



AGENDA
NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY
SPECIAL BOARD MEETING

Tuesday, March 13, 2007
6:30 P.M.

NORTH MIAMI CITY HALL – COUNCIL CHAMBERS
776 N.E. 125TH STREET, SECOND FLOOR

CALL TO ORDER – Pledge of Allegiance; Roll Call

ITEMS FOR REVIEW AND/OR ACTION

- I. *Action Item:* Resolution approving the Agreement and Estoppel Certificate by and between the City of North Miami, the North Miami Community Redevelopment Agency, North Miami Housing, LTD., Biscayne Landing, LLC, and Column Financial, Inc.

II. ADJOURNMENT

Note: Two or more members of the City Council/CRA Board of Commissioners and/or other elected or appointed public officials may be present at this meeting. If any person decides to appeal any decision made with respect to any matter considered at this public meeting or hearing, he/she will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. If you desire auxiliary services to assist in viewing or hearing the meetings, or reading meeting agendas and minutes, please contact the Office of the CRA Secretary at (305) 895-9817.



NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY

CRA Board
Kevin A. Burns, Chair
Michael R. Blynn
Jacques Despinosse
Scott Galvin
Marie Erlande Steril

Executive Director
Tony E. Crapp, Sr.

CRA Attorney
Steven W. Zelkowitz

Date: March 12, 2007

To: Honorable Chairman and Members
CRA Board of Commissioners

From: Tony E. Crapp, Sr.
Executive Director

Subject: A RESOLUTION OF THE CHAIRMAN AND BOARD MEMBERS OF THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY APPROVING THE BISCAYNE LANDING FINANCING MULTIPARTY AGREEMENT BY AND AMONG THE CITY OF NORTH MIAMI, FLORIDA, NORTH MIAMI HOUSING, LTD., BISCAYNE LANDING, LLC, THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY AND COLUMN FINANCIAL, INC.; AUTHORIZING THE CHAIRMAN AND THE EXECUTIVE DIRECTOR OF THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY TO EXECUTE THE BISCAYNE LANDING FINANCING MULTIPARTY AGREEMENT; FURTHER AUTHORIZING THE EXECUTIVE DIRECTOR TO TAKE ANY AND ALL ACTIONS NECESSARY TO FACILITATE THE IMPLEMENTATION OF THE BISCAYNE LANDING FINANCING MULTIPARTY AGREEMENT AND THE FULFILLMENT OF ANY AND ALL OBLIGATIONS OF THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY AS PROVIDED THEREIN; AND PROVIDING AN EFFECTIVE DATE

Recommendation

It is recommended that the CRA Board adopt the attached resolution that authorizes the CRA Board Chairman and the Executive Director to execute an agreement between the City, Biscayne Landing, Column Financial, Inc., North Miami Community Redevelopment Agency (NMCRA), and Housing Partnership setting forth the rights of each party in the event of a default by Biscayne Landing on the Munisport Agreement and/or the Ground Lease; or under the Loan Documents as it relates to the Munisport Agreement and/or Ground Lease.

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Background

The Munisport agreement provides that the City will cooperate with Biscayne Landing as it relates to assisting them with obtaining financing by entering into necessary agreements and issuing estoppel certificates. It requires that the Lender be an Institutional Lender. The City Attorney's office has done due diligence and determined that Column Financial, Inc., which is associated with Credit Suisse, Inc. meets the criteria of an Institutional Lender under the Munisport agreement. As the lender, they will be doing a secured loan to Biscayne Landing. The Biscayne Landing Financing Multiparty agreement which is before the CRA Board and the Council for approval sets forth the rights of all the parties in the event Biscayne Landing defaults under the City's agreements or the lender's agreement. The Lender will have the right to step in for Biscayne Landing and finish the project under the same terms and obligations. The lender will have the right to name a successor developer provided the developer meets all the original criteria set forth by the City when it requested letters of interest. The Estoppel Certificate is the typical certificate which has been executed in the past by the City.

RESOLUTION NO. _____

A RESOLUTION OF THE CHAIRMAN AND BOARD MEMBERS OF THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY APPROVING THE BISCAYNE LANDING FINANCING MULTIPARTY AGREEMENT BY AND AMONG THE CITY OF NORTH MIAMI, FLORIDA, NORTH MIAMI HOUSING, LTD., BISCAYNE LANDING, LLC, THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY AND COLUMN FINANCIAL, INC.; AUTHORIZING THE CHAIRMAN AND THE EXECUTIVE DIRECTOR OF THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY TO EXECUTE THE BISCAYNE LANDING FINANCING MULTIPARTY AGREEMENT; FURTHER AUTHORIZING THE EXECUTIVE DIRECTOR TO TAKE ANY AND ALL ACTIONS NECESSARY TO FACILITATE THE IMPLEMENTATION OF THE BISCAYNE LANDING FINANCING MULTIPARTY AGREEMENT AND THE FULFILLMENT OF ANY AND ALL OBLIGATIONS OF THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY AS PROVIDED THEREIN; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of North Miami, Florida (the “City”), and Biscayne Landing LLC, a Florida limited liability company (f/k/a Preserve Partners Limited) (the “Developer”) entered into that Development Agreement dated November 13, 2002, as amended (the “Munisport Agreement”); and

WHEREAS, the City and the North Miami Community Redevelopment Agency (the “CRA”) entered into that certain Interlocal Agreement dated January 24, 2006, regarding the delegation by the City to the CRA of the City’s obligations set forth in Section 9.4 of the Munisport Agreement; and

WHEREAS, the Developer is seeking a loan from Column Financial, Inc. (the “Lender”) in order to refinance certain of its existing debt relative to the Project (as defined in the Munisport Agreement); and

WHEREAS, the Lender is prepared to make the loan to the Developer conditioned upon, among other things, the execution and delivery of the Biscayne Landing Financing Multiparty Agreement by and among the City, North Miami Housing, Ltd., the Developer, the CRA and the Lender in the form attached hereto as Exhibit “A” by this reference made a part hereof; and

WHEREAS, by virtue of the Interlocal Agreement, the CRA is a necessary party to the Biscayne Landing Financing Multiparty Agreement.

NOW, THEREFORE, BE IT RESOLVED BY THE CHAIRMAN AND BOARD MEMBERS OF THE NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY:

Section 1. The recitals in the whereas clauses are true and correct, and incorporated into this Resolution.

Section 2. The Biscayne Landing Financing Multiparty Agreement by and among the City, North Miami Housing, Ltd., the Developer, the CRA and the Lender in the form attached hereto as Exhibit "A" is hereby approved, together with such other non-material changes acceptable to the CRA Executive Director and approved as to form and legality by the CRA Attorney.

Section 3. The Chairman and the Executive Director of the CRA are authorized to execute the Biscayne Landing Financing Multiparty Agreement.

Section 4. The CRA Executive Director is authorized to take any and all actions necessary to facilitate the implementation of the Biscayne Landing Financing Multiparty Agreement and the fulfillment of any and all obligations of the CRA as provided therein.

Section 5. This resolution shall take effect immediately upon approval.

PASSED AND ADOPTED by a _____ vote of the Board of the North Miami Community Redevelopment Agency, this 13th day of March, 2007.

ATTEST:

NORTH MIAMI COMMUNITY
REDEVELOPMENT AGENCY

FRANK WOLLAND, CITY CLERK

KEVIN A. BURNS, CHAIR

APPROVED AS TO FORM:

GRAY ROBINSON, P.A.
CRA ATTORNEY

SPONSORED BY: ADMINISTRATION

Moved by: _____

Seconded by: _____

Vote:

Chair Kevin A. Burns	_____ (Yes)	_____ (No)
Boardmember Michael R. Blynn	_____ (Yes)	_____ (No)
Boardmember Jacques A. Despinosse	_____ (Yes)	_____ (No)
Boardmember Scott Galvin	_____ (Yes)	_____ (No)
Boardmember Marie Erlande Steril	_____ (Yes)	_____ (No)

PREPARED BY AND AFTER
RECORDING PLEASE RETURN TO:

Thelen Reid Brown Raysman & Steiner LLP
875 Third Avenue
New York, New York 10022
Attention: Jeffrey B. Steiner, Esq.

BISCAYNE LANDING
FINANCING MULTIPARTY AGREEMENT

Dated as of March ___, 2007

By and Among

CITY OF NORTH MIAMI, FLORIDA
(the "City"),

NORTH MIAMI HOUSING, LTD.
(the "Housing Partnership"),

BISCAYNE LANDING, LLC
(formerly known as Biscayne Holdings, LLC)
(the "Tenant"),

NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY
(the "CRA"),

And

COLUMN FINANCIAL, INC.
(the "Lender")

**BISCAYNE LANDING
FINANCING MULTIPARTY AGREEMENT**

THIS BISCAYNE LANDING FINANCING MULTIPARTY AGREEMENT (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, this “Agreement”), dated as of [March __, ~~2007~~, 2007, is made by and among the **CITY OF NORTH MIAMI, FLORIDA**, a Florida municipal corporation (the “City”), **NORTH MIAMI HOUSING, LTD.**, a Florida limited partnership (the “Housing Partnership”), **BISCAYNE LANDING, LLC**, a Delaware limited liability company (the “Tenant”), **NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY**, a public body corporate and politic (the “CRA”), and **COLUMN FINANCIAL, INC.**, a Delaware corporation (together with its successors and assigns, the “Lender”).

The Tenant, the Housing Partnership, the City, the CRA, and the Lender are sometimes individually hereinafter referred to as a “Party” and sometimes collectively hereinafter referred to as the “Parties.”

RECITALS

The City is the owner of a fee simple estate in certain real property located in the City of North Miami, County of Miami-Dade and State of Florida that is more particularly described in Exhibit A hereto (the “Property”).

The Property and all of the buildings, structures and improvements now or hereafter located on the Property (the “Improvements”) are collectively hereinafter referred to as the “Project.”

The Munisport Agreement

The City and the predecessor in interest to the Tenant, Preserve Partners, Ltd., a Florida limited partnership (the “Original Munisport Tenant”), executed and delivered that certain Munisport Agreement (the “Original Munisport Agreement”), dated as of November 26, 2002, relating to the Project. The Munisport Agreement was recorded in the Official Records of Miami-Dade County, Florida (the “Official Records”) on December 16, 2002, in Book 20876 at Page 4370.

The Original Munisport Agreement was assigned pursuant to an Assignment of Munisport Agreement (the “First Munisport Assignment”), dated as of February 1, 2003, from the Original Munisport Tenant, as assignor, to Biscayne Landing, LLC, n/k/a Biscayne Holdings, LLC, as assignee. The First Munisport Assignment was recorded in the Official Records on November 11, 2004, in Book 22817 at Page 270.

The terms and conditions of the Original Munisport Agreement are affected by the terms and conditions of that certain Assignment of Affordable Housing Rights and Obligations Under Munisport Agreement (the “Housing Rights Assignment”), dated as of November 1, 2003, from Biscayne Landing, LLC, n/k/a Biscayne Holdings, LLC, as assignor, to the Housing Partnership, as assignee. The Housing Rights Assignment was recorded in the Official Records on November 11, 2004, in Book 22817 at Page 274.

The Original Munisport Agreement was further assigned pursuant to an Assignment of Munisport Agreement (the “Second Munisport Assignment”), dated as of November 1, 2003, from Biscayne Landing, LLC, n/k/a Biscayne Holdings, LLC, as assignor, Biscayne Holdings, LLC n/k/a Biscayne Landing, LLC, as assignee. The Second Munisport Assignment was recorded in the Official Records on November 12, 2004, in Book 22817 at Page 278.

The terms and conditions of the Original Munisport Agreement are also affected by the terms and conditions of that certain Assignment of Charter School Rights and Obligations Under Munisport Agreement (the “School Rights Assignment”), dated as of October 26, 2004, from Tenant, as assignor, to the North Miami Charter School Developers, Ltd., a Florida limited partnership (the “School Rights Authority”), as assignee. The School Rights Assignment was recorded in the Official Records on November 12, 2004, in Book 22817 at Page 441.

The Original Munisport Agreement was amended pursuant to that certain Amendment to Munisport Agreement (the “First Munisport Amendment”), dated as of October 26, 2004, between the City and the Tenant. The First Munisport Amendment was recorded in the Official Records on November 12, 2004, in Book 22817 at Page 292.

The City, the Tenant, the Housing Partnership and Fremont Investment & Loan, a California industrial bank (“Fremont Investment & Loan”) entered into a stand alone Ground Lease and Munisport Estoppel and Agreement (the “Freemont Investment & Loan Stand Alone Agreement”), dated as of November 10, 2004. The Fremont Investment & Loan Stand Alone Agreement was recorded in the Official Records on November 12, 2004, in Book 22817 at Page 449. The Fremont Investment & Loan Stand Alone Agreement is, as of the date hereof, null and void and is of no further force or effect.

The Original Munisport Agreement and the “Ground Lease” (as hereinafter defined) were further amended pursuant to that certain Amendment to Munisport Agreement and Ground Lease (the “ThirdSecond Munisport Amendment”), dated as of June 10, 2005, between the City, the Tenant and the Housing Partnership. The ThirdSecond Munisport Amendment was recorded in the Official Records on June 28, 2005, in Book 23521 at Page 001.

The City, the Tenant, the Housing Partnership and HSH Nordbank AG, New York Branch, a branch of a German banking corporation (“HSH Nordbank”), entered into a stand alone Ground Lease and Munisport Estoppel and Agreement (the “HSH Nordbank Stand Alone Agreement”), dated as of June 10, 2005. The HSH Nordbank Stand Alone Agreement was recorded in the Official Records on June 28, 2005, in Book 23521 at Page 108. The HSH Nordbank Stand Alone Agreement is, as of the date hereof, null and void and is of no further force or effect.

The Original Munisport Agreement was further amended pursuant to that certain Amendment to Munisport Agreement (the “~~Fourth~~~~Third~~ Munisport Amendment”), dated as of October 24, 2006, between the City, the Tenant and the Housing Partnership. The Third Munisport Amendment was recorded in the Official Records on October 31, 2006, in Book 25058 at Page 3567.

The Original Munisport Agreement was further amended pursuant to that certain Amendment to Munisport Agreement and Ground Lease (the “Fourth Munisport Amendment”) dated as of October 25, 2006, between the City, the Tenant and the Housing Partnership. The Fourth Munisport Amendment was recorded in the Official Records on November 27, 2006, in Book 25125 at Page 1906 and re-recorded in the Official Records on December 26, 2006, in Book 25221 at Page 1850.

The City and the CRA have entered into that certain Interlocal Agreement (the “Interlocal Agreement”), dated January 24, 2006, regarding the delegation by the City to the CRA of the City’s obligations set forth in Section 9.4 of the Original Munisport Agreement.

The Original Munisport Agreement, as assigned pursuant to the First Assignment, the Second Assignment, the Housing Rights Assignment and the School Rights Assignment, and as amended by the First Munisport Amendment, the Second Munisport Amendment, the Third Munisport Amendment, and the Fourth Munisport Amendment and as affected by the Interlocal Agreement are collectively hereinafter defined as the “Munisport Agreement.”

The Ground Lease

The City has leased the Project to the Tenant pursuant to that certain Ground Lease (the “Original Ground Lease”), dated as of October 29, 2004.

A Memorandum of the Ground Lease (the “Memorandum of Ground Lease”) was recorded in the Official Records on November 12, 2004 in Book 22817 at Page 445.

The Original Ground Lease was affected by the Ground Lease Bifurcation Agreement (the “Bifurcation Agreement”) dated as of October 18, 2005, by and among the City, the Tenant and BLIA Developers, Ltd., and the Partial Termination of Ground Lease (the “Partial Termination”), dated as of October 18, 2005, and recorded in the Official Records on October 20, 2005, in Book 23898 at Page 1152.

