

## **AGENDA**

### **SPECIAL CALLED JACKSON CITY COUNCIL MEETING**

**FEBRUARY 25, 2020 – 9:00 A.M.**

#### **GEORGE A. SMITH MEETING ROOM**

- I. CALL TO ORDER.**
- II. INVOCATION AND PLEDGE OF ALLEGIANCE TO THE FLAG.**  
(Mayor Scott Conger)
- III. ROLL CALL.**
- IV. APPROVAL OF MINUTES OF THE FEBRUARY 4, 2020 MEETING.**
- V. PROCLAMATIONS.**
- VI. INVITATION FOR PUBLIC COMMENT.**
- VII. FIRST READINGS:**
- VIII. SECOND READINGS:**
- IX. NEW BUSINESS:**
  1. Consideration of approval of documents relating to the Public Private Partnership dealing with the construction of a new Madison High School including:
    - a. Sublease Agreement for Madison Academic
    - b. CRA (Community Redevelopment Agency) TIF Fund Contribution Agreement
    - c. Agreement for the Distribution of Surplus Purchase Amount Funds
    - d. Quitclaim Deed—conveying parcels owned by the City at the JCM project site to the CRA
    - e. Quitclaim Deed—deed consolidating parcels owned by City, County, and School District at JCM to the CRA
- X. ADJOURN.**

**MINUTES**  
**CITY COUNCIL MEETING**  
**FEBRUARY 4, 2020**

The Jackson, Tennessee, City Council met for their regular monthly meeting on Tuesday, February 4, 2020, at 9:00 a.m. in the George A. Smith Meeting Room at City Hall with Mayor Scott Conger and Councilmembers Ernest Brooks II; Johnny Dodd; Russ McKelvey; Gary Pickens; Ross Priddy; Paul Taylor; and Marda Wallace present. Councilmembers Harvey Buchanan and David Cisco were absent. Also present was Sharon Smith, recorder of the minutes.

Councilwoman Marda Wallace gave the invocation and led the audience in the Pledge of Allegiance to the Flag.

The minutes of the January 7, 2020, meeting were approved and signed.

Mayor Conger announced the start of the "Employee Spotlight." Our first employee spotlight is Grady Robinson, City Hall Building. A short video was played to highlight what he does for the City of Jackson. Mayor Conger thanked Grady for all he does and recognized him as the hardest working man at City Hall. Kenny Cummings stated the video is posted on the City's You Tube page if you want to see or share it.

There were no proclamations today.

This was the time and place advertised for a public comment to items for opposition or in favor for items on the first readings. There were none.

This was the time and place advertised for Consideration of an Ordinance to amend the 2019 Byrne Jag Grant Budget for the Jackson Police Department that was passed on the first reading. On the motion of Councilmember Brooks, seconded by Councilmember Dodd, the motion carried with a unanimous vote on the second reading.

This was the time and place advertised for Consideration of an Ordinance to amend the Metro Drug Fund Budget for the Jackson Police Department that was passed on the first reading. On

the motion of Councilmember Taylor, seconded by Councilmember Wallace, the motion carried with a unanimous vote on the second reading.

This was the time and place advertised for Consideration of an Ordinance to amend the Capital Outlay Fund Budget for the 7 Pillars Monument that was passed on the first reading. On the motion of Councilmember Dodd, seconded by Councilmember McKelvey, the motion carried with a unanimous vote on the second reading.

This was the time and place advertised for Consideration of an Ordinance to amend the Capital Outlay Budget for the Jackson Fire Department that was passed on the first reading. On the motion of Councilmember Pickens, seconded by Councilmember Taylor, the motion carried with a unanimous vote on the second reading.

On the motion of Councilmember Dodd, seconded by Councilmember Brooks, unanimous approval was given to the consideration of invoices over \$10,000.

There being no further business, the meeting was adjourned.

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SCOTT CONGER, MAYOR

**SUBLEASE AGREEMENT**  
(Madison Academic)

by and among

Healthy Community Education Partners, Inc.,

a nonprofit public benefit corporation of the State of Tennessee

as Sublessor

and

Jackson-Madison County School System,

a governmental entity and political subdivision of the state of Tennessee

as Co-Sublessee

and

The City of Jackson,

a municipal corporation organized under the laws of the State of Tennessee

as Co-Sublessee

This instrument was prepared by:  
Clayton C. Purdom, Esq.  
Martin, Tate, Morrow & Marston, P.C.  
6410 Poplar Avenue, Suite 1000  
Memphis, Tennessee 38119  
(901) 522-9000

**SUBLEASE AGREEMENT**  
(Madison Academic)

This SUBLEASE AGREEMENT (MADISON ACADEMIC) (this "Sublease") is entered into on the \_\_\_\_ day of \_\_\_\_\_, 2020 ("Document Closing Date"), by and between HEALTHY COMMUNITY EDUCATION PARTNERS, INC., a nonprofit public benefit corporation ("Sublessor"); JACKSON-MADISON COUNTY SCHOOL SYSTEM, a governmental entity and political subdivision of the state of Tennessee ("District"); and THE CITY OF JACKSON, a municipal corporation organized under the laws of the State of Tennessee ("City" and together with the District, the "Co-Sublessees", and the Co-Sublessees together with Sublessor, collectively the "Parties" and each, a "Party").

WITNESSETH:

WHEREAS, the Jackson Community Redevelopment Agency, a public instrumentality created pursuant to the Community Redevelopment Act of 1998 (the "Prime Lessor") owns or will own the Land (defined herein);

WHEREAS, Prime Lessor has leased to Sublessor the Land pursuant to the certain Lease Agreement between Prime Lessor, as lessor, and Sublessor, as lessee (the "Prime Lease");

WHEREAS, Prime Lessor conveyed title to the Improvements (defined herein) on the Land to Sublessor pursuant to that certain Quitclaim Deed of record at Instrument No. \_\_\_\_\_ in the Register's Office of Madison County, Tennessee;

WHEREAS, Sublessor will proceed to cause the renovation, construction, redevelopment and equipping of the Improvements on the Land, acting by and through Healthy Community, LLC, a Tennessee limited liability company ("Developer") in order to facilitate the accomplishment of the redevelopment goals set forth in that certain Development Agreement between Sublessor and Developer dated as of the Document Closing Date;

WHEREAS, Sublessor desires to lease to Co-Sublessees, and Co-Sublessees desire to lease from Sublessor, the Demised Premises (defined herein) as more fully set forth herein and upon satisfaction of the conditions precedent set forth herein;

WHEREAS, the governing board of the District approved the form of this Sublease and the District's execution and delivery thereof pursuant to the action taken at such board's meeting held on \_\_\_\_\_, 2020; and

WHEREAS, the fiscal body of the City approved the form of this Sublease and the City's execution and delivery thereof pursuant to the action taken at such body's meeting held on \_\_\_\_\_, 2020.

NOW THEREFORE, in consideration of the foregoing, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, intending to be legally bound, SUBLESSOR AND CO-SUBLESSEES DO HEREBY AGREE AS FOLLOWS:

ARTICLE I  
DEFINITIONS; INTERPRETATION

Section 1.1. Interpretation. In the Sublease, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person's successors and assigns and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
- (c) reference to any gender includes the other gender;
- (d) reference to any agreement (including any Operative Document), document or instrument means such agreement, document or instrument as amended, replaced, extended, restated, supplemented, or otherwise modified and in effect from time to time in accordance with the terms thereof and, if applicable, the terms of the other Operative Documents;
- (e) reference to any Applicable Laws means such Applicable Laws as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder and reference to any section or other provision of any Applicable Laws means that provision of such Applicable Laws from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision;
- (f) "hereunder", "hereof", "hereto" and words of similar import shall be deemed references to the Sublease as a whole and not to any particular Article, Section, or other provision thereof; and
- (g) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and

Section 1.2. Accounting Terms. In the Sublease, unless expressly otherwise provided, accounting terms shall be construed and interpreted, and accounting determination and computations shall be made in accordance with GAAP.

Section 1.3. Legal Representation of the Parties. The Sublease was negotiated by the Parties with the benefit of legal representation and any rule of construction or interpretation

otherwise requiring the Sublease to be construed or interpreted against any party shall not apply to any construction or interpretation hereof.

Section 1.4. Defined Terms. Unless a clear contrary intention appears, terms defined herein have the respective indicated meanings when used herein:

Additional Rent: All amounts, liabilities and obligations (other than Basic Rent) which District is obligated to pay to Sublessor under the Sublease (whether or not designated as Additional Rent), including, without limitation, all annual costs relating to maintenance of the Demised Premises not otherwise performed by District, any commercial general liability insurance obtained by Sublessor to cover Sublessor in the event of a liability claim, and any Governmental Charges.

Affiliate: With respect to any Person (a) each Person (a "Controlling Person") that directly, or indirectly through one or more intermediaries, controls such Person or (b) each Person which is controlled by or is under common control with a Controlling Person. As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise.

Applicable Laws: All federal, State, and local statutes, rules, guidelines, regulations (including Environmental Laws), ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof.

Appurtenant Rights: All agreements, easements, rights of way or use, rights of ingress or egress, privileges, appurtenances, tenements, and other rights and benefits at any time belonging or pertaining to the Demised Premises, including the use of any streets, ways, alleys, or strips of land adjoining, abutting, adjacent, or contiguous to the Demised Premises; and all permits, licenses, and rights, whether or not of record, appurtenant to the Demised Premises.

Bankruptcy Code: The Bankruptcy Code in Title 11 of the United States Code.

Basic Rent: The basic rent payable by City pursuant to and as set forth in Section 3.2 hereof.

Business Day: Each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banks in Jackson, Tennessee, are generally authorized or obligated, by law or executive order, to close.

Casualty: An event of damage or casualty relating to any portion of the Demised Premises.

CDE Lender: As defined in Section 18.1 hereof.

CDE Loan Documents: As defined in Section 18.1 hereof.

City: Shall have the meaning given to such term in the Preamble hereto.

Claims: Any and all obligations, liabilities, losses, actions, suits, judgments, enforcement actions, proceedings, damages, penalties, fines, claims, demands, settlements, costs and expenses (including reasonable legal fees and expenses) of any nature whatsoever.

Co-Sublessees: Shall have the meaning given to such term in the Preamble hereto.

Co-Sublessee's Additions: Such construction of improvements on the Land (unrelated to the Facility constructed pursuant to the Development Agreement) as from time to time desired by either or both Co-Sublessees and to be constructed at Co-Sublessee's expense (e.g., football field and stadium and/or track).

Commencement Date: The date Substantial Completion is achieved.

Condemnation: Any condemnation, requisition, confiscation, seizure or other taking or sale of the use of or title to the Demised Premises or any part thereof for any public or quasi-public purpose in, by or on account of any eminent domain proceeding or other action by any Governmental Authority or other Person under the power of eminent domain or otherwise or any transfer in lieu of or in anticipation thereof. A Condemnation shall be deemed to have occurred on the earliest of the dates that such use or title is taken or transferred.

Construction: The design, construction, redevelopment, and installation of the Facility on the Land as contemplated by the Construction Documents.

Construction Contract: That certain construction management agreement by and between Developer and General Contractor for the Construction of the Facility.

Construction Documents: Collectively, the plans and specifications for the construction of the Facility, the construction drawings, and the change orders, all as set forth and described in the Development Agreement, as may be supplemented, amended or modified from time to time in accordance therewith.

