
Advertise for Bids	11/1/2014
Bid Date	12/15/2014
Award	3/1/2015
Notice to Proceed 1- Administrative	4/1/2015
Notice to Proceed 2 - Construction	5/1/2015
Construction Completion Date	5/1/2016
Phase I Developer Improvements	
Permits	
Connecticut DEEP (if required)	2/30/2014
Connecticut Office of the State Traffic Administration	2/30/2014
City Plan Site Plan Approval	4/30/2014
Construction	
Residential / Retail Construction Start Date	8/1/2014
Public Space Construction Start Date	8/1/2014
Hotel Construction Start Date	6/1/2017

Exhibit F
Project Schedule

The estimated schedule for Phase II City Improvements and Phase II Developer Improvements is dependent on the Phase I Schedule, traffic and design approval from the Connecticut Department of Transportation and sufficient funding from the State of Connecticut as well as future market feasibility.

Phase II City Improvements	
10% Preliminary Engineering (PE) - Eastbound Only	**Target Month**
Draft 10% PE Report	1/1/2016
Final PE Report - CTDOT, FHWA, City Approval	2/1/2016
30% Preliminary Design	
Start PD	3/1/2016
30% PD Submission	5/1/2014
Final PD Report - CTDOT, FHWA, City Approval	6/1/2016
Permits	
Submit Permit Applications to Agencies	4/1/2016
Receive Last Permit	12/1/2016
Final Design (FD)	
Submit Semi-Final Plans (60%)	8/1/2016
Submit Final Plans (90%)	11/1/2016
Submit FD Plans (100%)	12/1/2016
Design Completion Date	1/1/2017
Contract Formation and Construction	
Advertise for Bids	2/15/2017
Bid Date	4/1/2017
Award	5/1/2017
Notice to Proceed 1- Administrative	6/1/2017
Notice to Proceed 2 - Construction	7/1/2017
Construction Completion Date	7/1/2018
Phase II Developer Improvements	
Permits	
Connecticut DEEP (if required)	8/1/2017
Connecticut Office of the State Traffic Administration	8/1/2017
City Plan Site Plan Approval	8/1/2017
Construction	
Construction Start Date	8/1/2018

After Recording Return To:

Exhibit G
Form of Phase I Land Deed

Quit Claim Deed

KNOW ALL PEOPLE BY THESE PRESENTS, THAT:

THE CITY OF NEW HAVEN, a Connecticut municipality with an address of 165 Church Street, New Haven, Connecticut 06510 (the "**Releasor**"), for Ten Dollars ($10.00) and other valuable consideration received to its full satisfaction of [**LWLP ENTITY**], a [_____] with an address of c/o Live Work Learn Play, Inc., 147 St. Paul West, Suite 100, Montreal, Quebec H2Y 1Z5, Canada (the "**Releasee**"), does remise, release and forever QUIT CLAIM unto the said Releasee and its successors and assigns forever, all of the right, title, interest, claim and demand which the Releasor has or ought to have in and to all that certain piece or parcel of land, together with all buildings thereon, situated in the Town of New Haven, County of New Haven and State of Connecticut and known as [ADDRESS FOR PHASE I LAND], being more particularly bounded and described on **Exhibit A** attached hereto and made a part hereof (the "**Premises**").

The Premises are conveyed subject to the terms and conditions of that certain Development and Land Disposition Agreement between the Releasor and the Releasee dated as of _____, 2013, and recorded on _____, 2013 in Volume ___, Page ___ of the New Haven Land Records (the "Development and Land Disposition Agreement"). Without limiting the preceding sentence, the agreements and covenants contained in [SPECIFY SECTIONS] of the Development and Land Disposition Agreement shall be covenants running with the Premises for the term of the Agreement as set forth therein and are enforceable by the Releasor against Releasee, as applicable, and any successor in interest to the Premises, in each case without regard to whether the Releasor has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate, and are enforceable by the Releasee and its successors and assigns against the Releasor, as applicable.

The Premises are further conveyed subject to the Permitted Encumbrances as that term is defined in the Development and Land Disposition Agreement, including without limitation: [_____]. *[Each of the Permitted Encumbrances shall be set forth in the final Quit Claim Deed or in a separate easement instrument to be recorded contemporaneously therewith with specificity, including without limitation, the metes and bounds and legal descriptions thereof].*

Said Premises are conveyed together with easements, licenses and agreements from the Releasor to the Releasee, as provided for in the Development and Land Disposition Agreement, to provide *inter alia* for the right to construct, reconstruct, operate, use, repair and/or maintain the Developer Improvements, as that term is defined in the Development and Land Disposition Agreement, in, on, over, under, through, and across certain lands owned by the Releasor, including without limitation: [_____]. *[Said easements, licenses and agreements shall be set forth in the final Quit Claim Deed or in a separate easement instrument to be recorded contemporaneously therewith with specificity, including without limitation, the metes and bounds and legal descriptions thereof].*

TO HAVE AND TO HOLD the above remised, released and QUIT CLAIMED Premises with the appurtenances thereof, unto the said Releasee, and Releasee's successors and assigns forever, to it and their proper use and behoof, so that neither the Releasor nor Releasor's successors or assigns, nor any other person claiming in its or their name or behalf, shall hereafter have any claim, right or title in or to the Premises or any part thereof, but therefrom the Releasors and they are by these presents forever barred and excluded.