The Original Ground Lease, as amended by the ~~Third~~~~Second~~ Munisport Amendment, the Bifurcation Agreement, the Partial Termination and the Fourth Munisport Amendment are collectively hereinafter referred to as the “Ground Lease.”

The City Documents

The Munisport Agreement and the Ground Lease are collectively hereinafter referred to as the “City Documents.”

The capitalized terms that are used but not defined in this Agreement shall have the meanings ascribed to them in the City Documents.

The County Documents

The City and Miami-Dade County, a political subdivision of the State of Florida (the “County”) have entered into that certain First Amended Grant Agreement (the “First Amended County Grant Agreement”), dated September 16, 1999, as amended by that certain Second Amended Grant Agreement (the “Second Amended County Grant Agreement” and, together with the First Amended County Grant Agreement, collectively, the “County Grant Agreement”), dated as of March 26, 2004, pursuant to which the County has provided the City with a grant of Thirty-One Million Twenty-Seven Thousand and No/Dollars (\$31,027,000) (the “County Grant”).

Subject to compliance by the Tenant with its environmental obligations relating to the Project and to the City under the City Documents, the City has made available to the Tenant the proceeds of the County Grant to assist the Tenant with the payment of costs relating to the Tenant’s environmental obligations relating to the Project and to the City under the City Documents that are required to be paid with the proceeds of the County Grant.

In furtherance of the County Grant Agreement, the City and the County have entered into that certain Escrow Agreement for Municipal Landfill Closure (the “Landfill Closure Escrow Agreement”), dated as of August 9, 2004, and that certain Escrow Agreement for Municipal Landfill Long-Term Care (the “Landfill Care Escrow Agreement”), dated as of August 11, 2004.

The County Grant Agreement, the Landfill Closure Escrow Agreement and the Landfill Care Escrow Agreement are collectively hereinafter referred to as the “County Documents.”

The proceeds of the County Grant have been deposited into a separate bank account, # { _____} at Citibank, N.A. (the “County Grant Bank Account”).

The Loan Documents

The Lender is prepared to make a loan to the Tenant (the “Loan”) in connection with the Project pursuant to that certain Loan Agreement, dated as of the date hereof, between the Tenant, as borrower, and the Lender, as lender (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “Loan Agreement”).

The Loan shall be evidenced by that certain Amended and Restated Renewal Promissory Note, dated as of the date hereof, made by the Tenant, as maker, to the Lender, as payee (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “Note”).

The Note shall be secured by, among other things, the following documents:

(a) Mortgage. That certain Amended and Restated Leasehold Mortgage and Security Agreement, dated as of the date hereof, from the Tenant, as mortgagor, to the Lender, as mortgagee (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “Mortgage”), which Mortgage shall encumber (i) the leasehold estate of the Tenant in the Project that was created by the Ground Lease (the “Leasehold

Estate”), (ii) the interest of the Tenant under the Munisport Agreement (the “Munisport Interest”), and (ii) the other property described in the Mortgage (the “Other Mortgaged Property”);

(b) Munisport Agreement Assignment. That certain Security Agreement, Pledge and Assignment of the Munisport Agreement (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “Munisport Agreement Assignment”), dated as of the date hereof, from the Tenant, as assignor, to the Lender, as assignee, assigning all of the Tenant’s right, title and interest in, to and under the Munisport Agreement (the “Munisport Agreement Collateral”) to the Lender;

(c) Housing Partnership Assignment. That certain Security Agreement, Pledge and Assignment of the [_____] (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “Housing Partnership Assignment”), dated as of the date hereof, from the Housing Partnership, as assignor, to the Lender, as assignee, assigning all of the Housing Partnership’s right, title and interest in and to the Housing Partnership (the “Housing Partnership Collateral”) to the Lender;

(d) County Documents Assignment. That certain Security Agreement, Pledge and Assignment of the County Documents (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “County Documents Assignment”), dated as of the date hereof, from the Tenant, as assignor, to the Lender, as assignee, assigning the Tenant’s right, title and interest in, to and under the County Documents (the “County Documents Collateral”) to the Lender; and

(e) Assignment of Leases and Rents. That certain Assignment of Leases and Rents, dated as of the date hereof, from the Tenant, as assignor, to the Lender, as assignee (as the same may be amended, restated, replaced, supplemented or otherwise modified from time to time, the “Assignment of Leases”).

The Loan Agreement, the Note, the Mortgage, the Munisport Agreement Assignment, the Housing Partnership Assignment, the County Documents Assignment, the Assignment of Leases and all other documents, instruments, records and papers evidencing, securing, guaranteeing, indemnifying or otherwise relating to the Loan (including, among others, any Uniform Commercial Code financing statements filed in connection with the transactions contemplated by the foregoing documents) are collectively hereinafter referred to as the “Loan Documents.”

The Leasehold Estate, the Munisport Interest, the Other Mortgaged Property, the Munisport Agreement Collateral, the Housing Partnership Collateral, the County Documents Collateral, and all other collateral given as security for the Loan are collectively hereinafter referred to as the “Project Collateral.”

The Lender has refused to make the Loan or advance the proceeds thereof unless and until this Agreement was duly executed and delivered by the Parties.

To induce the Lender to make the Loan and advance the proceeds thereof, the Parties are duly executing and delivering, and arranging for the recording of this Agreement in the Official Records.

NOW, THEREFORE, in consideration of the premises, to induce the Lender to make the Loan and advance the proceeds thereof, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. City Documents and this Agreement.

(a) The City Documents are affected by this Agreement. To the extent the terms and conditions of the City Documents conflict or are inconsistent with the terms and conditions of this Agreement, then this Agreement shall control interpretation

(b) To the extent the terms and conditions of the Loan Documents conflict or are inconsistent with the terms and conditions of the City Documents, as affected by this Agreement, then, (i) as between the City and the Lender and the City and the Tenant, the terms and conditions of the City Documents, as affected by this Agreement, shall control interpretation, (ii) as between the City and the Lender and the City and the Housing Partnership, the terms and conditions of the City Documents, as affected by this Agreement, shall control interpretation, (iii) as between the Lender and the Tenant, the terms and conditions of the Loan Documents shall control interpretation and (iv) as between the Lender and the Housing Partnership, the terms and conditions of the Loan Documents shall control interpretation.

2. Intentionally Omitted.

3. Certain Sale, Transfer, and Assignment Related Matters; City Liability Limitation; Reservation of City Rights.

(a) The City and the CRA, as applicable, hereby consent to and approve the granting to the Lender of the Liens under the Loan Documents in the Project Collateral as security for the Loan.

(b) If an “Event of Default” exists under any of the Loan Documents, and whether or not a default or “Event of Default” then exists under the City Documents, as affected by this Agreement, the City and the CRA both consent to and approve any Transfer of the Project Collateral in any Enforcement Proceeding brought by or on behalf of the Lender; provided, however, that the foregoing shall not be deemed as limiting the right of the City or the CRA, or both, to declare a default or “Event of Default” under the City Documents upon any Transfer of the Project Collateral by the Tenant or the Housing Partnership that is not expressly permitted under the City Documents, including, without limitation, any Transfer of the Leasehold Estate,

the Munisport Interest or the Housing Partnership Collateral to a Person other than (i) the Lender, (ii) any other Lender Party and (iii) any other Person to whom such Transfer is expressly permitted by the City under the City Documents, as affected by this Agreement (each Person described in the foregoing clauses (i), (ii) and (iii) of this Section 3(b) being a “Permitted Assignee”).

(c) No Transfer of the Project Collateral in any Enforcement Proceeding shall require the Lender, any other Lender Party or any other Permitted Assignee to perform any of the Tenant’s or the Housing Partnership’s obligations under the City Documents, as affected by this Agreement, or the County Documents or shall constitute a default or “Event of Default” under any of the City Documents, as affected by this Agreement, or the County Documents.

(d) For the avoidance of doubt, and notwithstanding Section 3(c) of this Agreement, any Transfer of the Project Collateral (including, without limitation, any Transfer of the Leasehold Estate, the Munisport Interest or the Housing Partnership Collateral) by the Tenant or the Housing Partnership to any Person that is not the Lender, any other Lender Party or any other Permitted Assignee shall constitute a default and an “Event of Default” under the City Documents.

(e) Anything in the City Documents, as affected by this Agreement, to the contrary notwithstanding, it shall not be a condition to any Transfer by the Lender, any other Lender Party or any other Permitted Assignee of the Munisport Interest or declaration of a default or “Event of Default” under the Loan Documents that the Person to whom the Munisport Interest is Transferred shall have funds sufficient to satisfy the conditions set forth in Section 8.1(iv) of the Munisport Agreement, and the City agrees that such funds sufficiency is hereby deemed satisfied in such event; provided, however, that provisions of this Section 3(e) shall not be deemed to relieve such Person from observing or performing the obligations described in Section 8.1(iv) of the Munisport Agreement upon the other terms and conditions set forth therein.

4. City Not Precluded from Pursuing a Remedies Default. Neither the existence of the Loan Documents nor the exercise of any rights and remedies under the Loan Documents or applicable laws shall (i) require the City’s consent or approval or (ii) constitute a Transfer prohibited or restricted by the City Documents, as affected by this Agreement, or the County Documents. Neither the existence of the Loan Documents nor the exercise of any rights and remedies under the Loan Documents or applicable laws shall constitute a default or “Event of Default” under the City Documents, as affected by this Agreement, or the County Documents; provided, however, the foregoing terms of this Section 4 shall not be deemed to limit defaults or “Events of Default” occurring under the City Documents, as affected by this Agreement, if the Tenant or the Housing Partnership becomes the debtor in a “Bankruptcy Action,” as hereinafter defined, including, without limitation, if an “Event of Default” affecting the Tenant under Article XV.1(b), (c), (d), (e), and (f) of the Ground Lease occurs (all such defaults or “Events of Default,” as applicable, being “Remedies Defaults”). Upon the happening and during the continuance of a Remedies Default, the City shall retain all of its rights and remedies under the City Documents, as affected by this Agreement, and the Lender shall retain all of its right and remedies under the Loan Documents and this Agreement.

5. Obligations While Holding Legal Title. Without limiting the rights of the City under the City Documents, as affected by this Agreement (including, among other things, the right of the City to declare a default or “Event of Default” or to terminate or cancel the City Documents pursuant to the terms and conditions of the City Documents, as affected by this Agreement, in each case, after the giving of any applicable notice and expiration of any applicable cure period), with respect to any default or “Event of Default” by the Tenant or the Housing Partnership, as applicable (including, among others, a “Non-Curable Default,” as hereinafter defined) under the City Documents, as affected by this Agreement, the City and the CRA hereby agree that the Lender, any other Lender Party and any other Permitted Assignee that acquires the interests of the Tenant or the Housing Partnership, as applicable, under the City Documents, as affected by this Agreement, in any Enforcement Proceeding shall not have any obligation to observe or perform or assume any terms, covenants, agreements, or obligations under the City Documents, as affected by this Agreement, unless and until the Lender, any other Lender Party or any other Permitted Assignee, as applicable, acquires legal title to the interests of the Tenant and the Housing Partnership under the City Documents, as affected by this Agreement, in the Project Collateral and then such obligations shall continue only during such period of time that such Lender, other Lender Party or other Permitted Assignee continues to be the owner and holder of such legal title.

6. Transfers by the Lender to a Further or Subsequent Permitted Assignee if City Defaults Cured.

(a) The Lender, any other Lender Party and any other Permitted Assignee, as applicable, that acquires legal title to the interests of the Tenant and the Housing Partnership under the City Documents, as affected by this Agreement, in any Enforcement Proceeding may, without the further consent or approval of the City, consummate a further or subsequent Transfer to a further or subsequent Permitted Assignee, subject, however, to compliance by such Person with the terms and conditions of Section 6(b) of this Amendment.

(b) In furtherance of the agreement set forth in Section 6(a) of this Amendment, as of the date of such further or subsequent Transfer to such a further or subsequent Permitted Assignee (i) all “Events of Default” under the City Documents, as affected by this Agreement, that are “Curable Defaults” (as hereinafter defined) shall have been cured by the Lender, any other Lender Party or any other Permitted Assignee, as applicable, or such further or subsequent Permitted Assignee, (ii) the Lender, any other Lender Party or any other Permitted Assignee, as applicable, or such further or subsequent Permitted Assignee shall have commenced in the manner provided for in this Agreement, and shall proceed with reasonable diligence, to cure all “Events of Default” under the City Documents, as affected by this Agreement, that are “Non-Curable Defaults” (as hereinafter defined) and (e) iii) the Lender, any other Lender Party or any other Permitted Assignee, as applicable, or such further or subsequent Permitted Assignee so acquiring such title of the Tenant and the Housing Partnership shall expressly assume in writing all of the Tenant’s and Housing Partnership’s obligations under the City Documents, as affected by this Agreement, pursuant to a written instrument of assumption that is in form and substance reasonably satisfactory to the City and the CRA, and concurrently with the execution and delivery of such written instrument of assumption that is in form and substance reasonably satisfactory to the City and the CRA by such further or subsequent Permitted Assignee, the Lender, the other Lender Parties and any other Permitted Assignee prior in title to the further or

subsequent Permitted Assignee shall be relieved of all obligations and liabilities under the City Documents, as affected by this Agreement, whereupon such further or subsequent Permitted Assignee shall be entitled to all of the rights and interests of the Tenant and the Housing Partnership under the City Documents, as affected by this Agreement (including, among others rights and interests, the right to receive the proceeds of the County Grant pursuant to Section 12.10 of the Munisport Agreement and the right to use any amounts payable to the Tenant or the Housing Partnership, as applicable, pursuant to Section 2.2(vi) and 9.4 of the Munisport Agreement subject, in each case, to compliance with the applicable terms and conditions of the City Documents), and subject to the obligations and liabilities thereunder.

7. Intentionally Omitted

8. Notices.

(a) All notices, statements, information, consents, approvals, waivers and other communications under the City Documents, as affected by this Agreement and with respect to the County Documents (each a “notice”) shall be in writing. The City shall simultaneously deliver to the Lender true, complete and correct copies of all notices delivered (it being the intention of the Parties that the Lender receive true, correct and complete copies of all notices delivered or required to be delivered to the Tenant or the Housing Partnership, including, among others, notices of default, “Event of Default”, or any termination or cancellation of any of the City Documents, as affected by this Agreement, or the County Documents) when the same are given to the Tenant or the Housing Partnership, as applicable. In addition, the City and the CRA shall promptly give notice to the Lender of any failure by the Tenant or the Housing Partnership to keep, observe or perform any of the Tenant’s or the Housing Partnership’s obligations under the City Documents, as affected by this Agreement, and the County Documents, which notices shall specify, in reasonable detail, the alleged failure to observe or perform and the specific actions that must be taken to remedy such failure to so observe or perform the same. Anything in the City Documents, as affected by this Agreement, or the County Documents to the contrary notwithstanding, no notice given by the City or the CRA to the Tenant or the Housing Partnership shall be binding or affect the Tenant, the Housing Partnership, the Lender, any Lender Party, any Permitted Assignee or their respective successors and assigns unless a true, correct and complete copy of the same shall have been simultaneously delivered to the Lender in accordance with this Section 8, and any notices given (or purported to be given) by the City or the CRA without compliance with the terms and conditions of this Section 8 shall be void, ineffective, invalid, unenforceable and of no force or effect.