Construction Loan: That certain loan, including any NMTC Financing, provided by Lender and used to finance the Development Costs for Construction of the Facility which shall not exceed \$9,718,970 without prior written approval of the Tennessee Comptroller of the Treasury and the Jackson City Council. The Construction Loan shall be a seven-year, interest-only loan at a fixed rate of \_\_\_% interest per annum, and which, upon commencement of the Purchase Option Period, shall be refinanced with or converted to a fully amortizing twenty-year loan.

Commented [MT1]: open

Contract Document: Each contract and agreement relating to Construction of the Facility entered into or to be entered into by Developer with Contractors, including, without limitation, the Construction Contract.

Contractor: The General Contractor and any other Person (other than the Parties) entering into a Contract Document with Developer or Sublessor for Construction of the Facility (or portion thereof) or to provide any services or materials with respect thereto or the Facility (regardless of

when such Person commenced performing such work or providing such services of materials, including any period prior to the Document Closing Date).

County: The County of Madison, a political subdivision of the State.

CRA TIF Fund Contribution Agreement: That certain CRA TIF Fund Contribution Agreement, by and between Prime Lessor, County, and City, dated as of the Document Closing Date.

Debtor Relief Law: The Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

Default: Any Event of Default or any condition, occurrence, or event which, after notice or lapse of time or both, would constitute an Event of Default.

Demised Premises: The Land together with the Improvements located thereupon as of the Commencement Date, or at any time thereafter, including any Appurtenant Rights.

Developer: Shall have the meaning given to such term in the Preamble hereto.

Development Agreement: That certain Development Agreement between Sublessor, as project owner, and Developer, as developer, dated as of the Document Closing Date, relating to Construction of the Facility, and joined in by District for the provision of certain rights and obligations as set forth therein.

Development Costs: All costs relating to Construction of the Facility including, without limitation, acquisition of the Land by Prime Lessor, hard construction costs, architect and engineering costs, legal and accounting fees, third-party consulting, closing fees and expenses, Developer overhead, miscellaneous expenses and construction management fees.

Document Closing Date: The date as set forth in the first paragraph of this Sublease.

Dollars and "\$": Dollars in lawful currency of the United States of America.

Environmental Claims: Any Claims, losses, damages, liabilities, fines, penalties, charges, administrative and judicial proceedings (including informal proceedings) and orders, judgments, remedial action, requirements, enforcement actions of any kind, and all reasonable and documented costs and expenses incurred in connection therewith (including reasonable and documented attorneys' fees and expenses), including all costs incurred in connection with any investigation or monitoring of the condition of the Demised Property or any clean-up, remedial, removal or restoration work required or conducted by any Governmental Authority or required by Environmental Laws.

Environmental Laws: Any present and future federal, state or local laws, common laws, ordinances codes, rules, orders, regulations, licenses, permits, governmental approvals, judgments, comfort letters, environmental deed restrictions, no further action letters, consent decrees, restrictions, or other requirements of, or legally binding agreement with, any Government Authority, in each case, relating to pollution, natural resources or wildlife, or the protection of human health, safety, the environment and natural resources, including laws relating to Hazardous Substances, reclamation of land and waterways, and emissions, discharges, releases or threatened releases of pollutants, contaminants, chemicals, or industrial, toxic or Hazardous Substances or wastes into the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollution, contaminants, chemicals, or industrial, toxic or Hazardous Substances or wastes to the extent applicable to the relevant matter.

Environmental Report: A Phase I environmental site assessment (the scope and performance of which meets or exceeds ASTM Standard E1527-13 Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process or any updates thereto) of the Demised Premises and any additional environmental assessments, reports or information recommended in such Phase I environmental site assessment and requested by or provided to Sublessor.

Environmental Violation: Any activity, occurrence or condition that violates or results in non-compliance with any Environmental Law with respect to the Demised Premises.

Event of Default: As defined in Section 15.1 hereof.

Event of Loss: Any Significant Casualty or Significant Condemnation.

Expiration Date: The twenty-seventh (27th) annual anniversary of the Document Closing Date.

Facility: The approximately 58,800 square foot educational complex to be constructed, renovated, and/or installed on the Land as described in the Construction Documents, including all buildings, structures, fixtures, and other improvements of every kind related thereto existing at any time and from time to time on or under the Land to be constructed pursuant to the Development Agreement, together with any and all Appurtenant Rights, all paving, grading, utility pipes, fencing, conduits and lines, signs, retaining walls, lighting, electrical and drainage structures, parking areas and roadways, all Modifications and other additions to or changes in the Facility at any time.

Fair Market Value: With respect to the Demised Premises or any portion thereof, as of the date of the determination, the fair market value as determined by an independent appraiser chosen by Sublessor and reasonably acceptable to Co-Sublessees that would be obtained in an arm's-length transaction between an informed and willing buyer (other than a buyer currently in possession) and an informed and willing seller, under no compulsion to buy or sell, and neither of which is related to Sublessor, Co-Sublessees, or any Affiliate thereof, for the purchase of the Demised Premises or such portion thereof, as applicable. Such fair market value shall be calculated

assuming that the Demised Premises is in the condition and repair required to be maintained by the terms of the Sublease.

Financing Balance: As of any date of determination, the outstanding principal balance of the Construction Loan (of either the original Construction Loan or the refinanced Construction Loan, as applicable), together with all accrued and unpaid interest thereon, including, without limitation, any overdue interest imposed by Lender pursuant to the terms of the Construction Loan.

GAAP: Generally accepted accounting principles in the United States applied on a consistent basis.

General Contractor: Crocker Construction Company, Inc, a Tennessee corporation.

Governmental Authority: Any federal, State or other political subdivision thereof or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

Governmental Charges: All real estate taxes and assessments, and water and sewer charges and the cost of other utilities, together with, general and special, ordinary and extraordinary, unforeseen as well as foreseen, assessments, impositions, costs, fees, and other charges levied against or relating to, any part of the Demised Premises, which shall become due and payable during the Term.

Hazardous Substance: Any substance, waste, or material which (a) is classified, regulated, listed, defined, or otherwise characterized under any Environmental Law as toxic, explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, a contaminant or a pollutant, or otherwise hazardous, including petroleum, crude oil or any fraction thereof, petroleum derivatives, byproducts and other hydrocarbons, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls and radon gas, any underground storage tanks, and toxic mold or fungus of a type that might pose a risk to human health or the environment or negatively impact the value of the Demised Premises; or (b) is or becomes regulated by any Governmental Authority, including any agency, department, commission, board or instrumentality of the United States or the State or any political subdivision of either of the foregoing.

Improvements: The improvements now existing or hereafter constructed upon the Land pursuant to the Development Agreement and affixed thereto as part of the realty, so as to become real property fixtures, including the Facility, but excluding any Co-Sublessee's Additions.

Industry Standards: The latest edition or revision of all industry codes, standards or regulations applicable to the operation, use, maintenance, repair or modification of the Demised Premises or any portion thereof, as such codes may be changed from time to time.

Insolvency Event: Any event described in Section 15.1(e) or (f) hereof (without giving effect to any cure or time periods provided thereby).

Insurance Requirements: All terms and conditions of any insurance policy required by this Sublease to be maintained by Co-Sublessees.

Internal Revenue Code: The Internal Revenue Code of 1986, as amended, together with the rules and regulations promulgated thereunder.

Investor: Truist Community Capital, LLC, a Georgia limited liability company, as investor in the NMTC Financing in connection with the Demised Premises.

Land: The underlying real estate located in Jackson, Madison County, Tennessee and more particularly described in Exhibit "A" hereof, subject to (a) a request by either or both Co-Sublessees to release from this Sublease any portion of such real estate on which is or will be constructed any Co-Sublessee's Addition, and (b) a request for the conveyance of such portion in fee simple by Prime Lessor, without consideration to Prime Lessor.

Lender: Truist Bank, a North Carolina banking corporation, and any other lender which has loaned (or will loan) money or has extended (or will extend) credit to Sublessor, including, without limitation, any lender associated with the NMTC Financing.

Lien: With respect to any asset, any mortgage, deed of trust, lien, pledge, hypothecation, charge, security interest or encumbrance of any kind in respect of such asset.

Material Environmental Violation: Any pending or threatened Environmental Claim involving any Environmental Violation or any Release on, at, under or from Demised Premises, which is reasonably expected to (a) require in excess of (i) prior to the Commencement Date, One Hundred Thousand Dollars (\$100,000) in remediation costs and (ii) from and after the Commencement Date, Two Hundred Fifty Thousand Dollars (\$250,000) in remediation costs, or (b) which is reasonably expected to result in the imposition of material civil liability or criminal penalties upon Sublessor; *provided, however*, any Material Environmental Violations disclosed in the Environmental Report, the cost of remediation of which is to be included in the budget set forth in the Development Agreement, shall not be deemed to be Material Environmental Violations.

Memorandum of Prime Lease: The Memorandum of Lease between Prime Lessor, as lessor, and Sublessor, as lessee, pertaining to the leasing of the Land to Sublessor.

Memorandum of Sublease: The Memorandum of Sublease between Sublessor and Co-Sublessees, in substantially the same form of Exhibit "B" hereto.

Modifications: As defined in Section 10.1 hereof.

New Markets Tax Credit Program: A federal program created under the Community Renewal Tax Relief Act of 2000 to stimulate economic and community development in the low-income communities, as incorporated at Section 45D of the Internal Revenue Code, as amended.

NMTC Financing: The capital and/or financing provided in connection with the New Markets Tax Credit Program.

Nonseverable: A Modification or part of a Modification which cannot be readily removed from the Demised Premises without causing material damage to or materially impairing the Fair Market Value, utility, remaining economic useful life or residual value of the Demised Premises from the Fair Market Value, utility, remaining economic useful life or residual value thereof immediately prior to the removal thereof.

Operative Documents: The following:

- (a) the Pre-Development Agreement;
- (b) the Development Agreement;
- (c) the Prime Lease;
- (d) this Sublease;
- (e) the Construction Contract, Contract Documents, and each of the other agreements and documents entered into by Developer or Sublessor to undertake or provide for Construction of the Facility;
- (f) the Memorandum of Prime Lease;
- (g) the Memorandum of Sublease;
- (h) the CRA TIF Fund Contribution Agreement;
- (i) the SNDA (Madison Academic); and
- (j) any other documents now or hereafter executed and/or delivered with respect to the Overall Transaction.

Overall Transaction: The transactions and activities referred to in or contemplated by the Operative Documents.

Overdue Rate: A fixed rate of interest per annum equal to [\_\_\_\_\_] % points per annum above the Prime Rate.

Partial Condemnation: As defined in Section 14.2 hereof.

Payment Date: Upon the occurrence of the Commencement Date, the twentieth (20th) day of the month in which the Commencement Date occurs and the twentieth (20th) day of every month thereafter. If the twentieth (20th) day of any month is not a Business Day, then the Payment Date shall be the next following Business Day, unless the result of such extension would carry such Payment Date into the next succeeding month, in which case such payment shall be made on the immediately preceding Business Day.

Payment Default: The failure of Co-Sublessees to make any payment of (a) Rent when due or (b) any amounts due pursuant to Sections 14.3 or Article XVI hereof when due, and, in the case of a failure of the type described herein, such failure shall continue for twenty (20) Business Days.