IN WITNESS WHEREOF, the Releasor has hereunto set its hand this _____ day of _____, 2013.

Signed, sealed and delivered
in the presence of:

THE CITY OF NEW HAVEN

_____
Print Name:

By:_____
John DeStefano, Jr.
Its Mayor

_____
Print Name:

Approved as to form and correctness:

_____
John R. Ward
Special Economic Development Counsel

STATE OF CONNECTICUT)
) ss. New Haven , 2013
COUNTY OF NEW HAVEN)

Personally appeared, John DeStefano Jr., as Mayor of the City of New Haven, one of the signers and sealers of the foregoing instrument, and acknowledged the same to be the free act and deed of the City of New Haven, and of himself as Mayor thereof, before me.

_____
Notary Public
My Commission Expires:_____

EXHIBIT A
LEGAL DESCRIPTION

[INSERT LEGAL DESCRIPTION FOR PHASE I LAND]

After Recording Return To:

Exhibit H
Form of Phase II Land Deed

Quit Claim Deed

KNOW ALL PEOPLE BY THESE PRESENTS, THAT:

THE CITY OF NEW HAVEN, a Connecticut municipality with an address of 165 Church Street, New Haven, Connecticut 06510 (the "**Releasor**"), for Ten Dollars ($10.00) and other valuable consideration received to its full satisfaction of [**LWLP ENTITY**], a [_____] with an address of c/o Live Work Learn Play, Inc., 147 St. Paul West, Suite 100, Montreal, Quebec H2Y 1Z5, Canada (the "**Releasee**"), does remise, release and forever QUIT CLAIM unto the said Releasee and its successors and assigns forever, all of the right, title, interest, claim and demand which the Releasor has or ought to have in and to all that certain piece or parcel of land, together with all buildings thereon, situated in the Town of New Haven, County of New Haven and State of Connecticut and known as [ADDRESS FOR PHASE II LAND], being more particularly bounded and described on **Exhibit A** attached hereto and made a part hereof (the "**Premises**").

The Premises are conveyed subject to the terms and conditions of that certain Development and Land Disposition Agreement between the Releasor and the Releasee dated as of _____, 2013, and recorded on _____, 2013 in Volume ___, Page ___ of the New Haven Land Records (the "Development and Land Disposition Agreement"). Without limiting the preceding sentence, the agreements and covenants contained in [SPECIFY SECTIONS] of the Development and Land Disposition Agreement shall be covenants running with the Premises for the term of the Agreement as set forth therein and are enforceable by the Releasor against Releasee, as applicable, and any successor in interest to the Premises, in each case without regard to whether the Releasor has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate, and are enforceable by the Releasee and its successors and assigns against the Releasor, as applicable.

The Premises are further conveyed subject to the Permitted Encumbrances as that term is defined in the Development and Land Disposition Agreement, including without limitation: [_____]. *[Each of the Permitted Encumbrances shall be set forth in the final Quit Claim Deed or in a separate easement instrument to be recorded contemporaneously therewith with specificity, including without limitation, the metes and bounds and legal descriptions thereof].*

Said Premises are conveyed together with easements, licenses and agreements from the Releasor to the Releasee, as provided for in the Development and Land Disposition Agreement, to provide *inter alia* for the right to construct, reconstruct, operate, use, repair and/or maintain the Developer Improvements, as that term is defined in the Development and Land Disposition Agreement, in, on, over, under, through, and across certain lands owned by the Releasor, including without limitation: [_____]. *[Said easements, licenses and agreements shall be set forth in the final Quit Claim Deed or in a separate easement instrument to be recorded contemporaneously therewith with specificity, including without limitation, the metes and bounds and legal descriptions thereof].*

TO HAVE AND TO HOLD the above remised, released and QUIT CLAIMED Premises with the appurtenances thereof, unto the said Releasee, and Releasee's successors and assigns forever, to it and their proper use and behoof, so that neither the Releasor nor Releasor's successors or assigns, nor any other person claiming in its or their name or behalf, shall hereafter have any claim, right or title in or to the Premises or any part thereof, but therefrom the Releasors and they are by these presents forever barred and excluded.

After Recording Return To:

Exhibit H
Form of Phase II Land Deed

Quit Claim Deed

KNOW ALL PEOPLE BY THESE PRESENTS, THAT:

THE CITY OF NEW HAVEN, a Connecticut municipality with an address of 165 Church Street, New Haven, Connecticut 06510 (the "**Releasor**"), for Ten Dollars ($10.00) and other valuable consideration received to its full satisfaction of [**LWLP ENTITY**], a [_____] with an address of c/o Live Work Learn Play, Inc., 147 St. Paul West, Suite 100, Montreal, Quebec H2Y 1Z5, Canada (the "**Releasee**"), does remise, release and forever QUIT CLAIM unto the said Releasee and its successors and assigns forever, all of the right, title, interest, claim and demand which the Releasor has or ought to have in and to all that certain piece or parcel of land, together with all buildings thereon, situated in the Town of New Haven, County of New Haven and State of Connecticut and known as [ADDRESS FOR PHASE II LAND], being more particularly bounded and described on **Exhibit A** attached hereto and made a part hereof (the "**Premises**").