(b) All notices to the Lender shall be addressed to the Lender at the address set forth in Section 8(f) below or at any other address that the Lender or its successors and assigns shall provide in writing to the other Parties hereto. All notices to the City shall be addressed to the City at the address set forth in Section 8(g) below or at any other address that the City or its successors and assigns shall provide in writing to the other Parties hereto. All notices to the Tenant and the Housing Partnership shall be addressed to the Tenant and the Housing Partnership at the address set forth in Section 8(f) below or at any other address that the Tenant and the Housing Partnership or their respective successors and assigns shall provide in writing to the other Parties hereto. All notices to the CRA shall be addressed to the CRA at the address set

forth in Section 8(i) below or at any other address that the CRA or its successors and assigns shall provide in writing to the other Parties hereto

(c) Notices shall be given in writing, and shall be effective if hand delivered or sent by (i) certified or registered United States mail, postage prepaid, return receipt requested, or (ii) expedited prepaid delivery service, either commercial (such as, without limitation, federal Express or UPS) or United States Postal Service, with proof of attempted delivery.

(d) A notice shall be deemed to have been given: in the case of hand delivery, at the time of delivery; in the case of registered or certified mail, when delivered (as evidenced by the receipt) or the first attempted delivery on a business day; or, in the case of expedited prepaid delivery, upon the first attempted delivery on a business day.

(e) Anything in the City Documents, as affected by this Agreement, or the County Documents to the contrary notwithstanding, the City shall not exercise any rights or remedies related to Tenant's or the Housing Partnership's default or "Event of Default" under the City Documents, as affected by this Agreement, or with respect to the County Documents (including the giving of any notice to terminate or cancel any of the City Documents), unless and until (i) the City has delivered notice of such default or "Event of Default" (including the giving of any notice to terminate or cancel the City Documents) to the Lender pursuant to this Section 8 and (ii) all applicable other notices, if any, required by the City Documents, as affected by this Agreement, have been duly given by the City and all applicable cure periods preceding and following the delivery of such notices have expired (including any additional applicable cure periods afforded to the Lender under the City Documents, as affected by this Agreement).

(f) The Lender's name and address for notices under the City Documents, as affected by this Agreement, is as follows:

Column Financial, Inc.
11 Madison Avenue
New York, New York 10010
Attention: Edmund Taylor/Biscayne Landing
Facsimile #: (212) ~~322-0962~~[352-8106](tel:322-0962352-8106)

With a copy concurrently to:

Column Financial, Inc.
Legal and Compliance Department
11 Madison Avenue
New York, New York 10010
Attention: Casey McCutcheon, Esq.
Facsimile #: (917) 326-8433

With a further copy concurrently to:

Thelen Reid Brown Raysman & Steiner LLP
875 Third Avenue

New York, New York 10022
Attention: Jeffrey B. Steiner, Esq.
Facsimile #: (212) 603-2001
Reference: Biscayne Landing (602857/000451)

(g) The City's name and address for notices under the City Documents, as affected by this Agreement, is as follows:

The City of North Miami
776 NorthEast 125th Street
North Miami, Florida 33161
Attention: City Manager
Facsimile#: (305) 893-1367

With a copy concurrently to:

The City of North Miami
776 NorthEast 125th Street
North Miami, Florida 33161
Attention: City Attorney
Facsimile#: (305) 895-7029

(h) The Tenant's and the Housing Partnership's names and addresses for notices under the City Documents, as affected by this Agreement, are as follows:

Biscayne Landing, LLC
c/o Boca Developers, Inc.
2200 NorthEast 143rd Street
North Miami, Florida 33181
Attention: Jeffrey S. Scott
Facsimile #: (305) 792-4899

With a copy concurrently to:

Biscayne Landing, LLC
c/o Boca Developers, Inc.
321 East Hillsboro Boulevard
Deerfield Beach, Florida 33441
Attention: Theodore R. Stotzer, Esq.
Facsimile #: (954) 418-0207

With a copy concurrently to:

Paul, Hastings, Janofsky & Walker LLP
Park Avenue Tower
7 East 55th Street, First Floor

New York, New York 10022
Attention: Kenneth J. Friedman, Esq.
Facsimile #: (212) 230-7615

(i) The CRA's name and address for notices under the City Documents, as affected by this Agreement, is as follows:

North Miami Community Redevelopment Agency
615 NorthEast 124th Street
North Miami, Florida 33161
Attention: Troy E. Crapp, Sr., Executive Director
Facsimile#: (305) 899-9376

With a copy concurrently to:

GrayRobinson P.A.
401 East Las Olas Boulevard
Suite 1850
Fort Lauderdale, Florida 33301
Attention: Steven W. Zelkowitz, Esq., CRA Attorney
Facsimile#: (954) 761-8112

9. Intentionally Omitted

10. Tenant Recognition under the City Documents. The City hereby confirms that it recognizes the Tenant as the Developer under the Munisport Agreement, the Tenant under the Ground Lease, and the beneficiary and payee of the County Grant pursuant to the County Documents, and that the Tenant is entitled to all of the rights and subject to all of the obligations of the Developer under the Munisport Agreement, the Tenant under the Ground Lease and the beneficiary and payee of the County Grant pursuant to the County Grant Documents. If the Lender, any other Lender Party or any other Permitted Assignee acquires the Project Collateral in an Enforcement Proceeding the City shall recognize each such Person as the permitted successor Developer under the Munisport Agreement, the permitted successor Tenant under the Ground Lease, and the permitted successor beneficiary and payee of the County Grant pursuant to the County Documents, that is entitled to all of the rights and subject to all of the obligations of the Developer under the Munisport Agreement, the Tenant under the Ground Lease and the payee and beneficiary of the County Grant pursuant to the County Documents (the "City Recognition"). The City Recognition shall be self-operative, provided that the Parties shall execute and deliver (and, if requested, record) such documents, instruments, records and papers as may be reasonably requested by any Party to reasonably confirm the City Recognition.

11. Intentionally Omitted.

12. Rights of the Lender. Without limiting the Lender's rights under the Loan Documents, the Lender shall have the right (but not the obligation) to upon written notice to the City to:

(a) Notify the City that any amounts to be funded by the City to the Tenant or the Housing Partnership, as applicable, under any of the City Documents, as affected by this Agreement, or the County Documents shall be funded directly to the Lender (and, upon receipt by the City of such notice from the Lender, the City agrees to fund such amounts directly to the Lender); provided, however, to the extent any of the City Documents or the County Documents provide that amounts to be so funded by the City are to be used for a specific purpose, including, among other things, the payment or observance or performance of work at the Project or with respect to the Affordable Housing Units, the City shall fund such amounts to the Lender solely for such purposes and simultaneously give the Lender written notice of the required use thereof, and the Lender shall upon receipt of such notice from the City thereafter use such funds solely for the required use thereof;

(b) Observe or perform, or cause to be observe or performed, any of the obligations of the Tenant or the Housing Partnership (or, if applicable, any affiliate thereof) under any of the City Documents, as affected by this Agreement, or the County Documents including, among other things, the obligation to develop the On-Site Improvements, Affordable Housing Units and Environmental Park), and exercise any or all of the rights, powers and privileges of such Persons (or, if applicable, any affiliate thereof) under the City Documents, as affected by this Agreement, and the County Documents and upon such exercise the City will observe or perform, or cause to be observe or performed, such obligations of such Persons for the benefit of the Lender. This Section 12 shall not, however, be deemed to limit the obligations of the Tenant or the Housing Partnership, as applicable, under the City Documents, as affected by this Agreement, or the County Documents (or to impose such obligations upon the Lender), or the Loan Documents or to cause the Lender to be deemed to have acquired any interest of the Tenant or the Housing Partnership under the City Documents, as affected by this Agreement, or the County Documents.

(c) Nothing contained in this Section 12 shall limit the rights and remedies of the City under the City Documents, as affected by this Agreement, or the County Documents upon the happening and during the continuance of any “Event of Default” by the Tenant or the Housing Partnership, as applicable, or to create or extend the notice or cure periods set forth in the City Documents, as affected by this Agreement (nor shall anything contained in this Section 12 limit the notice and cure periods set forth in the City Documents, as affected by this Agreement, including, among others, any additional notice or cure period afforded to the Lender).

13. City to Accept Observance or Performance by Lender as if Rendered by Tenant. For the purpose of curing any default or “Event of Default” by the Tenant or the Housing Partnership, as applicable, under any of the City Documents, as affected by this Agreement, or the County Documents, the City, the Tenant and the Housing Partnership hereby irrevocably authorize and direct the Lender (and any representatives of the Lender that the Lender appoints for such purposes) to enter upon the Project and the Off-Site Project and to exercise any of the

rights and powers granted to the Tenant and the Housing Partnership under the City Documents, as affected by this Agreement (subject, however, to the provisions of the City Documents, as affected by this Agreement) and the County Documents, or available under applicable laws or under the Loan Documents. The Tenant and the Housing Partnership irrevocably authorize and direct that the City to accept, and the City agrees to accept, observance or performance by or on behalf of Lender of any term, covenant or provision on the Tenant's or the Housing Partnership's part to be observed or performed under the City Documents, as affected by this Agreement, and the County Documents with the same force and effect as though the same was observe or performed by the Tenant or the Housing Partnership, as applicable, and the City agrees to accept such observance or performance by the Lender or any of the Lender's representative as if it had been rendered directly by the Tenant or the Housing Partnership, as applicable.

14. Cure of Defaults by the Lender; Notice and Cure Periods; Curable Defaults and Non-Curable Defaults.

(a) The Lender agrees that, upon any default by the Tenant under the Ground Lease and the Munisport Agreement, the City shall have the right to commence an action against the "Original Tenant Parties" (as hereinafter defined), but not the Lender or any other Lender Party, to the extent such action is limited to (i) damages arising in connection with a default under the Ground Lease, Munisport Agreement, the County Documents or any other agreement between or among the City, the Tenant or the Housing Partnership, as applicable or otherwise relating to the Project (but not under any of the Loan Documents); and (ii) specific performance, which specific performance action shall be initiated for the sole purpose of obtaining an accounting based upon Original Tenant Parties' books and records provided, in each case, neither the Lender or any of the other Lender Parties shall have any liability respect to any such action commenced by the City. As used in this Agreement, "Original Tenant Parties" means any Person affiliated with the Tenant (the City hereby acknowledging that the Lender and the other Lender Parties are not affiliated with the Tenant) that has been the Developer under the Munisport Agreement or the Tenant under the Ground Lease, as applicable, prior to the time that Lender, any Lender Party or any other Permitted Assignee acquires title to the Munisport Interest or the Leasehold Estate, as applicable.

(b) The City agrees that (i) upon the happening of any default by the Tenant or the Housing Partnership, as applicable, under the City Documents, as affected by this Agreement, or the County Documents, then except as expressly set forth in this Section 14(a), the City will not exercise any of its rights and remedies with respect to such default (including, without limitation, any termination or cancellation of the Ground Lease or the Munisport Agreement, any action to effectuate the termination or cancellation of the Ground Lease or the Munisport Agreement, any re-entry, taking possession of or re-letting of the Property, the Project or the Off-Site Project or any other enforcement of the Ground Lease or Munisport Agreement as provided in the Ground Lease, the Munisport Agreement or pursuant to applicable laws), and (ii) any termination or cancellation of the Munisport Agreement, termination or cancellation of the Ground Lease or termination or cancellation of the Tenant's or the Housing Partnership's rights under the Munisport Agreement or Ground Lease (including, without limitation, the Tenant's right to possession) shall be void, ineffective, invalid, unenforceable and of no force or effect (y) unless and until the Lender has received written notice of such default as provided in this Agreement

(and all other applicable notices have been given by the City and cure periods expired), and (z) provided that:

(i) With respect to any default that is curable solely by the payment of money, then

(a) If such default is a “Curable Default” (as hereinafter defined) and not a “Non-Curable Default” (as hereinafter defined), the Lender has cured or caused to be cured such default within ten (10) business days following the later of (i) the expiration of the Tenant’s cure period as provided for in the Ground Lease or Munisport Agreement, as applicable, and (ii) the Lender’s receipt of written notice from the City of such default (the “Curable Default Actions”); or

(b) If such default is not a Curable Default and is a Non-Curable Default, then within thirty (30) business days after the later of (i) the expiration of the Tenant’s cure period as provided for in the Ground Lease or Munisport Agreement, as applicable, and (ii) the Lender’s receipt of written notice from the City of such default (the “Non-Curable Default Actions”):

(i) The Lender shall have notified the City in writing that the Lender intends to take commercially reasonable and good faith efforts to exercise its rights to acquire the Leasehold Estate, the Munisport Interest and the other Project Collateral in an Enforcement Proceeding;

(ii) The Lender shall have commenced to take commercially reasonable and good faith efforts to exercise its rights to acquire the Leasehold Estate, the Munisport Interest and the other Project Collateral and the Lender shall thereafter proceed with reasonable diligence to do the same, unless the exercise of such rights and remedies is prohibited by law;

(iii) The Lender shall keep all “Monetary Obligations” (as hereinafter defined) under the Ground Lease current (taking into account all notice and cure periods) during the period in which the Lender is effecting the acquisition of the Leasehold Estate, the Munisport Interest and the other Project Collateral; or

(iv) During the period in which the Lender is effecting the acquisition of the Leasehold Estate, the Munisport Interest and the other Project Collateral, the Lender shall have used commercially reasonable and good faith efforts to cause the observance or performance of any of the Tenant’s obligations under the Munisport Agreement that the Tenant is obligated thereunder to observe or perform as such obligations arise under the Munisport Agreement, including any obligations accruing prior to such period (but excluding any of the “Original Tenant Parties Obligations” (as hereinafter defined) and any obligation giving rise to a Non-Curable Default) to progress in a commercially reasonable manner; and

(ii) With respect to any default that is not curable solely by the payment of money, if such is not a Curable Default and is a Non-Curable Default, then the Lender takes all of the Curable Default Actions, or if such default is a Non-Curable Default, then Lender takes all of the Curable Default Actions or the Lender takes all of the Non-Curable Default Actions:

(a) Within thirty (30) days after the later of (x) the expiration of Tenant's cure period as provided in the Ground Lease or Munisport Agreement, as applicable, and (y) Lender's receipt of written notice of such default, the Lender shall:

(i) Have provided the City with written notice that the Lender intends to take commercially reasonable and good faith efforts to exercise its rights to acquire the Leasehold Estate, the Munisport Interest and the other Project Collateral;

(ii) Have commenced to take commercially reasonable and good faith efforts to exercise its rights or remedies to acquire the Leasehold Estate, the Munisport Interest and the other Project Collateral, unless the exercise of such rights or remedies is prohibited by law;

(iii) Have used commercially reasonable and good faith efforts to proceed to acquire the Leasehold Estate, the Munisport Interest and the other Project Collateral and thereafter proceed with reasonable diligence to do the same;

(iv) During the period in which the Lender is effecting the acquisition of the Leasehold Estate, the Munisport Interest and the other Project Collateral, have used commercially reasonable and good faith efforts to observe or perform or cause the observance or performance of any of Tenant's obligations under the Munisport Agreement that Tenant is obligated thereunder to observe or perform as such obligations arise under the Munisport Agreement, including any obligations accruing prior to such period (but excluding any of the "Original Tenant Parties Obligations," as hereinafter defined, and any obligation giving rise to a Non-Curable Default) so as to progress in a commercially reasonable manner; and

(v) Have kept all Monetary Obligations under the Ground Lease current (taking into account all notice and cure periods) during the period in which the Lender is effecting the acquisition of the Leasehold Estate, the Munisport Interest and the other Project Collateral.