Permitted Lien: (a) Sublessor Liens; (b) Liens for Governmental Charges either not yet due or being contested in good faith and by appropriate proceedings diligently conducted, so long as such proceedings shall not involve any meaningful risk of the sale, forfeiture or loss of any portion of the Demised Premises, title thereto or any interest therein and shall not interfere with the use or disposition thereof or the payment of Rent; (c) materialmen's, mechanics', workers', repairmen's, employees' or other like Liens arising in the ordinary course of business for amounts either not yet due or being contested in good faith and by appropriate proceedings so long as (i) no Default or Event of Default shall have occurred and be continuing, and (ii) such proceedings shall not involve any meaningful risk of the sale, forfeiture or loss of any portion of the Demised Premises, title thereto or any interest therein and shall not interfere with the use or disposition thereof or the payment of Rent; (d) Liens arising out of judgments or awards with respect to which at the time an appeal or proceeding for review is being prosecuted in good faith and either have been bonded to the satisfaction of Sublessor or the enforcement of such Lien has been stayed pending such appeal or review; (e) easements, rights of way and other encumbrances on title to the Demised Premises pursuant to and subject to the terms of this Sublease; (f) Liens disclosed in any title policies issued with respect to Demised Premises; and (g) Liens of any Lender.

Permitted Modification: As defined in Section 10.1 hereof.

Permitted Transfer: As defined in Article VIII hereof

Permitted Use: The use identified in Section 6.1 hereof and not otherwise prohibited under Section 6.2 hereof.

Person: Any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust or other enterprise (whether or not incorporated), or any government or political subdivision or any agency, department or instrumentality thereof, including, without limitation, the Parties.

Pre-Development Agreement: That certain Pre-Development Agreement dated June 26, 2019, between Sublessor, Developer, District, County, and City.

Pre-Development Expenses: The expenditures incurred and anticipated to be expended by Developer in furtherance of the development of the Project as are specifically described and set forth in Exhibit "B" to the Pre-Development Agreement.

Pre-Development Interest: A floating rate equal to Prime Rate.

Prime Lease: Shall have the meaning given to such term in the Preamble hereto.

Prime Lessor: Shall have the meaning given to such term in the Preamble hereto.

Prime Rate: The rate announced from time to time as the prime rate, base rate or reference rate in The Wall Street Journal. Any change in such prime rate announced by The Wall Street Journal shall take effect at the opening of business on the day specified in the public announcement of such change.

Prudent Industry Practice: Any of the practices, methods and acts which, in the exercise of reasonable judgment at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Prudent Industry Practice is not intended to be limited to the optimum practice, method or act to the exclusion of all others, but rather to be a spectrum of possible practices, methods or acts having due regard for, among other things, manufacturers' warranties and the requirements of any Governmental Authority of competent jurisdiction.

Purchase Amount: As of any date of determination, the Fair Market Value of the Demised Premises or the Sublease Balance, whichever shall be greater.

Purchase Notice: An irrevocable written notice by District or City (as applicable) delivered to Sublessor and Prime Lessor pursuant to Section 16.1 hereof, notifying Sublessor and Prime Lessor of the exercise of the Purchase Option by District or City, for the use and benefit of District, and the proposed date therefor.

Purchase Option: As defined in Section 16.1 hereof.

Purchase Option Period: The period beginning on and including the first Business Day after any exercise of either option created under the Put Agreement through and including December 31, 2037.

Put Agreement: That certain Put and Call Agreement between Investor and \_\_\_\_\_ dated as of the Document Closing Date.

Release: Any release, migrating, pumping, pouring, emptying, injecting, escaping, leaching, dumping, seepage, spill, leak, flow, discharge, disposal or emission of a Hazardous Substance into the environment, including ambient air, surface water, ground water or land.

Rent: All rent and charges set forth in this Sublease, including Basic Rent and Additional Rent.

Required Modification: Any of the Modifications described in Section 10.1 hereof.

Significant Casualty: That the Demised Premises shall suffer (a) damage or destruction resulting in an insurance settlement on the basis of an actual, constructive or compromised total loss, (b) a Casualty event during the last one hundred eighty (180) days of the Term, resulting in damage or destruction of at least fifty percent (50%) or more of the Improvements or (c) damage or destruction resulting in a cost to repair or restore the Demised Premises equal to or in excess of the Sublease Balance.

Significant Condemnation: That (a) title to all of the Demised Premises shall be taken or appropriated by a Governmental Authority under the power of eminent domain or otherwise, or (b) all of the Demised Premises shall be taken, confiscated, seized or requisitioned for use by any Governmental Authority under the power of eminent domain or otherwise, and any such taking, appropriation, confiscation, seizure or requisition for use pursuant to these clauses (a) and (b) is for a period that exceeds one hundred eighty (180) days or, if less, the remaining portion of the Term.

Significant Environmental Event: An Environmental Violation the cost of remediation of which, in the reasonable judgment of an independent environmental consultant would exceed One Hundred Thousand Dollars (\$100,000), *provided, however,* any Environmental Violations disclosed in the Environmental Report, the cost of remediation of which is to be included in the budget set forth in the Development Agreement, shall not constitute a Significant Environment Event.

SNDA (Madison Academic): That certain subordination, non-disturbance and attornment agreement among CDE Lender, Sublessor, and Co-Sublessees.

State: The State of Tennessee.

Sublease Balance: As of any date of determination, an amount equal to one-hundred percent (100%) of the Financing Balance, *plus* all reasonable costs and expenses to effect the refunding, advance refunding, redemption, payment or prepayment of the Financing Balance, *plus* all other amounts owing by Co-Sublessees under the Sublease, if any, including accrued and unpaid Rent.

Sublessor: Shall have the meaning given to such term in the Preamble hereto.

Sublessor Lien: Any Lien or disposition of title arising as a result of (a) any claim against Sublessor not resulting from the Overall Transaction or otherwise contemplated by the Operative Documents, (b) any act or omission of Sublessor which is not required or permitted by the Operative Documents or is in violation of any of the terms of the Operative Documents, (c) any claim against Sublessor with respect to Governmental Charges or Transaction Expenses against which Co-Sublessees are not required to indemnify Sublessor, or (d) any claim against Sublessor arising out of any transfer by Sublessor of all or any portion of the interest of Sublessor in the Demised Premises or the Operative Documents other than the transfer of title to or possession of the Demised Premises by Sublessor pursuant to and in accordance with the Operative Documents, including pursuant to the exercise of remedies.

Substantial Completion: The substantial completion of the Facility on the Demised Premises, including Construction of the Facility (subject to completion of punch list items), in accordance with the Construction Documents, except for changes permitted under the Development Agreement, and as evidenced by the satisfaction of completion delivery requirements set forth in the Development Agreement and the issuance of temporary or permanent certificates of occupancy by the appropriate Governmental Authority.

Term: As defined in Section 2.3 hereof.

Termination Notice: As defined in Section 14.1 hereof.

Transaction Expenses: All reasonable costs and expenses incurred in connection with the preparation, execution and delivery of the Operative Documents and the transactions contemplated by the Operative Documents including:

- (a) the initial and ongoing fees and reasonable expenses of each of Sublessor and Co-Sublessees and their respective legal counsel and any other reasonable out-of-pocket expenses incurred in connection with the consummation of the Overall Transaction;
- (b) all applicable appraisal fees and reasonable expenses of relating thereto;
- (c) search fees, recording fees, filing fees and Governmental Charges incurred in connection with Lien searches and the filing of UCC financing statements, the Memorandum of Sublease, and any and all mortgages, deeds of trust or other Operative Documents;
- (d) any title fees, premiums and escrow costs and other expenses relating to title insurance incurred as contemplated by the Operative Documents, and any expenses incurred for analysis of the Project Costs and inspection of the Demised Premises;
- (e) insurance premiums accruing prior to the Commencement Date with respect to the insurance required by the Development Agreement; and
- (f) costs and expenses for the survey of the Demised Premises.

## ARTICLE II LEASE GRANT; LEASE TERM

Section 2.1. Lease Grant. In consideration of the Rent and covenants herein set forth and contained, on the part of Co-Sublessees to be paid, performed and observed, Sublessor does hereby demise and lease unto Co-Sublessees and Co-Sublessees do hereby hire and lease from Sublessor, for the Term, only upon the Commencement Date and if the Commencement Date occurs, which shall be a specific condition precedent to Sublessee's obligations hereunder, and upon and subject to the terms and provisions of this Sublease, the Demised Premises.

Section 2.2. Acceptance Procedure. Sublessor shall deliver the Demised Premises to District, to be the Co-Sublessee with sole possession and control of the Demised Premises, including the Facility to be constructed thereon, upon the Commencement Date in accordance with and subject to the Development Agreement. District shall accept the Demised Premises if completed in accordance with the Development Agreement; *provided, however*, the existence of any Punch List Items (as defined in the Development Agreement) shall not permit District to withhold its acceptance hereunder of the Demised Premises. Upon such acceptance, Co-Sublessees hereby agree that delivery of the Demised Premises shall, without further act, constitute irrevocable acceptance by Co-Sublessees of all such Demised Premises for all purposes of this

Sublease on the terms set forth herein and shall constitute Co-Sublessees' agreement to lease the Demised Premises pursuant to the terms hereof during the Term.

Section 2.3. Term. Unless earlier terminated in accordance with the provisions herein contained, the term of this Sublease shall commence on and include the Commencement Date and shall expire on and include the Expiration Date (the "Term").

Section 2.4. "As Is" Condition. As to Sublessor and Prime Lessor only, the Demised Premises is leased to Co-Sublessees in an "as is" condition, without any representation, warranty or covenant, express or implied, by Sublessor as to the condition of the Demised Premises, including any implied warranty of merchantability or fitness for a particular purpose, and in each case subject to (a) the existing state of title with respect thereto (including all Liens other than Sublessor Liens), (b) the rights of any parties in possession thereof, (c) any state of facts which an accurate survey or a physical inspection might show, and (d) all Applicable Laws and any violations thereof with respect to the Demised Premises, Co-Sublessees or their operations on or with respect to the Demised Premises which may exist on the Commencement Date or thereafter. All risks incident to the matters discussed in the preceding sentence, as between Sublessor, on the one hand, and Co-Sublessees, on the other, are to be borne by Co-Sublessees. Co-Sublessees shall in no event have any recourse against Sublessor for any defect in or exception to title to the Demised Premises other than resulting from Sublessor Liens. The provisions of this Section 2.4 have been negotiated, and, except to the extent otherwise expressly stated, the foregoing provisions are intended to be a complete exclusion and negation of any representations or warranties by Sublessor, express or implied, with respect to the Demised Premises (or any interest therein), that may arise pursuant to any law now or hereafter in effect or otherwise.

Section 2.5. Contract Matters. Sublessor hereby agrees to enforce any warranties made under the Contract Documents by any Contractor or any other Person, including, without limitation, material suppliers, vendors, and the like, with respect to Construction of the Facility, and to pursue any potential claims thereunder upon notice by Sublessor or Co-Sublessees of any defect giving rise to such claims. If necessary, Sublessor will join in any proceedings to enforce any such warranties or permit them or any part thereof to be brought in its name if and so long as (a) no Event of Default exists and is continuing, (b) District or City has not elected the Purchase Option, and (c) to the extent permitted by Applicable Laws, Co-Sublessees agree in writing to reimburse, and do reimburse, Sublessor for all related expenses relating to or arising out of such action.

### ARTICLE III PAYMENT OF RENT

#### Section 3.1. Rent; Method of Payment; No Termination or Abatement.

(a) During the Term, Co-Sublessees, subject to Section 3.2 hereof, covenant and agree to pay to Sublessor or as directed by Sublessor, Rent of any kind or nature specified in this Sublease, including Basic Rent and Additional Rent. Rent shall be paid by Co-Sublessees without notice, demand, abatement, deduction, counterclaim or setoff. Co-Sublessees' inability or failure to take possession of all or any portion of the Demised Premises when accepted or deemed

accepted hereunder, whether or not attributable to any act or omission of Co-Sublessees, shall not delay or otherwise affect Co-Sublessees' obligation to pay Rent in accordance with the terms of this Sublease.