The Premises are conveyed subject to the terms and conditions of that certain Development and Land Disposition Agreement between the Releasor and the Releasee dated as of _____, 2013, and recorded on _____, 2013 in Volume ___, Page ___ of the New Haven Land Records (the "Development and Land Disposition Agreement"). Without limiting the preceding sentence, the agreements and covenants contained in [SPECIFY SECTIONS] of the Development and Land Disposition Agreement shall be covenants running with the Premises for the term of the Agreement as set forth therein and are enforceable by the Releasor against Releasee, as applicable, and any successor in interest to the Premises, in each case without regard to whether the Releasor has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate, and are enforceable by the Releasee and its successors and assigns against the Releasor, as applicable.

The Premises are further conveyed subject to the Permitted Encumbrances as that term is defined in the Development and Land Disposition Agreement, including without limitation: [_____]. *[Each of the Permitted Encumbrances shall be set forth in the final Quit Claim Deed or in a separate easement instrument to be recorded contemporaneously therewith with specificity, including without limitation, the metes and bounds and legal descriptions thereof].*

Said Premises are conveyed together with easements, licenses and agreements from the Releasor to the Releasee, as provided for in the Development and Land Disposition Agreement, to provide *inter alia* for the right to construct, reconstruct, operate, use, repair and/or maintain the Developer Improvements, as that term is defined in the Development and Land Disposition Agreement, in, on, over, under, through, and across certain lands owned by the Releasor, including without limitation: [_____]. *[Said easements, licenses and agreements shall be set forth in the final Quit Claim Deed or in a separate easement instrument to be recorded contemporaneously therewith with specificity, including without limitation, the metes and bounds and legal descriptions thereof].*

TO HAVE AND TO HOLD the above remised, released and QUIT CLAIMED Premises with the appurtenances thereof, unto the said Releasee, and Releasee's successors and assigns forever, to it and their proper use and behoof, so that neither the Releasor nor Releasor's successors or assigns, nor any other person claiming in its or their name or behalf, shall hereafter have any claim, right or title in or to the Premises or any part thereof, but therefrom the Releasors and they are by these presents forever barred and excluded.

IN WITNESS WHEREOF, the Releasor has hereunto set its hand this _____ day of _____, 2013.

Signed, sealed and delivered
in the presence of:

THE CITY OF NEW HAVEN

_____
Print Name:

By:_____
John DeStefano, Jr.
Its Mayor

_____
Print Name:

Approved as to form and correctness:

_____
John R. Ward
Special Economic Development Counsel

STATE OF CONNECTICUT)
) ss. New Haven , 2013
COUNTY OF NEW HAVEN)

Personally appeared, John DeStefano Jr., as Mayor of the City of New Haven, one of the signers and sealers of the foregoing instrument, and acknowledged the same to be the free act and deed of the City of New Haven, and of himself as Mayor thereof, before me.

_____
Notary Public
My Commission Expires:_____

EXHIBIT A
LEGAL DESCRIPTION

[INSERT LEGAL DESCRIPTION FOR PHASE II LAND]

Exhibit I
Phase I Land Interim Use Plan

The following is a list of Tenant's permitted Interim Uses that may occur at the Phase I Land during:

1. Parking
2. Food vending (carts, trucks and/or kiosks)
3. Semi-permanent structures for vending:
    i. Restaurants
    ii. Treat shops
    iii. Pop-up retail shops
    iv. Pop-up activity studios
    v. Pop-up learning centers
    vi. Developer sales and rental center
    vii. And/or other Pop-up commercial uses
4. Temporary recreational uses and/or sports
    i. Skating rinks
    ii. Bike Share Programs
    iii. Climbing walls
    iv. Sport fields/ courts
    v. Skate parks
    vi. Children's play structures
5. Child/day camps
6. Regularly scheduled or special public and/or commercial events
    - Music concerts
    - Live theatre and cultural performances
    - Festivals (winter carnival, harvest festival, etc.)
    - Open-air seasonal markets
    - Car shows
7. Temporary infrastructure and/or other community uses
    - Temporary structures for seasonal events (Halloween haunted house, Christmas House, Easter House, Thanksgiving, etc.)
    - Public art and/or sculptures
    - Film sets
    - Temporary gardens and/or farms
    - Construction site observation center
    - Any and all construction staging
    - Temporary history and/or learning centers
    - Temporary medical outreach clinics (blood donor clinics, flu shot centers, etc.)

- Mobile libraries and reading programs
- Job Fairs
- Workshops with New Haven Contractor's Alliance and the City's Small Business Development Program for contracting opportunities.

Note:

- The above uses are aspirational and at the option and sole discretion of the Developer to implement
- Any and all uses are temporary and the Developer has the ability to remove them at any time and at its sole discretion

Exhibit J
Form of Phase II Land Lease

LEASE

THIS LEASE is entered into as of the first (1st) day of _____, 2014 (the "Effective Lease Date"), by and between the City of New Haven, a municipal corporation organized and existing under the laws of the State of Connecticut, with a mailing address of 165 Church Street, New Haven, Connecticut 06510 (the "Landlord"), and [LIVE WORK LEARN PLAY ENTITY], a _ _____ organized and existing under the laws of_____, with a mailing address c/o Live Work Learn Play, Inc. at 147 St. Paul West, Suite 100, Montreal, Quebec H2Y 1Z5, Canada, being an Affiliate of LiveWorkLearnPlay, Inc. (the "Tenant").