(c) Nothing contained in this Section 14 is intended to extend any cure periods provided to the Tenant or the Housing Partnership (as opposed to the Lender, which by the terms of this Agreement is entitled to additional notice and cure periods as expressly set forth herein) upon the occurrence of a default or "Event of Default" under the City Documents, as affected by this Agreement, or the County Documents, except as expressly set forth herein.

(d) Upon the cure of such default or "Event of Default", the Lender shall not be required to continue such possession, or continue such acquisition of the Leasehold Estate, the Munisport Interest or the other Project Collateral, or to keep or cause to be kept all Monetary Obligations current, or to use commercially reasonable and good faith efforts to cause the observance or performance of any of the Tenant's or the Housing Partnership's obligations under the City Documents, as affected by this Agreement, or the County Documents that the Tenant or

the Housing Partnership may be obligated to observe or perform at such time so as to progress in a commercially reasonable manner.

(e) For the avoidance of doubt, in electing to exercise its rights under this Section 14, the Lender shall have no obligation with respect to any default or “Event of Default” under the City Documents, as affected by this Agreement, or the County Documents as to which it has not received written notice from the City in the manner required by this Agreement. Reference is made to Section 8(a) of this Agreement for the effect of the Lender not receiving such written notice from the City in such event.

(f) Anything in the City Documents, as affected by this Agreement, to the contrary notwithstanding, the Lender shall have no obligation to cure any Non-Curable Default, and upon the earlier to occur of (i) the completion of an Enforcement Proceeding (including the expiration of any appeals and redemption periods that may be available to the Tenant or the Housing Partnership, as applicable, under the Loan Documents, the City Documents, as affected by this Agreement, the County Documents and applicable laws) and (ii) the Lender’s or any other Lender Party’s (including any other Permitted Assignee’s) acquisition of the Leasehold Estate, the Munisport Interest and the other Project Collateral, each and every Non-Curable Default shall be automatically, irrevocably and unconditionally be deemed to be waived by the City under the City Documents, as affected by this Agreement, and the County Documents, and with respect to all Persons other than the Original Tenant Parties, without further action or notice to or from the City or the City executing and delivering any written instrument (provided, however, that such waiver shall not affect the rights of the City as set forth below in this Section 14), and the City shall not exercise any rights with respect to any such Non-Curable Default so long as Lender is using commercially reasonable and good faith efforts to proceed with reasonable diligence (subject to this Section 14) to exercise its rights and remedies to acquire the Leasehold Estate, the Munisport Interest and the other Project Collateral.

(g) Any cure period granted to the Lender under any of the City Documents, as affected by this Agreement, or the County Documents shall be extended by any period of time during which the Lender is legally prevented or restricted from exercising its rights and remedies under the Loan Documents by reason of a “Bankruptcy Action” (as hereinafter defined), including, without limitation, if an “Event of Default” affecting the Tenant under Article XV.1(b), (c), (d), (e), and (f) of the Ground Lease, an injunction, a court order, or other similar prohibition or other cause beyond the reasonable control of the Lender. The Lender agrees to use commercially reasonable and good faith efforts to cause any matters preventing or restricting the Lender from exercising its rights and remedies under the Loan Documents to be removed; provided, however, that the foregoing shall not obligate Lender to petition, lobby or otherwise seek to institute or modify legislation with respect to any such legal prohibition or restriction or to take any actions outside of the reasonable control of the Lender or that would not otherwise be taken by an institutional lender like the Lender in connection with loans like the Loan and projects like the Project, as determined by the Lender, in its sole but good faith discretion.

(h) The terms of this Section 14 (including any references to any time periods contained in this Section 14) shall not be deemed as limiting the rights and remedies granted to the Lender as an Institutional Lender (or to any Lender Party or Permitted Assignee) pursuant to Section XVI.2 (e) of the Ground Lease or Section 42 of the First Munisport Amendment, and the

failure of the Lender or any Lender Party (including any other Permitted Assignee) to apply for and obtain any building permit during the “Tolling Period” described in such Section XVI.2(e) of the Ground Lease or Section 42 of the First Munisport Amendment, as applicable, shall not be deemed to be a default or “Event of Default”, or give rise to any liability of the Tenant or the Housing Partnership, as applicable, under the City Documents, notwithstanding any provisions of the City Documents, as affected by this Agreement, requiring that the Tenant or the Housing Partnership, as applicable, use good faith or commercially reasonable or any other efforts to obtain the necessary building permits to proceed with the development of the Project in substantial accordance with the Phasing Plan.

(i) Without limiting the terms of this Agreement, the Lender shall have no obligation to cure any default or “Event of Default” under the City Documents, as affected by this Agreement, or the County Documents (it being the intention of the Parties that, in all cases, the Lender shall have the right, but not the obligation) and the Lender shall have no liability for any default or “Event of Default” by the Tenant or the Housing Partnership, as applicable, under the City Documents, as affected by this Agreement.

(j) Following the Transfer of the Project Collateral to the Lender, any other Lender Party or any other Permitted Assignee, with respect to any default or “Event of Default” under any of the City Documents in existence at the time of such Transfer (other than any Non-Curable Default), the City shall not exercise any rights or remedies with respect to such default or “Event of Default” (including, without limitation, any right to terminate or cancel the City Documents, as affected by this Agreement) so long as, subject to the terms of Section 14 above, the Lender, any other Lender Party or any other Permitted Assignee so acquiring such interests pursuant to such Transfer exercises commercially reasonable and good faith efforts to proceed with diligence to cure such default or “Event of Default” (other than a Non-Curable Default) following such Transfer (provided that, it shall not be considered commercially reasonable to require the destruction of any improvements (for which a building permit has been issued) on the Property in order to cure any such default or “Event of Default”) unless such destruction is required by applicable laws, required by the City pursuant to the City Documents, approved in writing by the City (in the City’s sole and absolute discretion), or if the continued existence thereof poses an unreasonable danger to Persons or the Project.

(k) Nothing contained in this Section 14 shall be interpreted as:

(i) Releasing the Tenant, the Housing Partnership or any affiliate of such Persons from any of the liabilities and obligations of the Developer under the Munisport Agreement or the Tenant under the Ground Lease (including, without limitation, any liabilities and obligations relating to any Non-Curable Default), following any Enforcement Proceeding, except to the extent the City Documents, as affected by this Agreement, expressly provide for such release;

(ii) Releasing any guarantor under any guaranty, or any maker of any promissory note, provided to the City under the City Documents from any of the liabilities and obligations of such guarantor or maker, as applicable, thereunder;

(iii) Preventing the City from exercising any of its rights and remedies under the City Documents (including, without limitation, the right to terminate the Ground Lease and Munisport Agreement upon the terms set forth therein upon the giving of all applicable notices and after the expiration of all applicable cure periods) in the event the Leasehold Estate, Munisport Interest and other Project Collateral is transferred to a Person other than a Permitted Assignee or as otherwise expressly permitted by this Agreement, without, in each case, the express written consent of the City;

(iv) Preventing the City from exercising its rights and remedies against the Tenant or the Housing Partnership or any of their respective affiliates, except as expressly provided in this Agreement, and provided that in no event shall such rights and remedies involve the Lender or the Loan Documents or have a material adverse effect on the Lender or the Loan Documents and the transactions contemplated thereby;

(v) Except as otherwise provided above in this Section 14, preventing the City from exercising any of its rights and remedies under the City Documents (including, without limitation, the right to terminate or cancel the Ground Lease and Munisport Agreement upon the terms set forth therein after the giving of any applicable notice and expiration of any applicable cure period required hereby or thereby) in the event the Lender or any other Lender Party (including any other Permitted Assignee) acquires the Leasehold Estate, the Munisport Interest and the other Project Collateral and fails to cure any Curable Default upon the terms set forth therein and herein;

(vi) Preventing the City from commencing an action against the Original Tenant Parties (but not against the Lender, any other Lender Party or any other Permitted Assignee) (a) that does not arise under the Munisport Agreement or the Ground Lease, except as expressly provided for in this Agreement, or (b) to the extent that such action arises under the Munisport Agreement or Ground Lease, is limited to (i) damages against the Original Tenant Parties arising in connection with a default or "Event of Default" under the Ground Lease or Munisport Agreement, and (ii) injunctive relief or specific observance or performance to obtain an accounting based upon the Original Tenant Parties' books and records or to enforce the Tenant's obligations under Section 16.10 of the Munisport Agreement and Section 11 of Article XXII of the Ground Lease with respect to minority participation, provided that in no event shall such action involve the Lender or the Loan Documents or have a material adverse effect on the Lender or the Loan Documents and the transactions contemplated thereby; or

(vii) Preventing the City from commencing any action against the Original Tenant Parties that does not arise from actions or omissions under the City Documents, as affected by this Agreement, provided that in no event shall such action involve the Lender or the Loan Documents or have a material adverse effect on the Lender or the Loan Documents and the transactions contemplated thereby.

(l) As used in this Agreement, a “Curable Default” shall mean any default under the City Documents, as affected by this Agreement, by the Tenant or the Housing Partnership that is curable solely by the payment of money and as to which the City has given notice in the manner required by this Agreement of such default in the payment of money and of the specific amount of money required to cure such default.

(m) As used in this Agreement, a “Non-Curable Default” shall mean any default or “Event of Default” under the City Documents, as affected by this Agreement, that (a) arises from any “Bankruptcy Action” (as hereinafter defined) or any other any act, omission, event, circumstance, matter or thing described in Sections XV.1(b), (c), (d), (e) or (f) of Article XV of the Ground Lease or Section 16.8(ii) of the Munisport Agreement; (ii) the Lender using commercially reasonable and good faith efforts, not being able to cure or cause a third Person to cure at any time (including after the removal of any legal restrictions or prohibitions on the Lender’s right to exercise its rights and remedies and after obtaining possession of the Project) any such default or “Event of Default”; (iii) arises from a failure of the Tenant or the Housing Partnership to pay damages or other relief attributable to any act, omission, event, circumstance, matter or thing accruing prior to Lender’s period of ownership of the Leasehold Estate, the Munisport Interest or the other Project Collateral, as applicable, regardless of whether such act, omission, event, circumstance, matter or thing commenced prior to such period of ownership; (iv) arises from a breach of representations, warranties, and indemnities of the Tenant or the Housing Partnership (but not from covenants of the Tenant or the Housing Partnership, other than covenants to indemnify) to the extent that such representations, warranties, and indemnities apply to the Project or the Off-Site Project, as applicable, and relate to the obligations pertaining to the Project or the Off-Site Project accruing prior to the period of ownership of Lender or any other Lender Party (including any other Permitted Assignee) of the Leasehold Estate, the Munisport Interest or other Project Collateral, as applicable; (v) is a Remedies Default; (vi) is a default or “Event of Default” that is only capable of being cured while in possession of the Project or the Off-Site Project, as applicable; (vii) arises from any failure of the Tenant or the Housing Partnership to post or deposit any bond in the event of any litigation relating to any of the matters described in clauses (i), (ii), (iii), (iv) or (v) above; (viii) arises from impediments obstructions, including, among others, any action, suit or proceeding instituted by or on behalf of the Tenant, the Housing Partnership or any of their affiliates; or (ix) otherwise constitute a default or “Event of Default” that an institutional mortgagee such as the Lender is unable to cure in a manner consistent with its general commercial practice in connection with loans like the Loan and projects like the Project, as determined by the Lender, in its sole but good faith judgment. Anything in the City Documents, as affected by this Agreement, to the contrary notwithstanding, the Parties acknowledge and agree that the City’s unconditional, automatic and irrevocable waiver of all Non-Curable Defaults shall not limit or restrict the City’s right to pursue an action for damages against the Original Tenant Parties in connection with such Non-Curable Default, provided that in no event shall such action involve the Lender or the Loan Documents or have a material adverse effect on the Lender or the Loan Documents and the transactions contemplated thereby.

(n) As used in this Agreement, a “Monetary Obligation” is an obligation under the City Documents, as affected by this Agreement, that is curable solely by the payment of money and as to which the Person required to make such payment of money, or the Person required to

cure any default in the making of such payment of money, has receive written notice of the specific amount of money due and owing in connection therewith.

15. Certain Bankruptcy Matters.

(a) As used in this Agreement, “Bankruptcy Action” shall mean with respect to any Person (i) such Person filing a voluntary petition under the Bankruptcy Code or any other federal or state bankruptcy or insolvency law; (ii) the filing of an involuntary petition against such Person under the Bankruptcy Code or any other federal or state bankruptcy or insolvency law in which such Person colludes with, or otherwise assists such Person, or soliciting or causing to be solicited petitioning creditors for any involuntary petition against such Person; (iii) such Person filing an answer consenting to or otherwise acquiescing in or joining in any involuntary petition filed against it, by any other Person under the Bankruptcy Code or any other federal or state bankruptcy or insolvency law; (iv) such Person consenting to or acquiescing in or joining in an application for the appointment of a custodian, receiver, trustee, or examiner for such Person or any portion of the Property; (v) such Person making an assignment for the benefit of creditors, or admitting, in writing or in any action, suit or proceeding, its insolvency or inability to pay its debts as they become due; (vi) such Person generally does not pay their debts as and when they become due and owing or is unable to pay its debts as and when they become due and owing or admits an inability to pay its debts as and when they become due and owing; (vi) if a meeting of such Person is convened for the purpose of considering any resolution for, or to petition for, winding-up or its administration or if any resolution relating with respect thereto or with respect to any present, contemplated or future Bankruptcy Action, or if an order for winding-up or administration is made, or if any other material step (including petition, resolution, proposal, or convening a meeting) is taken with a view to the rehabilitation, bankruptcy, insolvency, moratorium, composition, administration, custodianship, liquidation, winding-up, dissolution, or any other insolvency proceedings or Bankruptcy Action of such Person; or (vii) takes any action in furtherance of the foregoing.

(b) As used in this Agreement, “Bankruptcy Code” shall mean 11 U.S.C. §101 *et seq.*, as the same may be amended from time to time and as now or hereafter enacted.

(c) The Lender and the City agree that the City Documents, as affected by this Agreement, impose certain restrictions upon the Transfer of the Leasehold Estate, the Munisport Interest and the other Project Collateral. Without limiting the restrictions described in the prior sentence, the City agrees that the Lender shall have standing and shall be a party in interest in any Bankruptcy Action under the Bankruptcy Code in which the Tenant or the Housing Partnership, or any affiliate thereof, as applicable, is a debtor (whether in a consolidated lead or separately administered case), and in any contested matter or adversary proceeding in any such Bankruptcy Action, including, without limitation, with respect to any motions under Sections 363, 365, 1123 or other sections of the

Bankruptcy Code to sell the Property, Project or the Off-Site Project free and clear of any interest of an Person other than the applicable debtor's estate (or to sell subject to the interest of any Person, as applicable), to assume the any City Document, as affected by this Agreement, to sell, transfer, assign, deed, convey or otherwise dispose of any of the City Documents, as affected by this Agreement, to any Person, to reject or otherwise affect the rights of the Parties to the City Documents, as affected by this Agreement, and in any other Bankruptcy Action or other action, suit or proceeding before any other tribunal relating to the Tenant or the Housing Partnership, or any affiliate thereof. The foregoing sentence shall not be construed as permitting any Transfer of the Leasehold Estate, the Munisport Interest and the other Project Collateral, except as permitted by the City Documents, as affected by this Agreement.

(d) In the event of Bankruptcy Action in which the Tenant, the Housing Partnership or any affiliate thereof is a debtor:

(i) If the Ground Lease or any of the other City Documents, as affected by this Agreement, is rejected in connection with a Bankruptcy Action by the Tenant, the Housing Partnership, or any affiliate of such Persons or a trustee in bankruptcy for such Persons (or other Person to such proceeding), such rejection shall be deemed an assignment by such Persons to the Lender of the Project and all of such Persons' interests in the Project, including, among others, the Leasehold Estate and the Munisport Interest, and the City Documents, as affected by this Agreement, shall not terminate or be cancelled and the Lender shall have all rights and obligations of such Persons as if such Bankruptcy Action had not occurred, unless the Lender shall reject such deemed assignment by notice in writing to the City within thirty (30) business days following such rejection.