(b) Each payment of Rent shall be made by Co-Sublessees at Sublessor's principal place of business or at such other place as Sublessor from time to time specifies by written notice to Co-Sublessees. The funds paid by Co-Sublessees shall consist of Dollars which shall be immediately available on the scheduled date when such payment shall be due, unless such scheduled date shall not be a Business Day, in which case such payment shall be made on the next succeeding Business Day unless the result of such extension would be to carry into another calendar month, in which case such payment shall be made on the immediately preceding Business Day.

(c) No payment by Co-Sublessees or receipt by Sublessor of a lesser amount than the amount of Rent due shall be deemed to be other than on account of the earliest stipulated Rent, nor shall any endorsement or statement on a check or letter accompanying a check for payment of such Rent be deemed an accord and satisfaction, and Sublessor may accept such check or payment without prejudice to Sublessor's right to recover the balance of such Rent or to pursue any other remedy provided in this Sublease or available at law.

(d) Co-Sublessees' obligations hereunder to pay Rent shall be absolute and unconditional under any and all circumstances. Any present or future Applicable Law to the contrary notwithstanding, this Sublease shall not terminate, nor shall Co-Sublessees be entitled to any abatement, suspension, deferment, reduction, setoff, counterclaim, or defense with respect to the Rent, nor shall the obligations of Co-Sublessees hereunder be affected (except as expressly herein permitted and by performance of the obligations in connection herewith) by reason of:

(i) any defect in the condition, merchantability, design, construction, quality or fitness for use of the Demised Premises or any part thereof, or the failure of the Demised Premises or any part thereof to comply with all Applicable Laws, including any inability to use the Demised Premises or any part thereof by reason of such non-compliance;

(ii) any restriction, prevention or curtailment of or interference with any use of the Demised Premises or any part thereof;

(iii) any defect in title to or rights to the Demised Premises or any part thereof or any Lien on such title or rights or on the Demised Premises or any part thereof; *provided, however,* that the foregoing shall not relieve any Person from its responsibility to remove Sublessor Liens attributable to it;

(iv) any change, waiver, extension, indulgence or other action or omission or breach in respect of any obligation or liability of or by Sublessor;

(v) to the fullest extent permitted by Applicable Laws, any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceedings relating to District, Sublessor, Prime Lessor, or any other Person, or any action

taken with respect to this Sublease by any trustee or receiver of District, Sublessor, Prime Lessor, or any other Person, or by any court, in any such proceeding;

(vi) any claim that District or City has or might have against any other Person, including any vendor, manufacturer, contractor of or for the Demised Premises or any part thereof, including the General Contractor;

(vii) any invalidity or unenforceability or illegality or disaffirmance of this Sublease against or by District or City or any provision hereof or any of the other Operative Documents or any provision of any thereof;

(viii) any action by any court, administrative agency or other Governmental Authority; and

(ix) any other cause or circumstances whether similar or dissimilar to the foregoing and whether or not Co-Sublessees shall have notice or knowledge of any of the foregoing.

Co-Sublessees' agreement in the preceding sentence shall not affect any claim, action or right District or City may have against any other Person. The Parties intend that the obligations of Co-Sublessees hereunder shall be covenants and agreements that are separate and independent from any obligations of Sublessor hereunder or under any other Operative Documents and the obligations of Co-Sublessees shall continue unaffected unless such obligations shall have been modified or terminated in accordance with an express provision of this Sublease.

### Section 3.2. Basic Rent.

(a) Beginning with the Commencement Date and continuing through the Term, City shall pay Basic Rent to Sublessor (i) on each Payment Date, and (ii) on any date on which the Sublease shall terminate or expire with respect to the Demised Premises.

(b) During the Term, City shall pay Basic Rent as follows:

(i) Beginning on the Commencement Date and to but not including the seventh (7th) annual anniversary of the Document Closing Date, City agrees to pay Sublessor and Sublessor agrees to accept as monthly Basic Rent the amount of \$52,747.83.<sup>1</sup>

(ii) Beginning on and including the seventh (7th) annual anniversary of the Document Closing Date through and including the Expiration Date, City agrees to pay Sublessor and Sublessor agrees to accept as monthly Basic Rent the amount of \$\_\_\_\_\_.

(c) District hereby covenants and agrees to reimburse City for a portion of the annual Basic Rent equal to \$24,304 per year.

<sup>1</sup> Based on interest rate quoted on February 13, 2020. Subject to change based on changes to the interest rate on the Document Closing Date.

Section 3.3. Additional Rent. District shall pay to Sublessor or the Person entitled thereto any and all Additional Rent promptly as the same shall become due and payable, and if District fails to pay any Additional Rent, Sublessor shall have all rights, powers, and remedies provided for herein or by law or equity or otherwise in the case of nonpayment of Basic Rent. District shall pay to Sublessor, as Additional Rent, among other things, on demand, to the extent permitted by Applicable Laws, interest at the applicable Overdue Rate (a) on any installment of Basic Rent not paid when due for the period for which the same shall be overdue and (b) on any payment of Additional Rent payable to Sublessor not paid when due or demanded by Sublessor (with respect to Additional Rent required to be paid by District and becoming due upon receipt of demand from Sublessor) for the period from the due date or the date of any such demand, as the case may be, until the same shall be paid. The expiration or other termination of City's obligations to pay Basic Rent hereunder shall not limit or modify the obligations of District with respect to Additional Rent. Unless expressly provided otherwise in this Sublease, in the event of any failure on the part of District to pay and discharge any Additional Rent as and when due, District shall also promptly pay and discharge any fine, penalty, interest or cost which may be assessed or added under any agreement with a third-party for nonpayment or late payment of such Additional Rent, all of which shall also constitute Additional Rent.

Section 3.4. Late Charges. Any installments of Basic Rent or Additional Rent or other charges to be paid by Co-Sublessees pursuant to this Sublease which are not paid by Co-Sublessees within five (5) days after the same becomes due, shall be subject to a late charge of five percent (5%) of the installment amount due, and, if not paid within thirty (30) days after the same becomes due, shall, in addition to the late charge, bear interest at the Overdue Rate, accruing from the date such installment or payment became due and payable to the date of payment thereof by District. Such interest shall constitute Additional Rent due and payable to Sublessor by District upon the date of payment of the delinquent payment referenced above. The payment of such late charge by District shall not operate to cure Co-Sublessees' Event of Default, nor shall it prevent Sublessor from the pursuit of any remedy to which Sublessor would otherwise be entitled.

Section 3.5 Pre-Development Expenses. In the event any of the termination rights set forth in Section 3 of the Pre-Development Agreement are exercised in accordance therewith, then Co-Sublessees and the County shall, within thirty (30) days after the effective date of any such termination, reimburse Developer in an amount equal to one hundred percent (100%) of those Pre-Development Expenses that Developer shall have actually incurred through the date notice of such termination was provided, *plus* the amount of Pre-Development Interest which shall have accrued from the date advanced through the effective date of such termination. Co-Sublessees hereby acknowledge and agree that the obligation for such reimbursement of Developer pursuant to this Section 3.5 shall be borne and shared equally by and among the Co-Sublessees and the County [that is, for example and without limitation, if the total reimbursement obligations hereunder shall be \$1,500,000, then each of the Co-Sublessees and the County shall be obligated to reimburse Developer \$500,000]. Notwithstanding anything to the contrary contained in this Section 3.5, the aggregate liability for Pre-Development Expenses hereunder shall not in any event be less than \$250,000.00 and no greater than \$2,250,000.00.

ARTICLE IV  
TITLE: CLAIMS

Section 4.1. Title to Improvements. The Parties covenant and agree that Sublessor shall own and hold record title to the Improvements to be constructed on the Land and any Modifications thereof (except for Co-Sublessee's Additions), and that such ownership shall be subject to the terms and conditions of this Sublease, including the Purchase Option. Furthermore, the Parties agree that District shall be deemed hereunder to be the exclusive user and operator of the Facility during the Term.

Section 4.2. Sublessor's Interest. Sublessor represents that there are no mortgages or deeds of trust affecting the Demised Premises except for those securing the Construction Loan. Co-Sublessees shall have no right or power to and shall not in any way mortgage, pledge, or otherwise encumber, in whole or in part, (a) any of Co-Sublessees' right, title or interest in, to or under this Sublease, (b) any of Prime Lessor's right, title or interest in and to the Demised Premises, or (c) any of Sublessor's right, title or interest in and to the Demised Premises. The estate of Prime Lessor and Sublessor in and to the Demised Premises shall not be in any way subject to any Claim by way of Lien or otherwise, whether claimed by operation of law or by virtue of any express or implied lease or contract or other instrument made by District or City.

Section 4.3. Claims. Co-Sublessees will not directly or indirectly create, incur, assume or suffer to exist any Lien (other than Permitted Liens) or Claim for payment on or with respect to any portion of the Demised Premises, Prime Lessor's or Sublessor's right, title and interest in and to the Demised Premises or any other interest therein. After the Commencement Date and for matters unrelated to Construction of the Facility, District, at its sole cost and expense, shall pay, satisfy, and discharge any such Lien (other than Permitted Liens) or Claim within thirty (30) days from the date Co-Sublessees receive notice that any such Lien or Claim has been filed. If District shall fail to discharge any such Lien (other than Permitted Liens) or Claim, Sublessor may, at its option, discharge the same and treat the cost thereof as Additional Rent, due and payable upon receipt by District of a written statement of costs from Sublessor. In the alternative, District can contest such Lien or Claim in good faith by depositing with the clerk of the court cash or a bond in the required amount in order to remove the Lien or Claim from the Demised Premises.

ARTICLE V  
NON-INTERFERENCE: RIGHT TO INSPECT

Section 5.1. Non-Interference. Subject to Section 5.2 herein, to Sublessor's cure rights as provided for in Section 15.5 hereof, and to all matters of record pertaining to the Demised Premises, Sublessor covenants and agrees that Sublessor or its Affiliates will not interfere during the Term in District's use or possession of the Demised Premises and all Appurtenant Rights pertaining thereto, so long as no Event of Default has occurred and is continuing. Such right is independent of and shall not affect Co-Sublessees' obligations hereunder and under the other Operative Documents or Sublessor's rights otherwise to initiate legal action to enforce the obligations of Co-Sublessees under this Sublease. The foregoing covenant shall not require

Sublessor to take any action contrary to, or which would permit District to use the Demised Premises for a use not permitted under the provisions of this Sublease.

Section 5.2. Inspection and Reports.

(a) Upon three (3) Business Days prior notice (or one (1) Business Day prior notice during the existence of a Default or Event of Default) to Co-Sublessees, Sublessor or its authorized representative(s) (the "Inspecting Party") at any time may inspect (i) the Demised Premises and (ii) the books and records of Co-Sublessees relating to the Demised Premises and make copies and abstracts therefrom and may discuss the affairs, finances and accounts with respect to the Demised Premises with Co-Sublessees' officers. Absent an Event of Default, such inspections shall be limited to once per year. All such inspections shall (w) be during Co-Sublessees' normal business hours; (x) respect all confidentiality requirements of District for its students, faculty, and staff; (y) be subject to Co-Sublessees' customary safety and security provisions; and (z) be at the expense and risk of the Inspecting Party, except that if an Event of Default has occurred and is continuing, Co-Sublessees shall reimburse the Inspecting Parties for the reasonable costs of such inspections. No inspection shall unreasonably interfere with Co-Sublessees' operations. The Inspecting Party shall have no duty to make any such inspection or inquiry and shall not incur any liability or obligation by reason of making any such inspection or inquiry unless and to the extent such Inspecting Party causes damage to the Demised Premises or any property of District, City, or of any other Person during the course of such inspection.