BACKGROUND

On the [ ] day of [ ], 201[3/4], Landlord and Tenant entered into a Development and Land Disposition Agreement (the "DLDA") a copy of which DLDA has been recorded on the land records of the City of New Haven as of even date herewith. In accordance with the provisions of the DLDA, Landlord and Tenant have entered into this Lease concurrent with the conveyance of the Phase I Land (as defined in the DLDA), all as more particularly described in Section 6.1(B) of the DLDA.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in the DLDA and this Lease, Landlord and Tenant agree as follows:

1. **PREMISES.**

(a) In accordance with the DLDA, Landlord does hereby lease unto Tenant, and Tenant does hereby accept from Landlord, that parcel of property defined as the Phase II Land in the DLDA and consisting of approximately [ ] square feet and more particularly shown on Exhibit A attached hereto and made a part hereof (the "Premises").

(b) Notwithstanding the provisions of Section 1(a) above, if, in accordance with the DLDA, there shall occur a Partial Take Down of a portion of the Premises, then, for the remainder of the Lease Term (howsoever determined in accordance with the provisions of Section 2 below) the remaining portion of the Phase II Land shall thereafter be the "Premises" for the purposes of this Lease, and Landlord and Tenant shall enter into a Lease Modification Agreement setting forth (inter alia) an appropriately modified Exhibit A and a recalculation of the Rent, in accordance with the provisions of Section 6(b) below.

2. **TERM.** In accordance with the provisions of Section 6.1(B).ii.b of the DLDA, the term of this Lease shall be for a maximum period of Two Hundred and Forty (240) months from the Effective Lease Date, provided that this Lease shall automatically expire prior thereto upon the earliest to occur of any of the following events, all as set forth in said Section 6.1(B).ii.b of the DLDA:

(i) delivery of the Phase II Land Deed by Landlord to Tenant;

(ii) the deliver of a deed conveying the remaining Partial Phase II Land in the event of a prior "Partial Take Down" as described in the DLDA;

(iii) fourteen (14) years from the Effective Date of the DLDA if Tenant elects not to serve as "Exclusive Developer" (as defined in the DLDA) with respect to the Premises; or

(iv) a conveyance of the remaining Partial Phase II Land to any party other than Tenant during the "Exclusivity Period" (as defined in the DLDA) where such conveyance is made in accordance with the rights of Landlord and the Tenant set forth in the DLDA.

It is hereby agreed and understood that the term of this Lease (the "Lease Term") shall be for so long as this Lease remains in full force and effect pursuant to the provisions of this Section 2.

3. **USE.**

(a) Subject to the provisions of Section 3(d) below, during week days between the hours of [ ] and [ ] (the "Parking Lot Hours") Tenant shall use the Premises for the sole purpose of a parking lot, available for use by the general public, and for no other use or purpose. Tenant may charge for such parking, using both monthly and daily rates, provided that all such rates shall be approved in writing by Landlord, acting in Landlord's reasonable discretion and with reference to market rates for monthly and daily parking within Downtown New Haven. Notwithstanding the provisions of Section 8 of this Lease, Tenant shall be permitted to enter into a contract with a third party approved by Landlord (such approval not to be unreasonably withheld) to manage such parking operations.

(b) At all times other than the Parking Lot Hours, Tenant, at Tenant's discretion, may continue to use the Premises (or any portion thereof) for parking purposes or for any of the other purpose listed on Exhibit B attached hereto and made a part hereof (the "Interim Uses").

(c) Notwithstanding the provisions of Section 3(a) above, and regardless of the parking and Interim Uses, Landlord and Tenant agree that, in accordance with the terms and conditions of the DLDA (and provided that Tenant shall have obtained all other necessary permits and approvals) Tenant shall be permitted to construct the roadway across and on to the Premises in the location shown by the DLDA (the "Roadway") and to use such portion of the Premises as may be reasonably necessary for such purpose.

(d) Tenant may use such portion of the Premises as may be reasonably required in order to commence and complete construction of the Roadway. Following completion of construction of the Roadway, Tenant shall be permitted to use the Roadway together with such other portion of the Premises as Landlord and Tenant may jointly, by written agreement consider to be reasonably necessary as a staging area (for construction materials and equipment only) for Phase I Developer Improvements (as defined in the DLDA) provided that it is agreed, stipulated and understood that Tenant shall, at all times, use Tenant's best efforts to maximize the number of available parking spaces available at the Premises. In particular (but without limitation) Tenant shall not use any portion of the Premises for construction worker parking. In order to ensure compliance with these requirements, Tenant shall submit to Landlord a parking plan for Landlord's review and prior approval, acting reasonably, and, to the extent that conditions shall thereafter change materially during the Lease Term arising out of Tenant's changing needs for use of the Premises, then Tenant shall submit a revised parking plan to Landlord and obtain Landlord's prior written approval thereof. Further, to the extent that Landlord shall so request, Tenant shall give priority with respect to the issuance of monthly parking passes to such large employers within the downtown New Haven area as Landlord shall reasonably direct. In the event of any dispute between Landlord and Tenant as to the portion of the Premises reasonably required as a staging area for Phase I Developer Improvements purposes, and/or otherwise in connection with Tenant's parking plan(s), such dispute shall be settled in accordance with the procedures set forth in the DLDA.