(ii) If any court of competent jurisdiction or other tribunal shall determine that any of the City Documents, as affected by this Agreement, including, among others, the Ground Lease, shall have been terminated or cancelled notwithstanding the terms of Section 15(d)(i) as a result of such rejection, the rights of the Lender to a "New Ground Lease" and "New Munisport Agreement" (both as hereinafter defined) shall not be affected thereby, and the Lender and the City agree that such Person shall enter into such New Ground Lease and New Munisport Agreement pursuant to the terms and conditions of this Agreement notwithstanding the foregoing.

(e) In the event of a Bankruptcy Action in which the City is a debtor:

(i) If any bankruptcy trustee, the City (as debtor-in-possession or otherwise) or any Person to such Bankruptcy Action seeks to reject the City Documents, as affected by this Agreement, pursuant to the Bankruptcy Code, the Tenant shall not have the right to treat the same as terminated or cancelled, except with the prior written consent of the

Lender, and the right to treat the City Documents, as affected by this Agreement, as terminated or cancelled in such event shall be deemed assigned to the Lender, whether or not specifically set forth in the Mortgage or other Loan Documents, so that the concurrence in writing of the Tenant and the Lender shall be required as a condition to treating the City Documents, as affected by this Agreement, as terminated or cancelled in connection with such a City related Bankruptcy Action.

(ii) Unless the City Documents, as affected by this Agreement, are treated as terminated or cancelled in accordance with Subsection 15(e)(i) above, then the City Documents, as affected by this Agreement, shall continue in full force and effect upon all the terms and conditions set forth herein, including rent, but excluding requirements that are not then applicable or pertinent to the remainder of the term of the Ground Lease and the other City Documents, as affected by this Agreement. Thereafter, the Tenant or its successors and assigns shall be entitled to any offsets against rent payable hereunder for any damages arising from such Bankruptcy Action, to the extent the Tenant's operation of business has been materially interfered with, and any such offset properly made shall not be deemed a default under the City Documents, as affected by this Agreement. The Lien of the Mortgage and the other Loan Documents shall extend to the continuing possessory rights of the Tenant following such rejection with the same priority, as it would have enjoyed had such rejection not taken place.

16. New Ground Lease and New Munisport Agreement.

(a) If the Ground Lease or the Munisport Agreement are for any reason whatsoever terminated or cancelled, including, without limitation, in connection with any Bankruptcy Action, whether by the City or operation of law or otherwise, then the Lender or the other Lender Parties (including any other Permitted Assignee) of the Mortgage (other than an affiliate of the Original Tenant Parties) may elect to enter into a new ground lease of the Project (a "New Ground Lease"), and a new Munisport agreement (a "New Munisport Agreement") of the character set forth in this Section 16, upon written notice to the City given within thirty (30) business days after such termination or cancellation; provided, however, the thirty (30) days business period during which the Lender or such other Persons have to elect to enter into a New Ground Lease and a New Munisport Agreement shall automatically be extended during the period in which any Person contests the legality, validity, binding effect or enforceability of the termination or cancellation thereof. Upon any such election being so made pursuant to such written notice, the City and such other Person shall enter into a New Ground Lease and New Munisport Agreement within fifteen (15) business days after such Person's written notice to the City.

(b) The New Ground Lease and the New Munisport Agreement shall put each of the parties thereto in the same position that such party would have been in if the Ground Lease or Munisport Agreement had never terminated or cancelled, and shall not affect (either by extending or limiting) any "Tolling Period" described in Section XVI.2 (e) of the Ground Lease

and Section 42 of the First Munisport Amendment, except that neither Lender, nor the other Lender Parties (including any other Permitted Assignee) nor any assignee of the Mortgage shall be liable for (i) any Non-Curable Default, and (ii) any of the Original Tenant Parties Obligations.

(c) Without limiting the foregoing, the New Ground Lease and the New Munisport Agreement shall (i) be for the remainder of the term of the Ground Lease and Munisport Agreement effective on the date of such termination or cancellation at the same rent and, except as otherwise expressly set forth in this Section 16, subject to the same covenants, agreements, conditions, provisions, restrictions and limitations as are then contained in the Ground Lease and Munisport Agreement, as affected by this Agreement; (ii) provide the same (but no additional) notice and cure periods expressly provided for in the City Documents, as affected by this Agreement; and (iii) provide that upon the parties' execution of the New Ground Lease and the New Munisport Agreement, the Lender shall be entitled to and the City shall concurrently therewith pay to Lender, all rents, income and payments from any subtenants of the Project or otherwise relating to the Project to the extent payable to the Tenant as the "tenant" under the Ground Lease (as opposed to the "City" as the landlord thereunder), consistent with the requirements of the Ground Lease and the Munisport Agreement, for the period commencing on the effective date of the New Ground Lease and the New Munisport Agreement, less any reasonable expenses incurred by the City for the operation and ownership of the Project for such period and less any other amounts due and payable to the City thereunder (and if the City fails to pay such amount to the Lender, the Lender shall be entitled to offset such amount against the rent and other amounts payable to the City under the New Ground Lease and the New Munisport Agreement).

(d) Upon the execution and delivery of the New Ground Lease and the New Munisport Agreement, (i) the Lender, in its own name may (at Lender's election in its sole discretion) take all appropriate steps necessary to remove the Tenant, the Housing Partnership, and affiliates thereof from the Project and the Off-Site Project, as applicable and (ii) if the Tenant has actually paid funds to the City pursuant to Section 2.2(vi) of the Ground Lease and, as a result of such actual payment of funds by the Tenant to the City, the Tenant would have an offset right under the Ground Lease, that same (but no greater or different) offset right shall be deemed to be transferred to the new tenant under the New Ground Lease.

(e) By entering into a New Ground Lease and a New Munisport Agreement, the Parties intend to preserve the Ground Lease, the Leasehold Estate, the Munisport Agreement, the Munisport Interest, and the other Project Collateral for the benefit of Lender without interruption. The New Ground Lease and the New Munisport Agreement shall be prior and superior to all rights, Liens and interests intervening between the date of the Ground Lease and the date of the New Ground Lease and the date of the Munisport Agreement and the date of the New Munisport Agreement and shall be free of any and all rights of the Tenant, the Housing Partnership, any affiliate thereof, and any holder of a "City Fee Mortgage" or other "City Loan Documents" (both as hereinafter defined).

(f) The City and the Tenant acknowledge and agree that Lender shall have the right subject, nevertheless, to the terms and conditions of the New Ground Lease and the New Munisport Agreement, to encumber the New Ground Lease, the Leasehold Estate, the New Munisport Agreement, the Munisport Interest, and the other Project Collateral with a deed of

trust, mortgage or other security instrument (as the case may be) on the same terms and with the same Lien priority as the Mortgage and the other Loan Documents, it being the intention of the Parties to preserve the priority of the Mortgage and the other Loan Documents, the Ground Lease (as replaced by the New Ground Lease), the Leasehold Estate, the Munisport Agreement (as replaced by the New Munisport Agreement), the Munisport Interest, and the other Project Collateral for the benefit of the Lender without interruption.

17. Intentionally Omitted.

18. Intentionally Omitted

19. Lender's Approval Rights. No consent, approval or submittal by Tenant or the Housing Partnership, and no agreement relating to any of Tenant's or the Housing Partnership's rights, powers, privileges and obligations under the City Documents, as affected by this Agreement, or the County Documents shall be deemed final, valid, binding or of any force or effect, unless and until the Lender has approved each such consent, approval, submittal and agreement in writing and in advance or waived its right to approve the same in writing and in advance (which waiver shall relate solely to the specific consent, approval, submittal or agreement provided to Lender for its approval and shall not constitute a waiver of Lender's right to consent to any other consent, approval, submittal or agreement); provided, however, that in issuing or waiving such consents, approvals, submittals and agreements, in each case, in advance as aforesaid, the Lender shall not incur any liability or assume any obligations with respect thereto. The Lender shall have the right to approve or waive the foregoing in a good faith and commercially reasonable manner.

20. Intentionally Omitted

21. Environmental Remediation. If, ~~pursuant to the City Documents, the City elects to take control of the County Grant Bank Account and,~~ as contemplated by the County Grant Documents, the City elects to perform the environmental remediation or other work at the Project required in connection therewith, the Lender, each Lender Party and each Permitted Assignee shall be automatically (and without any further action or the execution of any document) be deemed to be released from any obligation it or they may have under the City Documents, the County Documents or applicable laws with respect to such environmental remediation or work at the Project.

22. Future Construction Financing. Upon the request of any "Institutional Lender" (as defined in the Ground Lease), including the Lender, that may provide development, construction or other financing secured by a Lien on any portion of the Project or the Off-Site Project, the City shall upon request enter into an estoppel and agreement with such lender pursuant to which such lender is granted the same rights as are granted to the Lender hereunder (with such changes as may be reasonably necessary based on the facts existing at the time of such request). The fact that the Lender, and "Successor Lender" (as hereinafter defined) and any such other lender may not have any office in Miami-Dade County, Broward County or Palm Beach County, Florida shall not give rise to a default or "Event of Default" under the City Documents (whether in connection with the Loan, "Successor Loan" (as hereinafter defined), or any future development, construction or other financing the Lender or any other such lender may

provide in connection with the Project or the Off-Site Project). The foregoing shall not be construed as precluding any successor or assign of the Lender, or other Person as expressly hereinafter set forth, from obtaining the benefits and security afforded by this Agreement without the execution and delivery of any other instrument by the City.

23. Surrender. For the benefit of Lender, the City agrees not to accept a voluntary surrender of any of the City Documents, as affected by this Agreement, or the County Documents at any time while the Mortgage or other Loan Documents encumber the Project Collateral.

24. City Financing Permitted. The City may from time to time and in its sole and absolute discretion issue obligations encumbering the cash flow payable to the City in connection with the Project (including, among others, revenue anticipation note financing or other financing that the City may desire to engage in) so long as (i) a default or "Event of Default" under any such obligation cannot cause the termination or cancellation of the Ground Lease (or any New Ground Lease), the Leasehold Estate, the Munisport Agreement (or any New Munisport Agreement), the Munisport Interest, or any Lien in favor of the Lender created by the Mortgage or the other Loan Documents, and (ii) such obligation does not violate the terms and conditions of the "City Financing Matters" (as hereinafter defined). No consent or approval of any Party hereto shall be required as a condition to the City entering into such financing obligations and the other Parties hereto shall cooperate with the City, in all commercially reasonable respects and using good faith and diligence, in connection therewith.

25. Obligations of Lender and Permitted Assignees under the Ground Lease and Munisport Agreement.

(a) Neither the Lender nor any other Lender Party (including any other Permitted Assignee) shall have any obligation to observe or perform the obligations imposed on (i) the Tenant under the Ground Lease (or any New Ground Lease) unless and until such Person acquires the Leasehold Estate, (ii) the Tenant under the Munisport Agreement (or any New Munisport Agreement) unless and until such Person acquires the Munisport Interest, or (iii) the Tenant as beneficiary and payee of the County Grant pursuant to the County Documents unless and until such Person becomes the successor payee and beneficiary.

(b) Neither the Lender nor any other Lender Party (including any other Permitted Assignee) shall have any obligation to observe or perform any obligation imposed on (i) the Tenant under the Ground Lease (or any New Ground Lease) from and after the date on which such Person acquires the Leasehold Estate, (ii) the Tenant under the Munisport Agreement (or any New Munisport Agreement) from and after the date on which such Person acquires the Munisport Interest, and (iii) the Tenant under any other City Document, as affected by this Agreement, or the County Documents from and after the date on which such Persons acquires any interests thereunder.

(c) Notwithstanding the provisions of Section 25(b) above, the Lender and the other Lender Parties (including any other Permitted Assignee) shall be released from all obligations imposed on (i) the Tenant under the Ground Lease (or any New Ground Lease) from and after the date on which the Leasehold Estate is transferred to a new Permitted Assignee and the new

Permitted Assignee expressly assumes the obligations under the Ground Lease or New Ground Lease, as applicable, including past due and current obligations, (ii) the Tenant under the Munisport Agreement or any New Munisport Agreement from and after the date on which the Munisport Interest is transferred to a new Permitted Assignee and the new Permitted Assignee expressly assumes the obligations under the Munisport Agreement and New Munisport Agreement, as applicable, including past due and current obligations, and (iii) the Tenant under the other City Documents, as affected by this Agreement, or the County Documents from and after the date on which the interests thereunder are transferred to a new Permitted Assignee and the new Permitted Assignee expressly assumes the obligations thereunder. The foregoing shall not be construed as requiring Lender or any other Lender Party to cure any Non-Curable Default.

(d) Anything in the City Documents, as affected by this Agreement, to the contrary notwithstanding, the liability of Lender, the other Lender Parties, any Qualified Subsidiary, any Mortgagee or any Institutional Lender, as the case may be, acquiring title to the Leasehold Estate (whether pursuant to the Ground Lease or any New Ground Lease), Munisport Interest (whether pursuant to the Munisport Agreement or a New Munisport Agreement) and any of the other Project Collateral shall be limited to such Person's interests therein together with any rents and sales proceeds actually received by such Person therefrom and not used to pay costs or expenses related to the Project, the Off-Site Project, the Ground Lease (or any New Ground Lease), the Munisport Agreement (or any New Munisport Agreement), or with respect to the other Project Collateral.

26. Intentionally Omitted.

27. Tenant Parties Obligations: No Default under City Documents: Affordable Housing Obligations.

(a) Anything in the City Documents to the contrary notwithstanding, except as expressly set forth in Section 27(b) below, (i) in no event shall the Lender or any other Lender Party and any other Permitted Assignee, have any obligation whatsoever in connection with any of the obligations of the Tenant described in Sections 27(a) (i) and (ii) below (such obligations, collectively, the "Original Tenant Parties Obligations") (including, without limitation, (a) pursuant to Section 3 of Article XV of the Ground Lease to the extent any obligations under such Section 3 arise from the Original Tenant Parties Obligations, and (b) in the event the Lender or any other Lender Party and any other Permitted Assignee acquires the Leasehold Estate, the Munisport Interest and the other Project Collateral), and (ii) in no event shall the failure of any such Person to observe or perform any such obligation give rise to a default or "Event of Default" (as defined in the City Documents) under the City Documents or deprive the Lender or any other Lender Party or any other Permitted Assignee from any rights under the City Documents (including, without limitation, the right to assign the Munisport Agreement or the Ground Lease pursuant to the terms and conditions of the City Documents). The Original Tenant Parties Obligations shall include:

(i) Any obligation (including, without limitation, any obligation relating to the Affordable Housing Units) for which the City Documents provide that the City's remedy in the event of a default by the Tenant in connection with such obligation is

recourse to a letter of credit, guaranty, and promissory note provided in connection therewith and recourse to the assignee of such obligations of the Tenant; and

(ii) Any obligation to provide, replace or observe or perform under any guaranty, letter of credit or promissory note (including, without limitation, pursuant to Sections 8.1(iv), 9.3, 9.4 or 17.21 of the Munisport Agreement) to the City in connection with any of the Tenant's obligations under the City Documents, provided, however, that the foregoing shall not be deemed as limiting the liability of any Permitted Assignee for (a) any obligation of the Tenant under the City Documents in connection with which any such guaranty, letter of credit or promissory note has been or is to be provided and for which recourse to such guaranty, letter of credit or promissory note and to the assignee of such obligations of the Tenant is not specified in the City Documents or (y) the obligation under Section 39 of the First Munisport Amendment to either fund Five Million and No/Dollars (\$5,000,000.00) or provide a letter of credit in such amount at the time and in the manner specified therein.