(b) To the extent permissible under Applicable Laws, during the Term, Co-Sublessees shall prepare and file, or cause to be prepared and filed, in timely fashion, or, where Sublessor shall be required to file, Co-Sublessees shall prepare, or cause to be prepared, and make available to Sublessor within a reasonable time prior to the date for filing and Sublessor shall file, any reports with respect to the condition or operation of the Demised Premises that shall be required to be filed with any Governmental Authority.

ARTICLE VI  
POSSESSION AND USE OF THE PREMISES

Section 6.1. Possession and Use of the Demised Premises. Co-Sublessees agree that, during the Term, the Demised Premises shall be used solely for the operation of a public educational institution or any other use directly related or ancillary thereto ("Permitted Use"). At all times during the Term, the Demised Premises shall remain in the sole possession and control of District or its permitted assignees or sub-sublessees. District warrants that the Demised Premises will at all times be used and operated under and in compliance in all material respects with (a) the terms of any contracts or agreements applicable to the use or operation of the Demised Premises or any portion thereof to which District is a party or by which District is bound, or, as a result of any action or omission of District, to which Sublessor is a party or by which Sublessor is bound; (b) Applicable Laws; and (c) all Insurance Requirements.

Section 6.2. Prohibited Uses. District shall not use or permit the use of the Demised Premises or any part thereof for (a) any purpose or in any manner that would materially adversely affect the Fair Market Value, utility, remaining useful life or residual value of the Demised

Premises, ordinary wear and tear excepted; (b) any use that will invalidate the policies of insurance now or hereafter carried pursuant to the Insurance Requirements; (c) any establishment which sells or displays pornographic materials; (d) any establishment which sells or displays used merchandise or second hand goods; (e) any entertainment purposes such as a bowling alley, skating rink, cinema, bar, nightclub, disco, amusement gallery, poolroom, massage parlor, or off-track betting club; (f) any tattoo parlor or any liquor store; (g) a convenience store; (h) any purpose in violation of Applicable Laws; (i) farming; or (j) any use prohibited under the New Markets Tax Credit Program or the terms of any financing provided by a Lender (including NMTTC Financing). Co-Sublessees shall not commit or permit any waste of the Demised Premises or any part thereof. Co-Sublessees shall not commit or permit any waste of the Demised Premises or any part thereof.

Section 6.3. Compliance with Applicable Laws. Subject to the terms of Section 6.5 hereof relating to permitted contests, District, at its sole cost and expense, shall (a) comply (or use commercially reasonable efforts to cause any permitted sub-sublessee to comply) in all material respects with all Applicable Laws (including all Environmental Laws) relating to the Demised Premises including the use, construction, operation, maintenance, repair and restoration thereof whether or not compliance therewith shall require structural or extraordinary changes in the Demised Premises or interfere with the use and enjoyment thereof; and (b) procure, maintain and comply (or use commercially reasonable efforts to cause any permitted sub-sublessee to comply) with all licenses, permits, orders, approvals, consents and other authorizations required by a Governmental Authority for the use, operation, maintenance, repair and restoration of the Demised Premises. At Sublessor's request, District shall deliver, or make a reasonable effort to cause any permitted sub-sublessee to deliver, to Sublessor copies of all such permits and licenses and proof of District's and its permitted sub-sublessee's compliance with all such laws, ordinances, governmental regulations and extra precautions.

Section 6.4. Governmental Charges. District assumes and agrees to promptly pay, prior to delinquency, all Governmental Charges assessed or to be assessed against the Demised Premises which arise or accrue during the Term. District shall be entitled to contest, through appropriate legal proceedings, any new, or increase in, real estate tax or assessment levied against the Demised Premises, if Sublessor elects not to contest the same, provided that District shall pay, prior to any delinquency, the undisputed portion of any such new, or increase in, any such real estate tax or assessment. Sublessor agrees to execute all authorizations to permit District to initiate legal proceedings or any challenge to such real estate tax or assessment.

Section 6.5. Permitted Contests of Applicable Laws. Notwithstanding anything contained herein or in any Operative Document to the contrary, if, to the extent and for so long as a test, challenge, appeal or proceeding for review of any Applicable Laws relating to the Demised Premises or any part thereof or the obligation to comply therewith shall be prosecuted diligently and in good faith in appropriate proceedings by Co-Sublessees, during the Term, Co-Sublessees shall not be required to comply with such Applicable Laws but only if and so long as any such test, challenge, appeal, proceeding, waiver, extension, forbearance or noncompliance shall not, in the reasonable opinion of Sublessor create or cause (a) any risk of civil or criminal liability being imposed on Prime Lessor, Sublessor, or the Demised Premises (or any portion thereof) for which Co-Sublessees are not obligated to fully indemnify Sublessor hereunder or (b) any material risk of (i) the foreclosure, forfeiture or loss of the Demised Premises, or any material part thereof; (ii) the

nonpayment, reduction or abatement of Rent; (iii) the interruption or cancellation of any insurance coverage; (iv) the invalidity or lapse of any material warranty; (v) any sale of, or the creation of any Lien (other than a Permitted Lien) on, any material part of the Demised Premises; or (vi) enjoyment of, or interference with, the use, possession or disposition of the Demised Premises in any material respect. Sublessor will not be required to join in any proceedings pursuant to this Section 6.5 unless a provision of any Applicable Laws requires that such proceedings be brought by or in the name of Sublessor, and, in that event, Sublessor will join in the proceedings or permit them or any part thereof to be brought in its name if and so long as (y) District or City has not elected the Purchase Option and (z) to the extent permitted by Applicable laws, District agrees in writing to pay, and does pay, all expenses relating thereto.

ARTICLE VII  
REPRESENTATIONS AND WARRANTIES

Section 7.1. District's Representations and Warranties. District represents and warrants to Sublessor as follows:

- (a) The execution and delivery of this Sublease does not violate any agreement to which District is a party or to which it is subject.
- (b) District is a governmental entity and political subdivision of the state of Tennessee.
- (c) The execution and delivery of this Sublease by the persons executing same has been approved by District's governing board. District has full power and authority to enter into and perform this Sublease in accordance with its terms, and this Sublease constitutes a valid and binding obligation of District, enforceable against District in accordance with its terms.
- (d) Any permission, approval, joinder or consent by third parties required in order for District to enter into this Sublease has been received.
- (e) District has received no actual notice of any actions, suits or proceedings (including bankruptcy, receivership or assignment for the benefit of creditors) pending or threatened against District at law or in equity or before or by any Governmental Authority.
- (f) District will not relocate the Community Montessori School from the Tigrett Junior High School location at 716 Westwood Avenue, Jackson, Tennessee 38301 until at least the twelfth (12th) anniversary of the Commencement Date except in the event of a Montessori Significant Casualty or Montessori Significant Condemnation. The term "Montessori Significant Casualty" shall mean that the Community Montessori School shall suffer damage or destruction resulting in an insurance settlement on the basis of an actual, constructive or compromised total loss. The term "Montessori Significant Condemnation" shall mean that (i) title to all of the Community Montessori School campus shall be taken or appropriated by a Governmental Authority under the power of eminent domain or otherwise, or (ii) all of the Community Montessori School campus shall be taken, confiscated, seized or requisitioned for use by any Governmental Authority under the power of eminent domain or otherwise, and any such taking,

appropriation, confiscation, seizure or requisition for use pursuant to these clauses (i) and (ii) is for a period that exceeds one hundred eighty (180) days.

(g) At least twenty-five percent (25%) of students in the Community Montessori School will live in the neighborhood zone around the School.

(h) After sibling preference for admission, twenty-five percent (25%) of students admitted to school at the Facility will live in the neighborhood zone around the Facility.

Section 7.2. City's Representations and Warranties. City represents and warrants to Sublessor as follows:

(a) The execution and delivery of this Sublease does not violate any agreement to which the City is a party or to which it is subject.

(b) The City is a municipal corporation organized under the laws of the State.

(c) The execution and delivery of this Sublease by the persons executing same has been approved by the Jackson City Council as the City's governing body. City has full power and authority to enter into and perform this Sublease in accordance with its terms, and this Sublease constitutes a valid and binding obligation of the City, enforceable against the City in accordance with its terms.

(d) Any permission, approval, joinder or consent by third parties required in order for City to enter into this Sublease has been received.

Section 7.3. Sublessor's Representations and Warranties. Sublessor represents and warrants to Co-Sublessees as follows:

(a) The Prime Lease is unmodified and in full force and effect.

(b) The execution and delivery of this Sublease does not violate any agreement to which Sublessor is a party or to which it is subject.

(c) Sublessor is a nonprofit public benefit corporation of the State and is in good standing under the laws of the State, and is duly qualified to transact business in the State.

(d) The execution and delivery of this Sublease by the persons executing same has been approved in accordance with Sublessor's charter and bylaws. Sublessor has full power and authority to enter into and perform this Sublease in accordance with its terms.

(e) Sublessor will cause Developer to enforce all obligations of General Contractor for Construction of the Facility as required in all Contract Documents with General Contractor.

(f) Sublessor will enforce all obligations between Developer and Sublessor in the Development Agreement.

(g) Sublessor will enforce all obligations between Prime Lessor and Sublessor in the Prime Lease.

(h) Sublessor will use its best efforts to obtain an exemption from federal income tax under the provisions of Section 501(c)(3) of the Internal Revenue Code.

ARTICLE VIII  
ASSIGNMENT AND SUBLETTING

Co-Sublessees may fully or partially assign this Sublease or sub-sublease portions of the Demised Premises subject to this Sublease to any other Person; *provided* (a) no Event of Default exists and is continuing; (b) any such Person's use and occupancy of the Demised Premises would constitute a Permitted Use; (c) any such Person shall not then be engaged in any proceedings for relief under any Debtor Relief Law; (d) any such sub-sublease shall not discharge or diminish any of Co-Sublessees' obligations to Sublessor hereunder or to any other Person under any other Operative Document, it being understood that Co-Sublessees shall remain directly and primarily liable under the Sublease with respect to the Demised Premises; (e) any such sub-sublease shall not extend beyond the last day of the Term; and (f) any such sub-sublease shall expressly provide for the surrender of the Demised Premises subleased by the applicable sub-sublessee at the election of Sublessor after an Event of Default and termination of this Sublease (collectively, a "Permitted Transfer"). Co-Sublessees shall give Sublessor prompt written notice of any Permitted Transfer, and no Permitted Transfer shall be valid or effective until there is delivered to Sublessor a duplicate original of the written instrument of transfer, in valid and recordable form, containing the name and address of the transferee and an assumption by such transferee of all obligations under this Sublease to be performed by Co-Sublessees. Further, and anything to the contrary herein notwithstanding, Co-Sublessees shall not assign this Sublease or license or sublet any portion of the Demised Premises without the prior written consent of Sublessor, which shall not be unreasonably withheld, conditioned or delayed. Sublessor shall use reasonable efforts to obtain the consent of (y) Prime Lessor if such consent is required to be obtained under the Prime Lease, and/or (z) any Lender if such consent is required to be obtained under the terms of any financing provided by such Lender. Any cost of obtaining Prime Lessor's consent shall be borne by Co-Sublessees.