4. **GENERAL COMPLIANCE WITH LAWS.** During the Lease Term, Tenant shall, at Tenant's own cost and expense, promptly observe and comply with all laws, orders, regulations, rules, ordinances and requirements of the federal, state, town, county and municipal governments and of all other governmental and public authorities affecting Tenant's use and occupancy of the Premises.

5. **ENVIRONMENTAL LAWS.** Tenant agrees:

(a) that Tenant shall not violate any environmental laws, regulations and ordinances;

(b) that Tenant shall not use, store, dispose, or generate any hazardous materials, hazardous substances or contaminants in the Premises;

(c) that Tenant shall not cause or permit any condition which would create contamination on the Premises;

(d) that Tenant shall give notice to Landlord immediately upon Tenant's acquiring knowledge of the presence of any hazardous materials, hazardous substances or contamination at the Premises with a full description thereof;

(e) that Tenant shall give notice to Landlord immediately of any notice of violation of any laws, rules or regulations regulating hazardous materials, hazardous substances or contamination at the Premises; and

(f) that Tenant shall promptly comply with any governmental requirements requiring the removal, treatment or disposal of such hazardous materials or contamination generated, located, or placed on or at the Premises by Tenant, or by Tenant's employees, representatives, agents, contractors or invitees.

6. **RENT.**

(a) During the Lease Term, Tenant shall pay to Landlord a monthly gross rent (the "Rent") which shall be equal to fifty (50%) percent of the net revenues generated by Tenant from the Premises, whether by way of parking revenues or by way of revenues from any of the Interim Uses. Following the expiration of each year of the Lease Term, Tenant shall deliver to Landlord an audited financial statement showing all revenues generated by Tenant from the Premises during the year in question. Payments of Rent shall be made quarterly, commencing upon the first (1^{st}) day of that month which is three (3) months following the Effective Lease Date, based upon the unaudited revenues shown in Tenant's accounting records. Any discrepancy between the Rent paid during any year of the Lease Term and the Rent payable in accordance with the audited statement for the year in question shall be rectified as of the preparation and delivery of such audited and financial statement. Any disputes with respect to the amount of Rent payable by Tenant under this Lease shall be settled by way of the procedures set forth in the DLDA. All Rent shall be payable to Landlord at Landlord's above written address. If any installment of Rent due from Tenant is not received by Landlord within ten (10) days of when such installment is due, Tenant shall pay to Landlord an additional sum of 5% of the overdue Rent as a

late charge. Acceptance of any late charge shall not constitute a waiver of Tenant's default with respect to the overdue Rent or prevent Landlord from exercising any of the other rights and remedies available to Landlord.

7. **INSTALLATIONS AND ALTERATIONS.** Tenant agrees to accept the Premises in "as is" condition. Tenant acknowledges and agrees that no utilities are currently available at the Premises and Landlord shall not have any obligation whatsoever in connection therewith. Except to the extent contemplated by the DLDA, Tenant shall not make any alterations to the Premises without furnishing plans and specifications to Landlord and obtaining Landlord's prior written consent thereto. Notwithstanding the generality of the foregoing nothing herein shall be deemed or restrict or prevent Tenant from constructing the Roadway. It shall be the responsibility of Tenant to ensure access to the Premises from public streets adjoining the same, provided that Landlord shall work with Tenant in securing appropriate curb cuts in order to maintain such access at all times during the Lease Term.

8. **ALIENATION.** Tenant shall not assign, hypothecate or encumber this Lease in whole or in part or sublease any portion of the Premises, other than to an "Affiliate" of Tenant, as defined in the DLDA. Tenant hereby agrees and acknowledges that Tenant is acquiring the leasehold interest in the Premises for Tenant's use in accordance with the provisions of the DLDA and that any attempted assignment, hypothecation or encumbering of this Lease in derogation from the rights duties and responsibilities set forth in the DLDA shall be null and void ab initio. No assignment, hypothecation or encumbering of this Lease or subletting of the entire Premises shall affect the restrictions affecting the use of the Premises as set forth in this Lease. This prohibition against alienation shall be construed to include a prohibition against any assignment by operation of law.

9. **MAINTENANCE AND REPAIRS.** Tenant covenants and agrees, at Tenant's sole cost and expense, to maintain the Premises in good order and condition and to carry out such minor Tenant repairs as may be necessary from time to time. Tenant hereby agrees that Landlord shall not have any obligation whatsoever with respect to maintenance and/or repair of the Premises.

10. **LIENS.** Should any mechanic's or other lien be filed against the Premises or any part thereof for any reason whatsoever including (without limitation) by reason of Tenant's acts or omissions or because of a claim made against Tenant, Tenant shall cause the same to be canceled and discharged of record by bond or otherwise within thirty (30) days after Tenant's receipt of notice of the same.

11. **INSURANCE.**

(a) Tenant, at its sole cost and expense, shall maintain:

(i) Personal injury and property damage liability insurance against claims for bodily injury, death or property damage occurring on the Demised Premises, such

insurance to afford minimum protection, during the Lease Term, of not less than FIVE MILLION DOLLARS ($5,000,000.00) with respect to bodily injury or death to any one person, and FIVE MILLION DOLLARS ($5,000,000.00) with respect to any one incident;

(ii) Such other insurance in such amounts as may from time to time be reasonably required by Landlord against other insurance hazards which at the time are commonly insured against in the case of similarly situated and used property.