(b) The Parties hereby agree as follows:

(i) Anything in the City Documents to the contrary notwithstanding, the Lender, any other Lender Party or any other Permitted Assignee may only Transfer the "Affordable Housing Obligations" (as hereinafter defined) to another Person (an "Affordable Housing Obligations Successor") if (a) such Affordable Housing Obligations Successor is a "Qualified Developer" (as defined in the Munisport Agreement") or otherwise approved in writing by the City, which the City may approve and disapprove in its sole and absolute discretion, (b) all "Events of Default" under the Munisport Agreement arising from the "Affordable Housing Obligations" ~~(as hereinafter defined)~~ that are Curable Defaults have been cured, and (c) such Affordable Housing Obligations Successor shall have commenced and shall have proceeded with reasonable diligence, to cure all "Events of Default" under the Munisport Agreement related to the Affordable Housing Obligations that are Non-Curable Defaults, and provided that such Affordable Housing Obligations Successor expressly assumes in writing all of the obligations under the Munisport Agreement with respect to the Affordable Housing Obligations, and, in the event of such Transfer of the Affordable Housing Obligations to an Affordable Housing Obligations Successor, the Lender, each Lender Party and each other Permitted Assignee shall be relieved of all obligations under the Munisport Agreement with respect to the Affordable Housing Obligations, whereupon such Affordable Housing Obligations Successor shall be entitled to all of the rights and interests of the Tenant, and subject to all of the obligations of the Tenant, under the Munisport Agreement with respect to the Affordable Housing Obligations (including, without limitation, (a) the right to receive any amounts payable to the Tenant or the Housing Partnership pursuant to Sections 2.2(vi) and 9.4 of the Munisport Agreement (b) the obligation to post a letter of credit pursuant to the terms of such Section 9.4 in the event the letter of credit or promissory note in effect as of the date of any such Transfer is drawn upon in accordance with such Section 9.4 following a default arising under the Affordable Housing Obligations. Notwithstanding the other provisions of this Section 27(b)(i), and (c) the obligation to provide a guaranty pursuant to the terms of such Section 9.4. For purposes of this Agreement, "Affordable Housing Obligations" shall mean the obligations of the Tenant

under Section 9.4 of the Munisport Agreement together with any other obligations of the Tenant affecting the “Affordable Housing Unit” (as defined in the Munisport Agreement”) in the City Documents.

(ii) Neither the Lender nor any other Lender Party nor any other Permitted Assignee shall have an obligation to observe or perform the Affordable Housing Obligations unless and until such Person acquires the Housing Partnership Collateral.

(iii) The Lender, any other Lender Party and any other Permitted Assignee shall have an obligation to observe or perform the Affordable Housing Obligations under the Munisport Agreement from and after the date such Person acquires the Housing Partnership Collateral; provided, however, that neither the Lender, any other Lender Party nor any other Permitted Assignee shall be liable for (a) curing any Non-Curable Default or (b) any obligations relating to the Property, the Project and the Off-Site Project, except the Affordable Housing Obligations.

(iv) Notwithstanding the provisions of Section 27(b)(ii) above, the Lender, the Lender Parties and any other Permitted Assignee shall be released from all Affordable Housing Obligations from and after the date on which the Munisport Interest is transferred to another Lender Party or Permitted Assignee and the new Person assumes the obligations of such Persons under the Munisport Agreement (or the New Munisport Agreement, as applicable). The foregoing shall not be construed as requiring the Lender, any other Lender Party or any other Permitted Assignee to cure any Non-Curable Default.

(v) Anything in the City Documents, as affected by this Agreement, to the contrary notwithstanding, the liability of the Lender and the other Lender Parties (including any other Permitted Assignee) acquiring title to the Housing Partnership Collateral shall be limited to such Person’s interests in the Housing Partnership Collateral.

(vi) In the event that the Housing Partnership Collateral has been assigned to the Lender, any other Lender Party and any other Permitted Assignee, then upon the occurrence of a material uncured “Event of Default” with respect to the Affordable Housing Obligations, the City shall have the right to require, by delivering written notice such Person assigns the Housing Partnership Collateral to the City, in which event the such Person and the City shall promptly execute all such documents (collectively, the “Affordable Housing Assumption Documents”) and take all such actions as are reasonably necessary to (a) assign the Housing Partnership Collateral to the City, (b) provide for the assumption by the City of all Affordable Housing Obligations, (c) release the Lender, any other Lender Party, any other Permitted Assignee, the Tenant, and the provider of any guarantor or promissory note in connection with the Affordable Housing Obligations from all obligations relating to the Affordable Housing Units in accordance with the following provisions of this Section 27, and (d) amend the Munisport Agreement and any other applicable documents to reflect the same; provided that such assignments, assumptions and releases shall be effective immediately upon the delivery of such notice by the City, and the execution of the Affordable Housing Assumption Documents shall

not be a condition to the effectiveness of such assignments, assumptions and releases. The Affordable Housing Assumption Documents shall provide that:

(i) Subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, as such may be amended, the City shall indemnify the Lender, each Lender Party, and each other Permitted Assignee from and against all fees, costs, expenses and liabilities (including without limitation reasonable attorneys' fees) arising under the Affordable Housing Obligations from and after the date of such assignment. The Lender, each Lender Party, and each other Permitted Assignee who takes legal title to the Project Collateral shall indemnify the City from and against all fees, costs, expenses and liabilities (including without limitation reasonable attorneys' fees) arising under the Affordable Housing Obligations accruing prior to the date of such assignment during such Person's ownership of legal title thereto.

(ii) The Lender, each Lender Party, and each other Permitted Assignee, the Tenant, and any Persons that have provided any guaranty or promissory note in connection with the Affordable Housing Obligations, shall be irrevocably released from: (a) all of the Affordable Housing Obligations, and (b) any obligation to provide or replace any promissory note or letter of credit in connection therewith.

The foregoing shall not preclude the exercise by the City of any rights and remedies under the City Documents upon the occurrence of a material uncured "Event of Default" with respect to the Affordable Housing Obligations.

(c) The City hereby confirms the following:

(i) Neither the Tenant, the Charter School Partnership nor the Guarantors have any obligations to the City with respect to the Charter School under the City Documents (including any guaranties delivered in connection therewith).

(ii) Anything in the City Documents, as affected by this Agreement, to the contrary notwithstanding, the City's sole recourse in connection with any default by the Housing Partnership, the Tenant or any other Person, including, without limitation, the Lender or any other Lender Party (including any other Permitted Assignee) pursuant to Section 27(b) above, in connection with any of the obligations under the Munisport Agreement relating to the Affordable Housing Units, and the development or management of affordable housing and set forth in Sections 9.4, 2.2(v) and 11 of the Munisport Agreement (collectively, the "Affordable Housing Obligations"), is under the promissory notes or letters of credit (as applicable) delivered to the City pursuant to Section 9.4 of the Munisport Agreement and Section 26 of the First Munisport Amendment, and no such default may give rise to a default under any of the City Documents, as affected by this Agreement, or to any liability of the Tenant or any successor thereto as the Developer under the Munisport Agreement or the Tenant under the

Ground Lease. The foregoing sentence is not intended to limit the rights of the City under any agreement other than the Munisport Agreement and the Ground Lease.

(d) For purposes of this Section 27 only, a Permitted Assignee of the Housing Partnership Obligations shall be required to comply with the ownership requirements set forth in Section 9.4(i) of the Munisport Agreement.

(e) The Parties acknowledge that the City's obligations under Section 9.4 of the Munisport Agreement have been delegated to the CRA pursuant to the Interlocal Agreement. Accordingly, for purposes of this Section 27 only, the "City" and the "CRA" shall be used interchangeably as the context may dictate to give effect to the terms hereof.

28. NGB Training Facility and City Library Obligations: City's Rights upon Exercise of the Lender's Cure Rights.

(a) In the Lender, any other Lender Party or any other Permitted Assignee acquires the Munisport Interest, then concurrently with such acquisition: (i) the obligation set forth in clause (ii) of Section 21 of the First Munisport Amendment to pay certain amounts directly to the Guarantors as repayment of any amounts funded to the City shall be deemed automatically, unconditionally and irrevocably waived, (ii) the failure of the Lender, any other Lender Party and any other Permitted Assignee as the successor Developer under the Munisport Agreement, to pay such amounts to the Guarantors shall not constitute a default under the City Documents, as affected by this Agreement, or give rise to any obligation or liability thereunder or otherwise, including, without limitation, with respect to the Guarantors, (iii) the City shall be deemed to have repaid the Guarantors, on a dollar-for-dollar basis, the amount (the "Deemed Repayment Amount") that would, in the absence of such waiver, otherwise be required to be paid by the successor Developer to the Guarantors under such clause (ii) of Section 21 of the First Munisport Amendment, and (iv) the Tenant shall be deemed to have funded the Deemed Repayment Amount under Sections 9.2 and 9.3 of the Munisport Agreement, and the offset rights set forth in Section 21 of the First Munisport Amendment shall therefore apply with respect to the Deemed Repayment Amount.

(b) Following the delivery of any notice by the Lender to the City pursuant to Section 14 of this Agreement, the City shall have the right to deliver written notice to the Tenant and the Lender (a "Development Funding Notice") that the City shall release the Tenant from all of its development obligations under Section 9.2 and 9.3 upon the City's receipt of the amounts set forth in this Sections 31(b)(i) or 31(b)(ii) below, as applicable; provided that the City shall not have the right to deliver a Development Funding Notice, and any such Development Funding Notice shall be void, invalid, ineffective, unenforceable and of no force or effect, if the City and the Tenant have entered into a contract for the development of the NGB Training Facility or the City Library, as applicable, prior to the delivery of the Development Funding Notice. Upon the delivery to the Tenant and the Lender of a Development Funding Notice, the following provisions shall apply:

(i) If the Development Funding Notice is delivered in respect of the NGB Training Facility, then concurrently with the recordation of the "Training Facility Release

Documents” (as hereinafter defined), the Tenant shall pay to the City an amount equal to the difference between (a) Ten Million and No/Dollars (\$10,000,000.00) minus (b) the aggregate amount funded by the Tenant prior to the date of such payment pursuant to Sections 2.2(iii) and 9.2 of the Munisport Agreement, and Section 20 of the First Munisport Amendment, in respect of the NGB Training Facility; provided that the City and the Tenant shall use commercially reasonable and good faith efforts to promptly execute, deliver and arrange for the recordation of such documents as are reasonably necessary and mutually agreeable to release the Tenant from all obligations under Sections 2.2(iii) and 9.2 of the Munisport Agreement and Section 20 of the First Munisport Amendment in accordance with Section 28(b)(iii) below, and to provide third parties with notification of the same (collectively, the “Training Facility Release Documents”), and if the City and the Tenant fail to agree upon the Training Facility Release Documents within thirty (30) days after delivery of the Development Funding Notice, then the Development Funding Notice shall be deemed terminated and the City and the Tenant shall proceed as though the Development Funding Notice had never been sent.

(ii) If the Development Funding Notice is delivered in respect of the City Library, then the Tenant shall be required to pay to the City an amount equal to the difference between (a) Ten Million and No/Dollars (\$10,000,000.00) minus (b) the aggregate amount funded by the Tenant prior to such payment pursuant to Sections 2.2(iv) and 9.3 of the Munisport Agreement, and Section 20 of the First Munisport Amendment in respect of the City Library, with such amount to be paid by the Tenant to the City semi-annually in four (4) equal installments, with the first such installment (the “Initial Library Payment”) to be paid on the date that is the later of (y) six (6) months following the fifth (5th) anniversary of the Ground Lease, and (ii) the date of recordation of the “City Library Release Documents” (as hereinafter defined), and with the remaining three (3) installments (each such installment, an “Additional Library Payment”) to be paid to the City every six (6) months following such date; provided, however, that:

(a) The City and the Tenant shall use commercially reasonable and good faith efforts to promptly execute, deliver and arrange for the recordation of such mutually agreeable documents as are reasonably necessary to release the Tenant from all obligations under Sections 2.2(iv) and 9.3 of the Munisport Agreement and Section 20 of the First Munisport Amendment in accordance with Section 28(b)(iii) below, and to provide third parties with notification of the same (collectively, the “City Library Release Documents”), and if the City and the Tenant fail to agree upon the City Library Release Documents within thirty (30) days after delivery of the Development Funding Notice, then the Development Funding Notice shall be deemed terminated and the City and the Tenant shall proceed as though the Development Funding Notice had never been sent;

(b) Any reference in Section 21 of the Munisport Agreement to an automatic waiver of the Tenant’s development obligations “under Section 9.3 below” shall also be deemed to include a waiver of the Tenant’s development obligations provided for under this Section 28(b)(ii); and

(c) The payment obligation under this Section 28(b)(ii) shall be subject to any offset rights available to the Tenant pursuant to Section 21 of the First Munisport Amendment.

(iii) Upon the payment to the City of the amount described in Section 28(b)(i) above, the Tenant shall be automatically, unconditionally and irrevocably released from all development and other obligations of the Tenant under Sections 9.2, 2.2(iii) and (with respect to the NGB Training Facility) 2.2(vii) and Section 20 of the First Munisport Amendment, and the Tenant shall in no event be liable for any cost overruns in connection with the NGB Training Facility. Upon the payment to the City of the Initial Library Payment described in Section 28(b)(ii) above, the Tenant shall be automatically, unconditionally and irrevocably released from all development and other obligations of the Tenant under Sections 9.3, 2.2(iv) and (with respect to the City Library) 2.2(vii) and Section 20 of the First Munisport Amendment, and the Tenant shall in no event be liable for any cost overruns in connection with the City Library; provided, however, that the Tenant shall not be released from its obligation to make the Additional Library Payments.

29. Intentionally Omitted

30. Estoppel Certificates. Within fifteen (15) business days after the Lender’s written request, the City, on the one hand, and the Tenant and the Housing Partnership, on the other hand, shall each provide the Lender with duly executed and delivered estoppel certificates (each an “Estoppel Certificate”) that shall certify to the Lender and the Lender’s successors and assigns (a) as to the amount and status of all monetary obligations payable by it or the other Parties under the City Documents, as affected by this Agreement, and, if there is any default with respect thereto, specifying such default and what actions must be taken to cure such default, (b) as to the satisfaction and compliance by itself and the other Parties to the City Documents, as affected by this Agreement, and the County Documents, of all terms, conditions, covenants, agreements and other matters set forth therein (including, among other things, whether there are any defaults with respect to representations and warranties, if applicable), and, if there is a default with respect to such satisfaction or compliance, specifying such default and what actions must be taken to cure

such default, (c) whether there is any default or “Event of Default” by itself or the other Parties under any City Document, as amended by the Amendment, or the County Documents, and, if there is any such default or “Event of Default,” specifying the same and what actions must be taken to cure the same, (d) specifying whether the City Documents, as affected by this Agreement, or the County Documents have been amended, restated, replaced, supplemented or otherwise modified and are in full force and effect and, if so, attaching true, complete and correct copies of all amendments, restatements, replacements, supplements or other modifications and specifying the circumstances surrounding whether the City Documents, as affected by this Agreement, and the County Documents, are in full force and effect, and (e) specifying such other matters as may be reasonably requested by the Lender.

31. No Merger. The fee estate in and to the Project and the Leasehold Estate created by the Ground Lease shall not merge but shall remain separate and distinct, notwithstanding any union of such estates in the City, the Tenant or any other Person, however occurring.