ARTICLE IX  
MAINTENANCE AND REPAIR

Section 9.1. Maintenance and Repair. District, at its own cost and expense, shall at all times (a) maintain the Demised Premises in good operating condition, subject to ordinary wear and tear, including (i) maintaining reasonable grass and vegetation heights, (ii) removal of trash and debris, (iii) taking reasonable and legally permissible steps to prevent loitering, and (iv) landscaping and ongoing landscape maintenance; (b) maintain the Demised Premises in accordance with Prudent Industry Practice, and, in any event, in accordance in all material respects with all Applicable Laws and Industry Standards affecting the Demised Premises; (c) maintain the Demised Premises in compliance with the Insurance Requirements which are in effect and to the extent applicable at any time with respect to the Demised Premises or any part thereof; (d) make

all necessary or appropriate repairs, replacements, restorations, renewals and take all other actions with respect to the Demised Premises or any part thereof which may be required to keep the Demised Premises in the condition required by the preceding clauses (a) through (c), structural or nonstructural, ordinary or extraordinary, foreseen or unforeseen, and including repairs, replacements, restorations, renewals and other actions that would constitute capital expenditures under GAAP if incurred by an owner of property; (e) procure, maintain and comply with all material licenses, permits, orders, approvals, consents and other authorizations required for the maintenance, use and operation of the Demised Premises. Co-Sublessees shall comply with such repair and maintenance standards and schedules as are required to enforce warranty claims against the manufacturers and suppliers of material components of the Demised Premises.

Section 9.2. Maintenance and Repair Reports. District shall (a) maintain daily operating logs in accordance with Prudent Industry Practice and (b) keep maintenance and repair reports in sufficient detail, at least on the same basis as records are kept for similar properties owned or leased by Co-Sublessees or any of their Affiliates to indicate the nature and date of major work done at or to the Demised Premises. Such reports shall be kept on file by District at the Facility, and shall be made available to Sublessor upon reasonable request. Co-Sublessees shall give written notice to Sublessor of any Event of Loss promptly after District or City has knowledge thereof.

Section 9.3. Lessor Not Obligated to Maintain or Repair. Prime Lessor and Sublessor shall not under any circumstances be required to make any repairs, replacements, Modifications or renewals of any nature or description to the Demised Premises, make any expenditure whatsoever in connection with this Sublease (other than with respect to obligations required by the Development Agreement) or maintain the Demised Premises in any way. To the extent permitted by Applicable Laws, Co-Sublessees waive any right they may now have or hereafter acquire to require Prime Lessor or Sublessor to maintain, improve, repair, replace, restore, alter, remove or rebuild all or part of the Demised Premises or to make repairs at the expense of Prime Lessor or Sublessor pursuant to, or to bring the Demised Premises in compliance with, any Applicable Laws (including Environmental Laws), contract, agreement, or covenant, condition or restriction in effect at any time during the Term.

## ARTICLE X MODIFICATIONS TO DEMISED PREMISES

### Section 10.1. Improvements and Modifications.

(a) On and after the Commencement Date, (i) District, at its own cost and expense, shall make alterations, renovations, improvements, and additions (collectively, "Modifications") to the Demised Premises or any part thereof and substitutions and replacements therefor which are (A) necessary to repair or maintain the Demised Premises in the condition required by Section 9.1 hereof; (B) necessary in order for the Demised Premises to be in compliance with Applicable Laws (including Environmental Laws) in all material respects; or (C) necessary or advisable to restore the Demised Premises to its condition existing prior to a Casualty or Condemnation to the extent required pursuant to Article XII hereof (collectively, a "Required Modification"); and (ii) so long as no Default or Event of Default occurred and is continuing, District, at its own cost and expense, may undertake other Modifications to the Demised Premises so long as such

Modifications comply with Applicable Laws, Sections 9.1 and 10.1(b) hereof (collectively, a "Permitted Modification").

(b) The making of any Modification must be in compliance with the following requirements:

(i) No such Modifications or series of Modifications (A) with a cost exceeding Five Hundred Thousand Dollars (\$500,000) for each Modification or, when added to the cost of all other Modifications, One Million Dollars (\$1,000,000) in the aggregate, or (B) materially affecting any structural element of the Facility, shall be made or undertaken without the prior written consent of Sublessor, which consent shall not be unreasonably withheld, delayed or conditioned.

(ii) No Modifications shall be undertaken (A) in violation in any material respect of the terms of any restriction (including any environmental deed restriction), easement, condition, covenant, no further action letter or other similar matter affecting title to or binding on the Demised Premises or (B) until District shall have procured and paid for, so far as the same may be required from time to time, all material permits and authorizations to such Modifications of all third-party Persons or Governmental Authorities having jurisdiction. Sublessor, at District's sole cost and expense, shall join in the application for any such permit or authorization and execute and deliver any document in connection therewith, whenever such joinder is necessary or advisable.

(iii) All Modifications shall be prosecuted in a diligent manner, be completed in a good and workmanlike manner and in compliance in all material respects with all Applicable Laws (including Environmental Laws) and Industry Standards then in effect and the standards imposed by the Insurance Requirements or the manufacturer in order to maintain all warranties, and all Modifications must be located solely on the Demised Premises.

(iv) All Modifications shall, when completed, be of such a character as to not materially adversely affect the Fair Market Value, utility, remaining economic useful life or residual value of the Demised Premises from the Fair Market Value, utility, remaining economic useful life or residual value thereof immediately prior to the making thereof or, in the case of Modifications being made by virtue of a Casualty or Condemnation, immediately prior to the occurrence of such Casualty or Condemnation (assuming the Demised Premises was then in the condition required by this Sublease). If such Modifications have a cost exceeding Five Hundred Thousand Dollars (\$500,000), individually or One Million Dollars (\$1,000,000), in the aggregate, Sublessor may engage an appraiser of nationally recognized standing, at District's sole cost and expense, to determine (by appraisal or other methods satisfactory to Sublessor) the projected Fair Market Value of the Demised Premises as of the completion of the Modifications relating thereto.

(v) District shall have made adequate arrangements for payment of the cost of all Modifications when due so that the Demised Premises shall at all times be free of Liens

for labor and materials supplied or claimed to have been supplied to the Demised Premises, other than Permitted Liens.

(c) Nothing contained in this Article X shall be construed as constituting the consent or request of Sublessor, express or implied, to or for the performance by any contractor, mechanic, laborer, materialman, supplier or vendor of any labor or services or for the furnishing of any materials for any Modification to the Demised Premises or any part thereof. NOTICE IS HEREBY GIVEN THAT PRIME LESSOR AND SUBLESSOR SHALL NOT BE LIABLE FOR ANY LABOR, SERVICES OR MATERIALS FURNISHED OR TO BE FURNISHED FOR ANY MODIFICATION, AND THAT NO MECHANIC'S OR OTHER LIENS FOR ANY SUCH LABOR, SERVICES OR MATERIALS SHALL ATTACH TO OR AFFECT THE INTEREST OF PRIME LESSOR OR OF SUBLESSOR IN AND TO THE DEMISED PREMISES.

Section 10.2. Title to Modifications.

(a) Title to the following Modifications shall, without further act, vest in Sublessor and shall be deemed to constitute a part of the Improvements and be subject to this Sublease:

(i) Modifications which are paid for, in whole or in part, with the Construction Loan or with insurance proceeds;

(ii) Modifications which are in replacement of or in substitution for a portion of any item of Demised Premises;

(iii) Required Modifications; or

(iv) Modifications that are Nonseverable.

Co-Sublessees shall execute and deliver any deeds, bills of sale, assignments or other documents of conveyance reasonably necessary to evidence the vesting of title in and to such Modifications to Sublessor.

(b) Notwithstanding the foregoing, title to all of Co-Sublessee's Additions shall vest in District and shall not be deemed to be Modifications which are part of the Demised Premises.

(c) Upon Co-Sublessees' written request, each of Co-Sublessee's Additions may be released from this Sublease by Sublessor so long as any such release shall not result in the violation of any Applicable Laws, shall not adversely affect Co-Sublessees' ability to comply with its obligations under this Sublease or any other Operative Document, and no Event of Default is continuing.

ARTICLE XI  
INSURANCE

Section 11.1. Required Coverages. During the Term, Co-Sublessees shall obtain or cause any permitted sub-sublessee to obtain and maintain in effect, at no expense to Sublessor, the following insurance with respect to the Demised Premises:

(a) General Liability Insurance. Co-Sublessees shall obtain commercial general liability insurance with coverage of \$1,000,000 per occurrence for bodily injury and property damage and \$2,000,000 aggregate, and as shall be consistent with insurance carried by other similarly situated entities from time to time, and a waiver by the insurer of all rights to subrogation against Prime Lessor, Sublessor, and their respective officers, directors and agents. Liability insurance shall cover at least the following hazards: (i) premises and operations, (ii) products and completed operations, (iii) independent contractors, and (iv) "insured contract". The Parties acknowledge and agree that it is not the intent of the Parties that any insurance coverage of Co-Sublessees under this Article XI in excess of the limits of the Tennessee Governmental Tort Liability Act, Tenn. Code Ann. §§ 29-20-101 *et seq.*, as may be amended ("GTLA"), shall constitute a waiver of any immunities and defenses available to Co-Sublessees pursuant to the GTLA.

(b) Property Insurance. District shall obtain property and casualty insurance with a deductible of Five Hundred Dollars (\$500) and with coverage limits no less than the greater of (i) the full replacement cost of the Demised Premises or (ii) the then-outstanding Sublease Balance, including any costs that may be required to cause the Demised Premises to be restored in accordance with then then-current Applicable Laws and in amounts sufficient to fund all fees accruing on the Sublease Balance or otherwise payable during any period while the Demised Premises or part thereof is being restored or repaired. Such insurance shall name Prime Lessor, Sublessor, and Lender as loss payees. District shall be required to provide insurance covering loss or damage to District's personal property, and insurance for loss resulting from interruption of District's operations at the Facility. The proceeds from the property hazard insurance policies shall be payable to Sublessor and be disbursed monthly and shall be subject to the disbursement procedures and requirements of the holder of a first mortgage or deed of trust secured by the Demised Premises, including retainage requirements. All such proceeds held by Sublessor shall be used in the restoration of the Improvements. If the Improvements are fully restored and such restoration work is completed, all remaining proceeds shall be paid to District.

(c) Workers' Compensation. District, in construction of any Modifications and the operation of the Demised Premises, shall provide Workers Compensation coverage in accordance with the statutory requirements of the State.

(d) Automobile. Automobile liability covering any owned, non-owned and hired vehicles used by District or City in the operation of the Demised Premises with limits of \$1,000,000 each occurrence combined single limits or with such greater limits as shall be reasonably requested by Sublessor from time to time.

(e) Other Insurance. Such other insurance, in each case as is generally carried by District, City, or their respective Affiliates for similar properties owned or leased by any of them or as is required by the City's insurance requirements for leased property with respect to all property leased from the City.

Section 11.2. Insurance Coverage.

(a) Each policy referred to in this Article shall provide: (i) that it will not be canceled, modified or amended or its limits reduced, or allowed to lapse without renewal, except after not less than thirty (30) days' prior written notice to Sublessor (and after not less than ten (10) days for nonpayment of premium); and (ii) that the interests of Prime Lessor, Sublessor, and Lender shall not be invalidated by any act of negligence or breach of warranty or representation by District, City, or any other Person having an interest in the Demised Premises. Co-Sublessees will promptly notify Sublessor of any policy cancellation, reduction in policy limits, modification or amendment.

(b) Sublessor agrees that no waiver of subrogation endorsement to Co-Sublessees' insurance coverage shall be required unless Sublessor's insurance coverage contains a similar endorsement, in which event Sublessor shall provide Co-Sublessees a certificate of same or a copy of Sublessor's insurance policy including such endorsement, at Sublessor's election. Sublessor acknowledges and agrees that Co-Sublessees may comply with the provisions of this Article with respect to portions of the Demised Premises subject to a sub-sublease by causing the sub-sublessee thereof to provide the insurance required by this Article.