(b) All insurance required to be maintained by Tenant shall be effected by valid and enforceable policies issued by insurers of recognized responsibility, reasonably satisfactory to Landlord, naming Landlord as an additional insured. Upon the Effective Lease Date and thereafter not less than 15 days prior to the expiration dates of the policy in question Tenant shall deliver to Landlord copies of appropriate certificates of insurance and evidence of payment when such payment become due.

(c) All policies of insurance provided by Tenant hereunder shall insure Landlord and Tenant and their agents, employees, invitees and licensees, as their respective interests may appear. Each such policy shall contain a provision that no act or omission of Tenant shall affect or limit the obligation of the insurance company to Landlord, and, to the extent obtainable, shall contain an agreement by the insurer that such policy shall not be cancelled without at least 15 days' prior written notice to Landlord.

12. **PERSONAL PROPERTY TAXES.** Tenant shall pay, directly to the applicable taxing authority, all taxes assessed, levied or charged against Tenant's trade fixtures, improvements and other personal property stored or kept upon the Premises.

13. **CONDEMNATION.** If the whole or substantially all of the Premises shall be taken by right of eminent domain by any competent party other than Landlord, then this Lease shall automatically terminate upon such taking and any and all proceeds of such taking shall be the sole and absolute property of Landlord.

14. **DEFAULT AND REMEDIES.**

(a) Each of the following events or circumstances shall be considered a default by Tenant under this Lease:

(i) Failure by Tenant to make a payment of any Rent or any other sum or charge payable under this Lease or any part thereof within ten (10) days after the same has become due and payable; or

(ii) Failure by Tenant to perform or comply with any of the covenants, agreements, terms or provisions contained in this Lease (other than monetary obligations) within thirty (30) days after written notice to Tenant specifying the covenants, agreements, terms or provisions that Tenant has not performed or complied with; or

(iii) The filing by Tenant of a petition under the United States Bankruptcy Code or the entry of an order for relief against Tenant as a debtor in any proceeding pending under the United States Bankruptcy Code, or the filing by Tenant or any petition or other pleading seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any further federal bankruptcy act or any other present or future applicable federal, state or other statute of law or the seeking, consenting to or acquiescing in the appointment of any trustee, receiver or liquidator of Tenant and which shall not have been cured or lifted by Tenant within fifteen (15) days of such event; or

(iv) Any uncured default under the DLDA.

(b) In the event of any default by Tenant Landlord shall deliver written notice of the same to Tenant in accordance with the notice requirements set forth in the DLDA, and if Tenant shall fail to cure or commence to cure and continue diligently to complete such cure within the cure period or extended period set forth in the DLDA, then Landlord shall have the right to terminate this Lease and re-enter the Premises, provided, however, that any dispute concerning such termination and re-entry shall be resolved in accordance with the dispute procedures set forth in the DLDA.

(c) Tenant shall pay to Landlord all costs and expenses incurred by Landlord, in bringing any lawsuit necessary to enforce the provisions of this Lease (including reasonable attorney's fees) to the extent that Landlord is successful in any such lawsuit.

(d) Without prejudice to any other remedy available to Landlord, if Tenant shall fail to pay any Rent or other sums due and payable under this Lease, such unpaid amounts shall bear interest from the due date thereof to the date of payment, at the lower of the following rates:

(i) the prime rate of Bank of America plus two (2%) percent per annum on a floating basis; or

(ii) the maximum rate permitted by law.

15. **COMMERCIAL TRANSACTION.** Tenant hereby acknowledges that this Lease constitutes a commercial transaction, as such term is used and defined in Connecticut general statutes section 52-278(a) of the Connecticut public acts, and Tenant hereby waives any prejudgment remedy hearing as permitted thereby.

16. **WAIVER OF JURY TRIAL.** The parties hereto shall and they hereby do waive trial by jury in any action, proceeding or counterclaim brought by either of the parties hereto against the other on any matters whatsoever arising out of or in any way connected with this Lease, the relationship of Landlord and Tenant, Tenant's use or occupancy of the Premises and/or any claim of injury or damage.

17. **ACCESS TO PREMISES.** Landlord shall have the right to enter the Premises during business hours upon reasonable prior written notice to Tenant in order to inspect the Premises or (without obligation) to make any repairs or carry out any maintenance required (where Tenant has neglected to do so) or for any other reasonable purpose.

18. **QUIET ENJOYMENT.** Tenant, upon paying the Rent and performing all of the terms on its part to be performed, shall peaceably and quietly enjoy the Premises subject to the terms and conditions of this Lease and to the terms and conditions of the DLDA.

19. **FORCE MAJEURE.** Except for payment of Rent, Tenant shall be excused for the period of any delay in the performance of any obligations hereunder, when prevented from so doing by cause or causes beyond Tenant's reasonable control which shall include (without limitation) all labor disputes, civil commotion, war, war-like operations, hostilities, sabotage, governmental regulations or controls, or Acts of God.

20. **END OF TERM.** Except to the extent that the expiration of the Lease Term is concurrent with the delivery of a quit claim deed of the Premises by Landlord to Tenant, in accordance with the terms and conditions of the DLDA, at the expiration of the Lease Term (howsoever determined) Tenant shall surrender the Premises to Landlord in substantially the condition existing as of the Effective Lease Date, subject to for alterations made in accordance with the provisions of the DLDA.