32. The Lender, Multiple Mortgages and Multiple Loan Documents. The “Lender” as used herein shall mean, at any point in time, (a) any holder of the Mortgage or the other Loan Documents and (b) any successor to the Lender (each a “Successor Lender”) under any other deed of trust, mortgage, security instrument or other loan document in connection with any further or subsequent loan to the Tenant in connection with the Project, including, among other loans, any development or construction financing encumbering the Leasehold Estate, the Munisport Interest or the other Project Collateral (each a “Successor Loan”); provided, however, for the avoidance of doubt, no “City Fee Mortgage” or other “City Fee Loan Documents” (both as hereinafter defined) and no holder of any “City Fee Loan” (as hereinafter defined) shall be deemed to be a Successor Lender or holder of a Successor Loan. The Successor Lender shall be entitled to the rights, powers, privileges and the other benefits and security afforded by the City Documents, as affected by this Agreement, and the County Documents without the necessity of the execution and delivery of any other document, instrument, record and paper, upon the Successor Lender giving the notice of the Successor Loan to the City that is required by the City Documents, as affected by this Agreement; provided, however, if the Successor Lender in connection with any Successor Loan is the Lender (or any affiliate of the Lender), then no further or additional notice shall be required to be given by the Successor Lender to the City under the City Documents, as affected by this Agreement, or the County Documents and this Agreement shall automatically insure to the benefit of the Successor Lender. The City acknowledges and agrees that, during the term of the Ground Lease (or a New Ground Lease, as applicable), there may be multiple Mortgages and Loan Documents and multiple Lenders and that each Lender may, from time to time, assign its right, title and interest in and to the Loan, the Mortgage, the Loan Documents and the Ground Lease (or a New Ground Lease, as applicable).

33. Lender Obligations; Permitted Transfers. Etc. The granting by the Tenant and its affiliates of the Mortgage and the other Loan Documents shall not be deemed to constitute a Transfer of the Ground Lease and the other City Documents, as affected by this Agreement, or the Project to the Lender, nor shall the Lender, as such, be deemed to be a purchaser, transferee, assignee, owner, or other Person in a like capacity in connection with the Ground Lease (or the Leasehold Estate), the Munisport Agreement (or the Munisport Interest), or the other City Documents (or the other Project Collateral) so as to require or obligate the Lender, as such, to assume the observance or performance of any of the terms, covenants, agreements or conditions

on the part of the Tenant or its affiliates to be observe or performed thereunder. In no event shall any act or omission of the Lender (including, among other things, the acquisition of the Ground Lease (or the Leasehold Estate), the Munisport Agreement (or the Munisport Interest), or the other City Documents (or the other Project Collateral) in any transaction or the taking of possession of the Project through a receiver (or through any other Person or by other means) require the Lender to assume, or cause the Lender to be deemed to have assumed, any obligation or liability of the Tenant under the City Documents, as affected by this Agreement, or with respect to the Project, and the Lender shall have no personal liability to the City for the Tenant's or any of its affiliates' failure to so observe or perform any agreement, covenant or condition of the Tenant or such affiliates to be observe or performed under the City Documents, as affected by this Agreement, it being expressly understood and agreed that, in the event of any such failure, the City's sole and exclusive remedy shall be to terminate or cancel the City Documents, as affected by this Agreement, pursuant to the required notice and after the expiration of the applicable cure periods provided for herein, and, in any event, without any recourse or claim for damages against the Lender. Notwithstanding the foregoing, the purchaser at any Transfer of the Ground Lease (or the Leasehold Estate), the Munisport Agreement (or the Munisport Interest), or the other City Documents (or the other Project Collateral) in any Enforcement Proceedings including the assignee or transferee of the Ground Lease (or the Leasehold Estate), the Munisport Agreement (or the Munisport Interest), or the other City Documents (or the other Project Collateral) under any instrument from the Lender or any trustee or other Person acting on its behalf shall be deemed to be a permitted assignee or transferee under the City Documents, as affected by this Agreement, without the need to obtain City's consent or approval and City shall recognize such Person as the successor-in-interest under the City Documents, as affected by this Agreement, and shall be deemed to have agreed to observe or perform all of the terms, covenants and conditions to be observe or performed under the City Documents, as affected by this Agreement, from and after the date of such acquisition (but not for any obligations or liabilities accruing prior to such date), but only for so long as such Person is the owner of the Ground Lease (or the Leasehold Estate), the Munisport Agreement (or the Munisport Interest), or the other City Documents (or the other Project Collateral), it being understood and agreed that upon a Transfer of the City Documents, as affected by this Agreement, by such Person (which Transfer shall not require the consent or approval of City, anything in the City Documents, as affected by this Agreement, to the contrary notwithstanding) and written assumption of its obligations thereunder by a new Person, the transferring Person shall be relieved of all future liability under the City Documents, as affected by this Agreement, arising after such date. At the request of the Lender, the City shall execute, acknowledge and deliver to the Lender a written release evidencing the foregoing.

34. Subordination and Impairment. The Parties each acknowledge and agree that (a) the Loan, the Mortgage and the other Loan Documents are prior and superior and are not, shall not be, and are not intended to be, subject or subordinate (or *pari passu*) to any "City Fee Loan" or other "City Fee Loan Documents" (all as hereinafter defined) and (b) any Enforcement Proceeding or other exercise of rights and remedies under the City Fee Loan Documents (or other administrative or enforcement procedures relating to the City Fee Loan) shall not impair, extinguish, subordinate, defeat, divest, or impair the Lien of or the legality, validity, priority, binding effect and enforceability of the Mortgage and the other Loan Documents in any way, and the holder of the City Fee Loan (or its designee or nominee or any other Person) acquiring fee title to the Project or any interest of the City in the Project, under the City Documents, as

affected by this Agreement, or otherwise, shall acquire such title subject to the Ground Lease (including any New Ground Lease, if applicable), the Leasehold Estate, the Munisport Agreement (including any New Munisport Agreement, if applicable), the Munisport Interest, the other Project Collateral and the rights and remedies of the Lender with respect to the foregoing under the Mortgage and the other Loan Documents. As used in this Agreement, “City Fee Loan” shall mean any secured or unsecured loan granted to the City by any Person relating to the City’s fee interest in the Project or any right, title or interest in, to and under the City Documents, as affected by this Agreement, and “City Fee Loan Documents” shall mean all documents, instruments, records and papers evidencing, securing, indemnifying, guaranteeing or otherwise relating to the City Fee Loan. The City has not as of the date hereof assigned, transferred, sold, pledged, hypothecated, granted, set over, mortgaged, created a security interest in, executed, delivered, encumbered, or otherwise conveyed its interest in the Ground Lease, the Munisport Agreement, or its fee interest in the Project (or any part thereof). There is no City Fee Loan outstanding and there are no City Fee Loan Documents as of the date hereof. The matters described in this Section 34 are sometimes referred to in this Agreement as the “City Financing Matters.”

35. Casualty and Insurance Proceeds. So long as the indebtedness, or any part of the indebtedness, secured by the Mortgage or the other Loan Documents remains outstanding and unpaid, and the Mortgage remains of record, the City and the Tenant agree that: (a) the Ground Lease shall not terminate or be canceled at any time upon the damage or destruction by fire or other casualty of all, substantially all, or any part of the Project; (b) the insurance policies required to be maintained pursuant to the Ground Lease shall name the Lender and its successors and assigns as an additional named insured and loss payee/mortgagee, as its interests may appear, pursuant to an endorsement that is acceptable to the Lender; (c) the form of such policies and amounts thereof shall at all times be in accordance with the terms of the Mortgage and the other Loan Documents, and the Lender shall be entitled at the Lender’s option to participate in any adjustment, settlement or compromise with respect to any insurance claim; and (d) all proceeds of such insurance policies shall be payable to the Lender as loss payee (the City subordinating any right to receive such proceeds to the Lender), to be applied by the Lender in accordance with the terms of the Mortgage or the other Loan Documents, as applicable.

36. Condemnation and Condemnation Proceeds. So long as the indebtedness, or any part of the indebtedness, secured by the Mortgage or the other Loan Documents remains outstanding and unpaid, and the Mortgage remains of record, the City and the Tenant agree that: (a) the Ground Lease shall not terminate or be canceled upon a taking or condemnation pursuant to an eminent domain proceeding of all, substantially all, or any part of the Project without the Lender’s prior written consent; (b) any and all awards for any taking or condemnation shall be payable to the Lender, to be disbursed as follows: (i) first, to the Lender for the value of the Leasehold Estate created by the Ground Lease and the value of the Improvements located on the Project, up to an amount equaling the outstanding principal balance of any loan secured by the Mortgage or the other Loan Documents, and any interest accrued thereon and other sums due and owing in connection therewith, and (ii) second, to the City and the Tenant in accordance with the Ground Lease; and (c) the Lender shall have the right to apply the condemnation proceeds in accordance with the terms of the Mortgage or the other Loan Documents, as applicable, and shall be entitled at the Lender’s option to participate in any compromise, settlement or adjustment with respect to the Project.

37. No Modification Without the Lender's Consent. Anything in the City Documents, as affected by this Agreement, to the contrary notwithstanding, neither the City nor the Tenant (nor any affiliate of the Tenant, including, among others, the Housing Partnership) will (a) cancel, reject, surrender or terminate in any respect (except pursuant to the terms and conditions of the City Documents, as affected by this Agreement) or (b) amend, modify, restate, replace, supplement, or otherwise change any of the City Documents, as affected by this Agreement, or the County Documents in any material respect (each such amendment, modification, restatement, replacement, supplement or other change being a "Material City Document Change") without the Lender's prior written consent, and any Material City Document Change without the Lender's prior written consent shall not be binding on any Party and the City Documents, as affected by this Agreement, and the County Documents, as applicable, shall be interpreted as if such Material City Document Change has not been made and such Material City Document Change shall be void, invalid, ineffective, unenforceable and of no force or effect. The Tenant shall promptly give notice to the Lender, together with true, correct, and complete copies, of each amendment, modification, restatement, replacement, supplement or other change made to the City Documents and the County Documents that is not a Material City Document Change.

38. Representations and Warranties. The Tenant and the Housing Partnership jointly and severally represent and warrant to the City, the CRA and the Lender and its successors and assigns as follows:

(a) Recitals. The Recitals set forth in this Agreement are true and correct and are hereby incorporated by reference as if set forth at length in this Agreement.

(b) Copies of City Documents and County Documents. The Tenant has provided to the Lender true, correct and complete copies of the City Documents and the County Documents concurrently with this execution and delivery of this Amendment.

(c) City Document and County Documents Matters. The City Documents and the County Documents have not been amended, restated, replaced, supplemented or otherwise modified (except to the extent of the amendments, restatements, replacements, supplements or other modifications attached to City Documents and County Documents provided by the Tenant and the Housing Partnership to Lender pursuant to Section 38(b) above) and by this Agreement. There are no other agreements (including subordination, non-disturbance and attornment agreements) relating to the City Documents of the County Documents, whether oral or written, between or among the City, the Tenant and the Housing Partnership (or any of their predecessors or successors) that comprise the City Documents or the County Documents. The City Documents, as affected by this Agreement, and the County Documents are in full force and effect and constitutes the entire agreement between or among the parties thereto (or their predecessors or successors) with respect to the subject matter thereof. The City Documents and this Agreement have been duly authorized, executed and delivered by the Tenant and the Housing Partnership and, to the best

knowledge of the Tenant and the Housing Partnership, the City, and constitute the legal, valid and binding obligation of the Tenant and the Housing Partnership and, to the best knowledge of the Tenant and the Housing Partnership, the City, enforceable against the Tenant and the Housing Partnership and, to the best knowledge of the Tenant and the Housing Partnership, the City, in accordance with their respective terms. Other than the valid assignments of the City Documents made by the Tenant pursuant to the Fremont Investment & Loan Stand Alone Agreement, the HSH Nordbank Stand Alone Agreement, this Agreement and the Loan Documents, the Tenant has not heretofore assigned the City Documents or the County Documents.

(d) Ownership. The City is the sole record owner of the fee interest in the Project, and holder of the owner or landlord's interest in, to and under the Munisport Agreement and the Ground Lease. The Tenant is the sole record owner of the leasehold interest in the Project, the holder of the tenant's interest in, to and under the Ground Lease, and the developer of the Project under the Munisport Agreement. The City is the beneficiary of the County Grant under the County Grant Agreement, and has made available to the Tenant the proceeds of the County Grant to assist the Tenant with the payment of certain expenditures relating to the Project that are permitted by the County Grant Agreement.

(e) Ground Lease Rent. The net annual rent payable under the Ground Lease currently is \$ [_____] per annum **[Seven Hundred Fifty and No/Dollars (\$750.00) per residential unit to be constructed under the building permits actually issued for the Project at the time such rent is due, which increases to One Thousand Five Hundred and No/Dollars (\$1,500.00) upon the issuance of a certificate of occupancy (including a temporary certificate of occupancy) for each residential unit]**, and such rent has been paid through the month of February, 2007.

(f) Term; Renewal. The current term of the Ground Lease commenced on November 10, 2004, and expires on November 25, 2204. There are no options to renew or extend the term of the Ground Lease.

(g) No Defaults under City Documents or the County Documents; No Offsets. None of the Parties are in default under the City Documents or the County Documents. The Tenant and the Housing Partnership have no knowledge of the existence of any event that, with the giving of notice, the passage of time, or both, would constitute a default by any party under the City Documents or the County Documents. The Tenant and the Housing Partnership have no offsets, counterclaims, defenses, deductions or credits with respect to the City Documents or the County Documents. All monetary obligations of the Tenant and the Housing Partnership due under the City Documents and the County Documents as of the date hereof have been fully and currently paid. No controversy exists as of the date hereof between or among the Tenant, the Housing Partnership and the City in connection with the City Documents or the County Documents, including any litigation or arbitration.

(h) No Eminent Domain. The Tenant and the Housing Partnership have no knowledge, nor has either such Person received written notice, of any pending eminent domain proceedings or other governmental actions or any judicial actions of any kind against its or their interest in the Project.

(i) No Bankruptcy. No Bankruptcy Action is pending or, to the knowledge of the Tenant and the Housing Partnership, threatened by or against the Tenant or the Housing Partnership.

(j) No Security Deposits, Prepaid Rents and Other Deposits. There are, with respect to Ground Lease, no security deposits or prepaid rents. There are, with respect to the Munisport Agreement, no security or other deposits, except the Initial Payment and the Additional Payments, the Affordable Housing Promissory Note, the Affordable Housing Promissory Note Guaranties, the Payment and Performance Bonds, and the Section 2.2(vi) Advance, all as more particularly described above in this Agreement.

(k) No Violation of Law. The Tenant and the Housing Partnership have no knowledge, nor has either such Person received written notice, that the Tenant or the Housing Partnership is in violation of any governmental law or regulation applicable to the Project or the Off-Site Project, including, among other things, any environmental laws or the Americans with Disabilities Act, and neither the Tenant nor the Housing Partnership has reason to believe that there are grounds for any claim of any such violation.

39. Reliance. The Tenant, the Housing Partnership and the City agree that this Agreement may be relied upon by the Tenant, the Housing Partnership, the Lender, all of the respective successors and assigns of the foregoing, and any nationally recognized statistical rating agency rating any securities issued in connection with the Loan or any portion thereof.

40. Waiver. The Lender may, without affecting the validity of the City Documents, as affected by this Agreement, or the County Documents extend the time for payment of the Loan or alter the terms and conditions of any agreement between the Tenant, the Housing Partnership, any other parties to the Loan Documents and the Lender, including, but not limited to, the Note, the Mortgage and the other Loan Documents, without the consent of, or notice to, the City and without in any manner impairing or otherwise affecting the Lender's rights under the City Documents, as affected by this Agreement, or the County Documents.