Section 11.3. Delivery of Insurance Certificates. Throughout the Term, at the time each of Co-Sublessees' insurance policies is renewed (but in no event less frequently than once each year) or upon written request by Sublessor following an Event of Default, Co-Sublessees shall deliver to Sublessor certificates of insurance for such coverage, which certificates shall specify the respective coverages, limits of liability, carrier, policy number, period of coverage, waiver of subrogation, if applicable (to the extent such endorsement is available from Co-Sublessees' insurance carrier and does not result in any invalidation of Co-Sublessees' coverage), and any other matter reasonably requested by Sublessor. If Co-Sublessees fail to deliver the required certificate within ten (10) days after notice of demand for it, Sublessor may obtain and pay for that insurance and receive reimbursement from Co-Sublessees on demand.

Section 11.4. Insurance by Sublessor. Sublessor may carry any such commercial general liability insurance deemed necessary by Sublessor to cover Sublessor in the event of a liability claim. District shall pay to Sublessor, as Additional Rent, the cost of any such insurance carried by Sublessor.

ARTICLE XII  
CASUALTY AND CONDEMNATION

Section 12.1. Casualty and Condemnation.

(a) Subject to the provisions of this Article XII, if all or any portion of the Demised Premises suffers a Casualty during the Term (other than a Significant Casualty as to which a Termination Notice pursuant to Section 14.4 has been given), this Sublease shall not terminate but shall remain in full force and effect, with all Rent due and payable, and Sublessor and Co-Sublessees hereby waive the provisions of any Applicable Law providing for termination of a lease upon a casualty or any similar rights now or hereafter granted by Applicable Law. Except as

otherwise provided in this Article XII, any insurance proceeds payable with respect to such Casualty shall be paid directly to Co-Sublessees, or if received by Sublessor, shall be paid over to Co-Sublessees and shall be used by Co-Sublessees solely for the reconstruction, restoration and repair of such Demised Premises.

(b) Subject to the provisions of this Article XII, if the use of, access to, occupancy of or title to the Demised Premises or any part thereof is the subject of a Condemnation (other than a Significant Condemnation or Partial Condemnation as to which a Termination Notice has been given pursuant to Sections 14.1 or 14.2 hereof, respectively), then this Sublease shall not terminate but shall remain in full force and effect, with all Rent due and payable, and the entire award shall be first applied to any outstanding Financing Balance and, if any funds thereafter remain, District shall be entitled to the remaining award funds for such taking (whether paid by way of damages, rent, or otherwise) unless the period of occupation and use by the Governmental Authority shall extend beyond the Expiration Date, in which case the award made for such taking shall be apportioned between Sublessor and Co-Sublessees as of the Expiration Date, in proportion to the respective period of occupation and use by the Governmental Authority occurring before and after the Expiration Date.

(c) Notwithstanding the foregoing, if any Event of Default shall have occurred and be continuing, any such award, compensation or insurance proceeds to the extent of the Financing Balance shall be paid directly to Sublessor or, if received by Co-Sublessees, shall be paid over by Co-Sublessees to Sublessor. All amounts held by Sublessor on account of any award, compensation or insurance proceeds either paid directly to Sublessor or turned over to Sublessor shall be distributed to Co-Sublessees and used by Co-Sublessees to restore the Demised Premises as required herein; *provided, however*, in each case after the occurrence and during the continuance of an Event of Default shall at the option of Sublessor either be (i) paid to Co-Sublessees for the repair of damage caused by such Casualty or Condemnation, or (ii) applied to the Financing Balance and any other amounts owed by Co-Sublessees hereunder.

(d) If, pursuant to this Article XII, this Sublease shall continue in full force and effect following a Casualty or Condemnation, District shall, at its sole cost and expense (and, without limitation, if any award, compensation or insurance payment is not sufficient to restore the Demised Premises in accordance with this clause (d), District shall pay the shortfall), promptly and diligently repair any damage to the Demised Premises caused by such Casualty or Condemnation in conformity with the requirements of Sections 9.1 and 10.1 hereof so as to restore the Demised Premises to at least the same condition and value, in each case in all material respects, as existed immediately prior to such Casualty or Condemnation (subject to such modifications and adaptations to the Demised Premises as may be required to take into account the loss of property resulting from a Condemnation). In such event, title to the Improvements shall remain with Sublessor subject to the terms of this Sublease.

Section 12.2. Notice. In the event of a Casualty or if any part of the Demised Premises becomes subject to Condemnation proceedings during the Term, the Party receiving notice of such event shall within ten (10) days of receipt give written notice thereof to the other Parties. To the extent permitted by Applicable Laws, Co-Sublessees shall control the negotiations with the relevant insurer or Governmental Authority (as the case may be) unless an Event of Default shall

have occurred and be continuing in which case Sublessor shall be entitled to control such negotiations; *provided*; that in any event, Sublessor may participate at Sublessor's expense (or if an Event of Default exists Sublessor may control or participate at District's expense) in such negotiations; and *provided* in all cases, that no settlement will be made without Sublessor's prior written consent (which consent shall not be unreasonably withheld or delayed) unless, in connection with a Significant Casualty or Significant Condemnation, such settlement (together with any additional payment made by Co-Sublessees to Sublessor, if applicable) is equal to or greater than the Sublease Balance (in which case, no Sublessor consent shall be required). Co-Sublessees shall give to Sublessor such information, and copies of such documents, which relate to such proceedings, or which relate to the settlement of amounts due under insurance policies required by Article XI hereof, and are in the possession of Co-Sublessees, as are reasonably requested by Sublessor. Nothing contained in this Section 12.2 shall diminish Sublessor's rights with respect to property insurance proceeds under Article XI hereof.

### ARTICLE XIII ENVIRONMENTAL MATTERS

Section 13.1. Environmental Matters. Except for matters disclosed in the Environmental Report, Sublessor makes no warranties, expressed or implied, with regard to Demised Premises except that Sublessor (a) has no actual knowledge of the presence of any Hazardous Substances under, on, or about the Demised Premises in amounts or concentrations that constitute a violation of Environmental Laws; (b) has not received any written notice of, or written inquiry from any Governmental Authority regarding, any Environmental Violation or Environmental Claim relating to the Demised Premises; and (c) has no actual knowledge of any basis for any Environmental Violation or Environmental Claim relating to the Demised Premises.

#### Section 13.2. District's Environmental Obligations.

(a) Except for the storage and use of Hazardous Substances in the ordinary course of the operation of the Facility, District shall not cause or permit any Hazardous Substance to be brought upon, kept or used in or about the Demised Premises by District, its agents, employees, contractors or invitees without the prior written consent of Sublessor, which consent Sublessor may withhold in its sole discretion.

(b) If the presence of any Hazardous Substance in, on, or about the Demised Premises, as a result of District's use or occupancy of the Demised Premises, results in any contamination of the Demised Premises, then District, at their sole cost and expense, shall promptly and diligently undertake all actions as are necessary to return the Demised Premises to the condition existing prior to the introduction of any such Hazardous Substance to the Demised Premises, including any investigation, response, clean up, remedial restoration or other action necessary to investigate, remove, clean up, remediate or otherwise address any Environmental Violation to the extent required by Applicable Laws with respect to the Demised Premises or at any off-site location impacted by any environmental condition or activities at, on or from the Demised Premises.

Section 13.3. Sublessor's Environmental Indemnity. To the extent legally permissible under Applicable Laws, Sublessor shall indemnify, hold harmless, and defend Prime Lessor and

Co-Sublessees from any and all Environmental Claims affecting the Demised Premises which arise during or after the Term and are directly and solely attributable to the gross negligence or willful misconduct of Sublessor during the Term. This indemnification includes, without limitation, costs incurred in connection with any investigation of site conditions or any clean-up, remediation, removal or restoration work required by any Governmental Authority.

Section 13.4. Notice of Environmental Matters.

(a) Co-Sublessees shall promptly provide to Sublessor (contemporaneous with any notification to the appropriate Governmental Authority) written notice of any Significant Environmental Event and shall promptly implement all steps necessary to effect corrective action in compliance with all Applicable Laws, including the undertaking of soil and ground water testing, the preparation of the corrective action plan (which, prior to finalization, shall be furnished to Sublessor and Sublessor shall be entitled to review and comment on said plan), the approval of the corrective action plan by the appropriate Governmental Authority, and the implementation of remediation in accordance with the approved corrective action plan. All such written notices to Sublessor shall describe in reasonable detail the nature of the Significant Environmental Event, including any Environmental Claims, actions or proceedings in respect thereof, and Co-Sublessees' proposed response thereto. In addition, Co-Sublessees shall provide to Sublessor, within ten (10) Business Days of receipt, copies of all written communications with any Governmental Authority relating to any such Significant Environmental Event. Co-Sublessees shall also promptly provide such detailed reports of any such Significant Environmental Event as may reasonably be requested by Sublessor.

(b) Notwithstanding any review and comment by Sublessor with respect to a corrective action plan, Co-Sublessees shall have the sole responsibility to ensure that any Environmental Violation, including any Significant Environmental Event, relating to the Demised Premises shall be properly and promptly remediated in compliance with all Applicable Laws. All corrective-action contractors shall be properly licensed and in good standing with the State. All such work shall be covered by a performance and payment bond procured by Co-Sublessees satisfactory to Sublessor and Sublessor shall be named as co-obligee under such bond, and a certificate or endorsement naming Sublessor as such co-obligee shall be furnished to Sublessor prior to commencement of any corrective action or closure work.

(c) Upon completion of any such remedial action with respect to a Significant Environmental Event, Co-Sublessees shall cause to be prepared by an environmental professional reasonably acceptable to Sublessor a report describing the Significant Environmental Event and the actions taken by Co-Sublessees (or their agents) in response to such Significant Environmental Event, and a statement by the professional that the Significant Environmental Event has been remedied in compliance in all material respects with applicable Environmental Law. Each such Significant Environmental Event shall be remedied prior to the Expiration Date unless all, but not less than all, of the Demised Premises has been purchased by Co-Sublessees in accordance with Article XVI hereof.

Section 13.5 Survival. The Parties' obligations and liabilities under this Article XIII shall survive the termination of this Sublease and shall continue so long as each Party remains

responsible for any compliance with Environmental Laws at, on, about, to or from the Demised Premises. Either Party's failure to abide by the terms of this Article XIII shall be restrainable or enforceable by injunction, and the Parties hereby acknowledge adequate remedy may not be available at law.

ARTICLE XIV  
TERMINATION OF SUBLEASE UPON CERTAIN EVENTS

Section 14.1. Upon Significant Condemnation. If a Significant Condemnation occurs during the Term with respect to the Demised Premises, then Sublessor shall terminate the Sublease by giving written notice (a "Termination Notice") to Co-Sublessees within ten (10) days of Sublessor obtaining actual knowledge of the Significant Condemnation, with such termination to be effective on the date of such taking and Rent and other sums of money and other charges to be paid by Co-Sublessees hereunder shall be apportioned to such effective date and any unaccrued portion of Rent paid by Co-Sublessees to Sublessor shall be refunded to Co-Sublessees.

Section 14.2. Upon Partial Condemnation.