21. **NO WAIVER.** Failure of either Landlord or Tenant to insist upon the strict performance of any provision of this Lease or to exercise any option or enforce any rules and regulations herein contained shall not be construed as a waiver by such party for the future of any such provision, rule or

option. The receipt by Landlord of Rent with knowledge of any default by Tenant shall not be deemed a waiver of such default.

22. **NOTICES.** Any notice, demand, request or other instrument which may be or are required to be given under this Lease shall be delivered in the manner set forth in the DLDA.

23. **INDEMNIFICATION.** Notwithstanding any other terms, covenants, and conditions contained in this Lease, Tenant shall indemnify and save harmless Landlord and Landlord's agents, employees and officers from and any and all loss claims, actions, damages, liability and expense in connection with loss of life, personal injury, damage to property or any other loss or injury whatsoever arising from or out of the occupancy or use by Tenant of the Premises or any part thereof or any work or thing whatsoever done, or any condition created (other than by Landlord) in or about the Premises during the Lease Term or during any other period of time that Tenant may have access to the Premises, or arising from any negligent or otherwise wrongful act or omission of Tenant or any of its subtenants, assigns or licensees or its or their employees, agents, contractors, guests or invitees. In case any action or proceeding be brought against Landlord, by reason of any such claim, Tenant, upon notice from Landlord, shall resist and defend such action or proceeding by attorneys reasonably acceptable to Landlord. If Landlord shall, without fault on its part, be made a party to any litigation commenced by or against Tenant, then Tenant shall protect, indemnify and hold Landlord harmless and shall pay all costs, expenses and reasonable legal fees incurred or paid by Landlord in connection with such litigation.

24. **NON-LIABILITY OF LANDLORD.** Landlord shall not be liable for any failure of water supply or electric current or of any service by any utility, not for injury or damage to person (including death) or property caused by or resulting from steam, gas, electricity, water, rain or snow which may flow or leak from any part of the Premises, or from any pipes, appliances or plumbing works of the same, or from any other cause, or from the street or subsurface or from any other place, nor from interferences with light or easements, howsoever caused. Landlord shall not be liable for any damage caused by other persons at the Premises (lawfully or unlawfully), by occupants of adjacent property, or by the public, or caused by any private, public or quasi-public construction work adjacent or near to the Premises. Landlord shall not be liable for any defect in the Premises. All personal property of Tenant kept or stored at the Premises shall be so kept or stored at the risk of Tenant. Notwithstanding anything contained herein, Tenant shall have the right to access any and all utilities or services which are or may be available at the Premises, or within the public streets surrounding the Premises, provided that Tenant shall be responsible for the cost of accessing the same and for payment for all usage thereof. To the extent that any such services or utilities are currently available at the Premises with usage thereof paid by Landlord in conjunction with service to other premises or public facilities, then Tenant shall be responsible for separate metering of the same.

25. **NUISANCE.** Tenant shall not use the Premises in any manner that will constitute waste, nuisance, or annoyance to Landlord or to occupants of adjacent properties.

26. **SIGNS.** The installation of all signage at the Premises shall be subject to the provisions of the DLDA as regards size and design, and to all applicable municipal codes and regulations.

27. **EFFECT OF DLDA.** It is hereby agreed, stipulated and understood that in the event of any conflict between the provisions of this Lease and the provisions of the DLDA, the provisions of the DLDA shall prevail.

28. **MISCELLANEOUS.**

(a) Tenant shall not record this Lease on the New Haven Land Records but in accordance with the DLDA, Landlord and Tenant shall jointly execute and deliver a Notice of Lease for recording on the New Haven Land Records.

(b) If any provision of this Lease or application thereof to any person or circumstance shall, to any extent, be invalid, the remainder of this Lease or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

(c) Except as otherwise expressly provided in this Lease, each covenant, agreement or obligation contained in this Lease and on Tenant's part to be performed, shall be deemed and construed as a separate and independent covenant of Tenant, not dependent on any other provision of this Lease or the DLDA.

(d) Subject to the provisions of Section 24 above, this Lease contains the entire agreement between the parties and shall not be modified in any manner except by an instrument in writing executed by Landlord and Tenant. No representations have been made by Landlord or Tenant other than those set forth in this Lease and neither Landlord nor Tenant shall be bound by or held to any representations other than as are set forth in this Lease.

(e) This Lease shall be governed by and construed in accordance with the laws of the State of Connecticut.

(f) Landlord and Tenant hereby specifically and irrevocably consent to the jurisdiction of the courts of the State of Connecticut with respect to all matters concerning this Lease.

IN WITNESS WHEREOF, Landlord and Tenant have executed and delivered this Lease as of the Effective Lease Date first above written.