41. Retention of Municipal Rights. Except as otherwise expressly set forth in the City Documents, as affected by this Agreement, and the County Documents, nothing contained in the City Documents or in this Agreement or the County Documents is intended to restrict or modify the rights of the City that arise from or under the City Documents, as affected by this Agreement, or the County Documents, including, without limitation, its police powers, and other rights of the City as a municipality under the laws of the State of Florida or under any local ordinances.

42. Intentionally Omitted

43. Term and Effect of Agreement. This Amendment shall become effective upon the execution and delivery hereof by the Parties.

44. Successors and Assigns and Entire Agreement. This Amendment shall inure to the benefit of the Tenant, the Housing Partnership, the City, the Lender and all of the respective successors and assigns of the foregoing (including, among other things, each and every owner and holder of the Loan) and shall be binding on the City, the Lender, the Tenant, the Housing Partnership and their respective heirs, legal representatives, successors and assigns. The Agreement includes the entire agreement of the Parties relating to the subject matter hereof.

45. Counterparts and Recording. This Amendment may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute one and the same instrument. Signature and acknowledgment pages may be detached from the counterparts and attached to a single copy of this Agreement to physically form one document, which may be recorded.

46. Attorneys' Fees. If any action, suit or other proceeding is commenced that arises out of, under or in connection with, or which relates to, this Agreement, including, without limitation, any alleged tort action, the prevailing party shall be entitled to recover from each other party to such action, suit or other proceeding such sums as the court or other party presiding over such action, suit or other proceeding may adjudge to be reasonable attorneys' fees and costs in the action, suit or other proceeding, in addition to costs and expenses otherwise allowed by law. Any such attorneys' fees and costs incurred by any party in enforcing a judgment in its favor under this Agreement shall be recoverable separately from and in addition to any other amount included in such judgment and shall survive and not be merged into any such judgment. The obligation to pay such attorneys' fees and costs is intended to be severable from the other provisions of this Agreement.

47. Certain Defined Terms and Usage. As used in this Agreement, and in interpreting this Agreement:

(a) Defined Terms. Any term defined by reference to another document, instrument, record, or paper shall continue to have the meaning ascribed thereto whether or not such other document, instrument, record, or paper remains in effect.

(b) Applicability. The singular shall include the plural and the plural shall include the singular.

(c) Gender. The use of any gender shall include all genders.

(d) Person. "Person" shall mean any individual, corporation, partnership, joint venture, limited liability company, other business entity, estate, trust, unincorporated association, any federal, state, county, local, or municipal government or any bureau, department or agency thereof, any other entity that is not an individual, and any fiduciary acting in such capacity on behalf of any of the foregoing. A reference to Person includes that Person's successors and permitted

assigns.

(e) Person Comprising Person. References to any Person shall include all Persons comprising the referenced Person. By way of example, and without limiting the foregoing, references to the “Tenant” shall be interpreted as meaning the “Tenant and all Persons comprising the Tenant, including, among others, the holders of the legal and beneficial interests in the Tenant.”

(f) Consents, Approvals, and Waivers. Any consents, waivers, approvals, and items of like import shall be deemed to apply only to a specific matter and shall not be deemed to be applicable to future or successive transactions.

(g) Including Related References. References to “including” shall mean, “including, among other things” and “including, without limitation,” without limiting the generality of any description preceding such term.

(h) Whole and Part References. References to a specific thing (including the Project, the Ground Lease, the Leasehold Estate, the Munisport Agreement, the Munisport Interest, the City Documents, the Loan, the Loan Documents, and other such defined terms) shall include the specific thing mentioned as well as all or any part or portion thereof and all or any direct or interest therein. By way of example, and without limiting the foregoing, references to the “Project” shall be interpreted as meaning the “Project, all or any part or portion thereof and all or any direct and indirect interest therein.”

(i) Inclusiveness. References to the Property and other defined terms shall be deemed to include all or any portion of the Property and, as applicable, with respect to such other defined terms.

(j) No Limitation on Notice or Cure Periods. Nothing in this Agreement is intended to limit or eliminate the notice and cure periods provided for in the City Documents, as affected by this Agreement, or as otherwise may be required by applicable laws.

(k) Ground Lease and New Ground Lease. References in this Agreement to the Ground Lease shall be deemed to include any New Ground Lease.

(l) Munisport Agreement and New Munisport Agreement. References in this Agreement to the Munisport Agreement shall be deemed to include any New Munisport Agreement.

(m) The Loan and the Loan Documents. References in this Agreement to the Loan and the Loan Documents shall be deemed to include any new loan and loan documents entered into by the Lender or its successors and assigns, as the same may be amended, restated, replaced, supplemented or

otherwise modified from time to time.

(o) Or is Inclusive. Use of the word “or” shall be deemed to be inclusive and not exclusive. By way of example, and without limiting the foregoing, references to the “Ground Lease or the Munisport Agreement” shall be interpreted as meaning the “Ground Lease and the Munisport Agreement.”

(p) Lien. “Lien” shall mean each lien, security interest, claim, charges, and other encumbrance under the Loan Documents.

(q) Lender Parties. “Lender Parties” shall mean the Lender, the Lender’s designees or nominees, any assignee or transferee acquiring title thereto through such Persons, and each of such Persons’ respective successors and assigns (collectively, the “Lender Parties”).

(r) Enforcement Proceedings. “Enforcement Proceedings” shall mean (i) judicial foreclosure and sale, (ii) non-judicial foreclosure and sale, (iii) assignment in lieu of foreclosure or (i) other acquisition of the Project Collateral by the Lender pursuant to an exercise of its rights and remedies under the Loan Documents, in each case, it being understood that the Lender may exercise its rights and remedies under the Loan Documents without the necessity of any Lender Party obtaining the further consent or approval of the City to the exercise of such rights and remedies.

(r) Transfer. “Transfer” shall mean the sale, transfer, assignment, deed, conveyance or other disposition (each a “Transfer”) of the Project Collateral (including, among other things, the Leasehold Estate, the Munisport Interest and the County Grant).

48. Intentionally Omitted

49. Severability. If all or any portion of this Agreement or the application thereof to any Person is held to be invalid, illegal, non-binding, or unenforceable, this Agreement shall be construed as if such invalid, illegal, non-binding, or unenforceable provision (an “Offending Contractual Provision”) had never been contained herein, and the remaining provisions hereof and application to a Person shall remain in full force and effect and shall not be affected, impaired, or invalidated by the Offending Contractual Provision.

50. Modification, Amendment, or Other Change. The Amendment may not be modified, amended, waived, terminated, cancelled, or otherwise changed, in whole or in part, orally (including all or any portion of this Section 50), and may only be modified, amended, waived, terminated, canceled, or otherwise changed by a written agreement signed by the Parties.

51. Further Assurances. The Parties shall from time to time promptly do, execute, acknowledge, and deliver all further acts, documents, instruments, records, papers, and assurances as are reasonably necessary or required to carry out the intention and facilitate the

observance and observance or performance of the City Documents, as affected by this Agreement, and the County Documents.

52. No Joint Venture or Similar Relationship. There is no intention of the Parties to create a joint venture, partnership, enterprise, or similar arrangement between or among the Parties and any inference or implication relating thereto is expressly disclaimed by the Parties.

53. No Construction against Drafting Party. Each of the Parties have been represented by independent counsel of their own selection in connection with the negotiation, execution, and delivery of this Agreement and, without waiving the attorney-client privilege and expressly preserving the same, the Parties have made such comments on this Agreement as they have deemed necessary under the circumstances. The Parties intend that this Agreement shall not be construed against one Party or the other based upon any rule of applicable law giving preference in interpretation to the drafting or non-drafting Party or its counsel.

54. **JURISDICTION AND GOVERNING LAW. THIS AMENDMENT SHALL BE GOVERNED BY, CONSTRUED, AND ENFORCED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA (WITHOUT GIVING EFFECT TO SUCH JURISDICTION'S PRINCIPLES OF CONFLICTS OF LAWS) APPLICABLE TO CONTRACTS MADE AND TO BE OBSERVED OR PERFORMED ENTIRELY WITHIN SUCH JURISDICITON.**

55. **WAIVER OF TRIAL BY JURY. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, SUIT, OR PROCEEDING BROUGHT BY ANY PARTY AGAINST THE OTHER PARTY ON ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS AMENDMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY.**

56. **SUBMISSION TO JURISDICTION AND VENUE. THE PARTIES SUBMIT TO THE JURISDICTION OF ANY FEDERAL OR STATE COURT OF COMPETENT JURISDICTION OF THE STATE OF FLORIDA IN MIAMI-DADE COUNTY FOR THE PURPOSE OF ANY ACTION, SUIT, OR PROCEEDING ARISING OUT OF THIS AMENDMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THE PARTIES WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY ACTION, SUIT OR PROCEEDING ARISING OUT OF THIS AMENDMENT AND THE TRANSACTIONS CONTEMPLATED HEREBY IN THE STATE OF FLORIDA AND COUNTY OF MIAMI-DADE AS AFORESAID, AND HEREBY FURTHER WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH ACTION, SUIT, OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.**

57. **LAST CHANCE NOTICE. ANYTHING IN THE CITY DOCUMENTS, AS AFFECTED BY THIS AGREEMENT, TO THE CONTRARY NOTWITHSTANDING, THE CITY AGREES THAT, IN ADDITION TO ALL OTHER APPLICABLE NOTICES AND CURE PERIODS AFFORDED UNDER THE CITY DOCUMENTS, AS AFFECTED BY THIS AGREEMENT, AFTER THE GIVING OF ALL SUCH APPLICABLE NOTICES AND THE EXPIRATION OF ALL SUCH APPLICABLE CURE PERIODS,**

PRIOR TO ANY TERMINATION OR CANCELTION ANY OF THE PROJECT DOCUMENTS, AS AFFECTED BY THIS AGREEMENT (INCLUDING, AMONG OTHERS, THE GROUND LEASE OR THE MUNISPORT AGREEMENT), OR THE INTERESTS OF ANY PERSON THEREIN, BECOMING EFFECTIVE AND ENFORCEABLE, THE CITY SHALL GIVE THE LENDER A NOTICE MARKED AND TYPED IN BOLDFACE AND NOT LESS THAN 12 POINT TYPEFACE “LAST CHANCE NOTICE” (THE “LAST CHANCE NOTICE”), WHICH LAST CHANCE NOTICE SHALL AFFORD THE LENDER AN ADDITIONAL FIFTEEN (15) BUSINESS DAYS TO TAKE SUCH ACTIONS AS MAY BE NECESSARY TO AVOID SUCH TERMINATION OR CANCELTION OF ANY OF THE PROJECT DOCUMENTS, AS AFFECTED BY THIS AGREEMENT, OR ANY INTEREST THEREIN, INCLUDING, AMONG OTHER THINGS, ENTERING INTO A NEW GROUND LEASE AND A NEW MUNISPORT AGREEMENT AS PROVIDED FOR IN THIS AMENDMENT. ANYTHING IN THE CITY DOCUMENTS, AS AFFECTED BY THIS AGREEMENT, TO THE CONTRARY NOTWITHSTANDING, THIS SECTION 57 AN THE LAST CHANCE NOTICE REQUIRED HEREBY IS INTENDED TO AFFORD THE LENDER A NOTICE AND CURE PERIOD (IN ADDITION TO ALL OTHERS SET FORTH IN THE CITY DOCUMENTS, AS AFFECTED BY THIS AGREEMENT), AND ANY PURPORTED TERMINATION OR CANCELTION OF THE CITY DOCUMENTS, AS AFFECTED BY THIS AGREEMENT, OR ANY INTEREST THEREIN, WITHOUT COMPLIANCE BY THE CITY WITH THE TERMS AND CONDITIONS OF THIS SECTION 57, INCLUDING THE GIVING OF THE LAST CHANCE NOTICE AND EXPIRATION OF APPLICABLE CURE PERIOD RELATIVE THERETO, SHALL BE VOID, INEFFECTIVE, UNENFORCEABLE, AND OF NO FORCE OR EFFECT.

58. Intentionally Omitted

59. Securitization of the Loan. The Tenant, the Housing Partnership and the City acknowledge and agree that the Lender may sell all or any portion of the Loan and the Loan Documents, or require the Tenant, the Housing Partnership and their respective affiliates, as applicable, to restructure the Loan into multiple notes (which may include component notes or senior and junior notes) or issue one or more participations therein, which restructuring may include reallocation of the principal amounts of the Loan or the restructuring of a portion of the Loan into one or more mezzanine loans to the direct or indirect owners of the equity interests in the Tenant, the Housing Partnership and their respective affiliates, as applicable, secured by a pledge of such interests, or consummate one or more private or public securitizations of rated single or multi-class securities (the “Securities”) secured by or evidencing ownership interests in all or any portion of the Loan and the Loan Documents or a pool of assets that include the Loan and the Loan Documents (such sales, participations or securitizations, collectively, a “Securitization”). The Tenant, the Housing Partnership and the City also acknowledge and agree that the Lender intends to engage in a Securitization with respect to the Loan and the Loan Documents following the closing of the Loan.

60. City Attorney Approval. Section XXI of the Original Ground Lease provides that a Person may only rely upon an estoppel letter issued by the City if the City Attorney has acknowledged in writing the issuance of the estoppel letter. Section XXII.14 of the Original Ground Lease provides that the City Manager shall serve as the City’s representative and is

authorized to execute instruments for and on behalf of the City so long as the City Attorney has approved them. By executing this Agreement in the space provided below, the City Attorney hereby acknowledges in writing, as required by the Ground Lease, the issuance of this Agreement by the City as, among other things, an estoppel letter and that, if this Agreement is executed by the City Manager for or on behalf of the City, the City Attorney hereby approves the execution and delivery of this Agreement by the City Manager, as required by the Ground Lease. By executing this Agreement in the space provided below, the City Attorney also confirms that the Munisport Agreement and the Ground Lease have been approved by it and have been duly executed and delivered by this City, and that the execution, delivery, observance, performance and enforcement of this Agreement have been duly authorized, executed and delivered by the City.

[End of Text of this Agreement]

IN WITNESS WHEREOF, the Parties have duly executed and delivered this Agreement as of the day and year first written above.

CITY OF NORTH MIAMI, FLORIDA,
a Florida municipal corporation

By: **CITY MANAGER**

By: _____

Name:

Title:

APPROVED:

CITY OF NORTH MIAMI, FLORIDA,
a Florida municipal corporation

By: **CITY ATTORNEY**

By: _____

Name:

Title:

[Signatures Continued on Following Page]

BISCAYNE LANDING, LLC,
a Delaware limited liability company

By: **BISCAYNE HOLDINGS DELAWARE,
LLC,**
a Delaware limited liability company,
its managing member

By: _____
Name:
Title:

[\[Signatures Continued on Following Page\]](#)

NORTH MIAMI HOUSING, LTD.,
a Florida limited partnership

By: _____

Name:

Title:

[Signatures Continued on Following Page]

COLUMN FINANCIAL, INC.,
a Delaware corporation

By: _____
Name:
Title:

[Signatures Continued on Following Page]

**NORTH MIAMI COMMUNITY REDEVELOPMENT
AGENCY,**
a public body corporate and politic

By: _____
Kevin A. Burns, Chairman

By: _____
Tony E. Crapp, Sr., Executive Director

Attest:

By: _____
Frank Wolland, City Clerk

Approved as to form and legal sufficiency:

By: _____
Gray Robinson, P.A.,
CRA Attorney

[End of Signatures]

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