In the presence of:

LANDLORD:
CITY OF NEW HAVEN

_____

By_____
John DeStefano, Jr.
Its Mayor
Duly Authorized to act herein

_____

Approved as to form and correctness:

_____
John R. Ward
Special Counsel to Economic Development

TENANT:
[LIVE, WORK, LEARN, PLAY ENTITY]

_____

By_____
Max Reim
Its Principal
Duly Authorized to act herein

_____

In the presence of:

_____

_____

EXHIBIT A

Premises

EXHIBIT B

Interim Uses

The following is a list of Tenant's permitted Interim Uses that may occur at the Premises during the Term:

1. Parking
2. Food vending (carts, trucks and/or kiosks)
3. Semi-permanent structures for vending:
    i. Restaurants
    ii. Treat shops
    iii. Pop-up retail shops
    iv. Pop-up activity studios
    v. Pop-up learning centers
    vi. Developer sales and rental center
    vii. And/or other Pop-up commercial uses
4. Temporary recreational uses and/or sports
    i. Skating rinks
    ii. Bike Share Programs
    iii. Climbing walls
    iv. Sport fields/ courts
    v. Skate parks
    vi. Children's play structures
5. Child/day camps
6. Regularly scheduled or special public and/or commercial events
    - Music concerts
    - Live theatre and cultural performances
    - Festivals (winter carnival, harvest festival, etc.)
    - Open-air seasonal markets
    - Car shows
7. Temporary infrastructure and/or other community uses
    - Temporary structures for seasonal events (Halloween haunted house, Christmas House, Easter House, Thanksgiving, etc.)
    - Public art and/or sculptures
    - Film sets
    - Temporary gardens and/or farms
    - Construction site observation center
    - Any and all construction staging
    - Temporary history and/or learning centers

- Temporary medical outreach clinics (blood donor clinics, flu shot centers, etc.)
- Mobile libraries and reading programs
- Job Fairs
- Workshops with New Haven Contractor's Alliance and the City's Small Business Development Program for contracting opportunities.

Note:

- The above uses are aspirational and at the option and sole discretion of the Developer to implement
- Any and all uses are temporary and the Developer has the ability to remove them at any time and at its sole discretion

Exhibit K
Form of Notice of Phase II Land Lease

After recording return to:

City of New Haven
Economic Development Administration
ATTN: John R. Ward, Special Counsel to Economic Development
165 Church Street, 4R
New Haven, CT 06510

NOTICE OF LEASE

THIS NOTICE OF LEASE hereby gives notice of a certain Lease Agreement for the real property located in the City of New Haven, County of New Haven and State of Connecticut known as 275 South Orange Street and particularly described on **Exhibit A** attached hereto and made a part hereof (the "Property"). Pursuant to Connecticut General Statutes §47-19, the following information is provided with respect to said Lease Agreement:

LANDLORD:	City of New Haven 165 Church Street, 4R New Haven, Connecticut 06510 ATTN: Economic Development Administrator
TENANT:	[LiveWorkLearnPlay Entity] c/o LiveWorkLearnPlay, Inc. 147 St.l Paul West, Suite 100 Montreal, Quebec H2Y 1Z5 Canada ATTN: Max Reim
COMMENCEMENT DATE:	_____, 201[ ]
TERM:	Not longer than Twenty (20) Years from Commencement Date
RENEWAL OPTIONS:	None.
OPTION TO PURCHASE:	None contained in Lease, but Property subject to Development and Land Disposition Agreement Recorded in Volume [ ] at Page [ ] of New Haven Land Records.
LEASE IS FILED AT:	City of New Haven 165 Church Street, 4R New Haven, Connecticut 06510 ATTN: Economic Development Administrator

IN WITNESS WHEREOF, Landlord and Tenant have executed and delivered this Notice of Lease as of the day and year first above written.

In the presence of:

CITY OF NEW HAVEN

_____

By_____
John DeStefano, Jr.
Its Mayor
Duly Authorized to act herein

_____

Approved as to form and correctness:

_____
John R. Ward
Special Counsel to Economic Development

[LIVE, WORK, LEARN, PLAY ENTITY]

_____

By_____
Max Reim
Its Principal
Duly Authorized to act herein

_____

In the presence of:

_____

_____

STATE OF CONNECTICUT)

COUNTY OF NEW HAVEN)

On this _____ day of _____, 2012, before me, the undersigned officer, personally appeared JOHN DESTEFANO, JR., who acknowledged himself to be the Mayor of the City of New Haven, and that as such Mayor, being authorized so to do by the Board of Aldermen, executed the foregoing instrument for the purposes contained therein, by signing on behalf of the City of New Haven, said act being the free act and deed of the City of New Haven and his free act and deed as such Mayor.

_____
Notary Public
Commission expires:
Commissioner of the Superior Cour

STATE OF)

COUNTY OF)

On this _____ day of _____, 2013, before me, the undersigned officer, personally appeared[ ], who acknowledged himself to be the Manager [ ] the member/manager of [ ], and that as such Manager, being authorized so to do, executed the foregoing instrument for the purposes contained therein, by signing on behalf of [ ], as his free act and deed as such Manager.

_____
Notary Public
Commission expires:
Commissioner of the Superior Court

Exhibit L
City Improvements Estimated Cost

City Improvements	
Intersection of South Orange Street and MLK Boulevard	$9,800,000
Pedestrian Improvements - State Street Underpass	$730,000
Water Street Bike Lane	$1,050,000
Stormwater / Transition Zone Improvements	$9,600,000
Utility Relocation	$3,500,000
At -grade Orange Street Crossing	$9,000,000
Total	$33,680,000

The cost estimates where developed by Parsons Brinkerhoff and Fuss & O'Neill. Parsons Brinkerhoff is further refining the estimates as the design is further developed. They will submit updated cost estimates with a Prelimiary Engineering package to the City and Connecticut Department of Transportation the week of November 11, 2013.