(a) If less than the entire Demised Premises shall be taken by any lawful Condemnation, and such Condemnation shall, in Co-Sublessees' reasonable judgment, have a material, adverse effect on Co-Sublessees' operation of the Facility (a "Partial Condemnation"), then any Party shall each have the right to terminate this Sublease as of the effective date of such Condemnation, upon giving Termination Notice to the other Parties within thirty (30) days after receipt by the Party electing termination of written notice that such portion of the Demised Premises has been or will be subject to Condemnation. In the event of such termination, any Rent theretofore paid or then payable shall be apportioned as of the date of Condemnation, and any unaccrued portion of Rent paid by Co-Sublessees to Sublessor shall be refunded to Co-Sublessees. If a Partial Condemnation occurs and this Sublease is not terminated pursuant hereto, then this Sublease shall remain in full force and effect with respect to that portion of the Demised Premises which shall not have been taken as herein provided and Sublessor shall be deemed to have elected to require District to restore or remediate the Demised Premises pursuant to Section 12.1(d) hereof and District shall undertake and diligently pursue such restoration or remediation which in all cases shall be completed prior to the Expiration Date unless all, but not less than all, of the Demised Premises has been purchased by District or City, for the use and benefit of District, in accordance with Section 16.1 hereof. Commencing at the date of Partial Condemnation, the Basic Rent shall be reduced in the ratio that the area of the Demised Premises which was taken bears to the total area of the Demised Premises before such taking.

(b) In the event of a Partial Condemnation with the Sublease continuing as to that portion of the Demised Premises not taken, the proceeds of the award or compensation made in any such proceeding ("Partial Award") shall be divided between the Parties as follows in the following order of priority:

(i) District shall receive an amount necessary to promptly restore such portion of the Demised Premises not taken, to the extent as nearly as possible, to the condition, character

and usability immediately prior to such Partial Condemnation, in accordance with the provisions of this Sublease.

(ii) Sublessor shall receive an amount to be applied to any outstanding Financing Balance.

(iii) Sublessor shall receive an amount equal to all Rent due under this Sublease accruing to the date of Partial Condemnation, if not already paid by Co-Sublessees.

(iv) Sublessor shall receive an amount equal to the Fair Market Value of its interest in Demised Premises so taken.

(v) Co-Sublessees shall receive an amount equal to the Fair Market Value of its interest in the Demised Premises so taken.

(vi) Co-Sublessees and Sublessor shall share the amount of any remaining Partial Award pro rata in proportion to the amount paid to Sublessor pursuant to Subsection (iv) above and the amount paid to Co-Sublessees pursuant to Subsection (v) above.

In the event that the Partial Award does not provide for the allocation set forth in this Section, or the Parties otherwise cannot agree on such allocation, then such allocation shall be determined by appraisal in accordance with the rules and procedures of the local MAI Chapter or successor organization thereto ("MAI") in the City and the Parties shall share equally in the cost of such appraisal. The determination of the MAI appraiser shall be conclusive and binding on the Parties as to its valuation of interests in the Demised Premises and allocation of the Partial Award as provided in this Section.

#### Section 14.3. Upon Material Environmental Violation.

(a) If a Material Environmental Violation occurs during the Term with respect to the Demised Premises, then Sublessor may elect to terminate the Sublease by giving Termination Notice to Co-Sublessees (within sixty (60) days of Sublessor obtaining actual knowledge of the Material Environmental Violation) with such termination to be effective on the Payment Date specified in Section 14.3(b) hereof. If Sublessor fails to elect to terminate the Sublease as provided in this Section 14.3, Sublessor shall be deemed to have elected to require District to restore, rebuild or remediate the Demised Premises pursuant to Section 12.1(d) or Section 13.2(b) hereof, as applicable, and District shall undertake and diligently pursue such restoration, rebuilding or remediation which in all cases shall be completed prior to the Expiration Date unless all, but not less than all, of the Demised Premises has been purchased by District or City, for the use and benefit of District, in accordance with Section 16.1 hereof.

(b) Following Sublessor's delivery of the Termination Notice, Co-Sublessees shall be obligated to purchase Prime Lessor's and Sublessor's interest in all, but not less than all, of the Demised Premises on or prior to the then next-third-occurring Payment Date (but in no event any later than ninety (90) days from the date Sublessor delivers the applicable Termination Notice) by paying Sublessor an amount equal to the Purchase Amount.

Section 14.4. Upon Significant Casualty. If a Significant Casualty occurs during the Term with respect to the Demised Premises, then District may elect to terminate the Sublease; *provided* that (a) Co-Sublessees are in full compliance with all terms and conditions of this Sublease, or cures any Event of Default within thirty (30) days; (b) the Demised Premises is insured in an amount substantially equal to or greater than the cost to repair the damage or destruction, or, if less, District agrees to pay to Sublessor any difference in such cost; and (c) District's insurance carrier has accepted liability in writing or has made payment with respect to such damage or destruction. In order to exercise this option to terminate, District shall deliver a Termination Notice to Sublessor within thirty (30) days of the Significant Casualty. Such Termination Notice shall specify District's intent to terminate the Sublease, in which event, the Sublease thereupon shall terminate and District shall deliver to Sublessor all insurance proceeds received by District and shall assign to Sublessor, in form satisfactory to Sublessor, all of District's right, title and interest in and to any insurance proceeds not yet received. Notwithstanding the foregoing, in the event termination of the Sublease would result in a loss to Sublessor of proceeds of any rent loss insurance, Co-Sublessees shall, in lieu of termination, assign this Sublease to an entity designated by Sublessor or take such other reasonable action as directed by Sublessor to enable Sublessor to receive the proceeds of rent loss insurance.

ARTICLE XV  
EVENTS OF DEFAULT; REMEDIES

Section 15.1. Events of Default. The occurrence of any one or more of the following events (whether such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body) shall constitute an "Event of Default":

- (a) the occurrence of a Payment Default;
- (b) District or City shall fail to observe or perform any covenant contained in Section 7.1 or Section 7.2 hereof, respectively;
- (c) except for violations or failures to perform otherwise specifically set forth herein, District or City shall fail to observe or perform any covenant or agreement contained in any Operative Document for thirty (30) days after written notice thereof has been given by Sublessor to District or City, as applicable; *provided, however*, if such covenant or agreement cannot be cured within thirty (30) days following written notice and District or City has commenced to cure such failure and is diligently proceeding to cure such failure, then District or City, as applicable, shall have such additional period of time reasonably necessary to cure such action provided such additional period of time shall not exceed sixty (60) days from the expiration of the initial thirty (30) day period;
- (d) any representation, warranty or certification made by District or City, as applicable, in any Operative Document or in any certificate, financial statement or other document delivered

pursuant to any Operative Document shall prove to have been incorrect in any material respect when made;

(e) District shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any Debtor Relief Law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of, or taking possession by, any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing;

(f) an involuntary case or other proceeding shall be commenced against District seeking liquidation, reorganization or other relief with respect to it or its debts under any Debtor Relief Law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismitted and unstayed for a period of sixty (60) days; or an order for relief shall be entered against District under the federal bankruptcy laws as now or hereafter in effect;

(g) a final, non-appealable judgment or order for the payment of money (not paid or covered by insurance (except for deductibles) as to which the relevant insurance company has acknowledged coverage) in excess of Five Hundred Thousand Dollars (\$500,000) shall be rendered against District or City and such final, non-appealable judgment or order shall continue unsatisfied, unreversed, unvacated, undischarged and unstayed for a period of thirty (30) days;

(h) any authorization or approval or other action by any Governmental Authority or regulatory body required for the execution, delivery or performance of this Sublease or any other Operative Document by District or City shall be terminated, revoked or rescinded or shall otherwise no longer be in full force and effect;

(i) any Operative Document or the security interest and lien granted under any Operative Document (except in accordance with its terms), in whole or in part, terminates, ceases to be effective or ceases to be the legal, valid and binding enforceable obligation of District or City or any of their respective Affiliates, as the case may be, on account of, or as a result of, directly or indirectly, any act or omission of District or City or any of their respective Affiliates;

(j) District's or City's leasehold interest in the Demised Premises shall be seized under any levy, execution, attachment or other process of court where the same shall not be vacated or stayed on appeal or otherwise within thirty (30) days thereafter;

(k) District's or City's leasehold interest in the Demised Premises shall be sold by judicial sale and such sale is not vacated, set aside or stayed on appeal or otherwise within thirty (30) days thereafter; or

(l) Co-Sublessees shall fail to maintain insurance as required by Article XI hereof.

Section 15.2. Remedies. Upon the occurrence of any Event of Default and at any time thereafter, Sublessor may, so long as such Event of Default is continuing, do one or more of the following as Sublessor in its sole discretion shall determine, without limiting any other right or remedy Sublessor may have on account of such Event of Default, but subject to the rights of District or City, for the use and benefit of District, to purchase the Demised Premises pursuant to the terms and within the time periods as set forth in Section 16.1 hereof:

(a) Sublessor may, by notice to Co-Sublessees, terminate this Sublease as to any or all of the Demised Premises; *provided, however,* (i) no reletting, or taking of possession of the Demised Premises (or any portion thereof) by Sublessor will be construed as an election on Sublessor's part to terminate this Sublease unless a written notice of such intention is given to Co-Sublessees and such notice must specify the date upon which the Sublease shall terminate (such notice to operate as a notice to quit, any statutory or other notice to quit being hereby expressly waived by Co-Sublessees); (ii) notwithstanding any reletting, or taking of possession, Sublessor may at any time thereafter elect to terminate this Sublease for a continuing Event of Default; and (iii) no act or thing done by Sublessor or any of its agents, representatives or employees and no agreement accepting a surrender of the Demised Premises shall be valid unless the same be made in writing and executed by Sublessor;

(b) Sublessor (i) may demand that Co-Sublessees, and Co-Sublessees shall upon the written demand of Sublessor, return the Demised Premises promptly to Sublessor in the manner and condition required by, and otherwise in accordance with Article IX and Sections 6.3 and 13.2(b) hereof, and Sublessor shall not be liable for the reimbursement of Co-Sublessees for any costs and expenses incurred by Co-Sublessees in connection therewith; and (ii) without prejudice to any other remedy which Sublessor may have for possession of the Demised Premises, and to the extent and in the manner permitted by Applicable Laws, enter upon the Demised Premises and take immediate possession of (to the exclusion of Co-Sublessees) the Demised Premises or any part thereof and expel or remove Co-Sublessees, by summary proceedings or otherwise, all without liability to Sublessor for or by reason of such entry or taking of possession (*provided, however,* Sublessor shall remain liable for actual damages caused by its gross negligence or willful misconduct), whether for the restoration of damage to property caused by such taking or otherwise and, in addition to Sublessor's other damages, District shall be responsible for all costs and expenses (which costs and expenses shall be reasonable if within the control of Sublessor) incurred by Sublessor in connection with any reletting, including reasonable brokers' fees and all costs of any alterations or repairs made by Sublessor.

(c) Sublessor may, in its sole and absolute discretion, elect not to terminate this Sublease and (i) continue to collect all Basic Rent, Additional Rent and all other amounts due Sublessor (together with all costs of collection) and enforce Co-Sublessees' obligations under this Sublease as and when the same become due, or are to be performed; and (ii) upon any abandonment of the Demised Premises by Co-Sublessees, may make the necessary repairs (and District shall pay the reasonable costs of such repairs) in order to relet the Demised Premises, and relet the Demised Premises or any part thereof for such term(s) (which may be for a term extending beyond the Term) and at such rental(s) and upon such other terms and conditions as Sublessor in its reasonable discretion may deem advisable; and upon each such reletting all rentals actually

received by Sublessor from such reletting shall be applied to Co-Sublessees' obligations hereunder. If such rentals received from such reletting during any period are less than the Rent with respect to the Demised Premises to be paid during that period by Co-Sublessees hereunder, then Co-Sublessees shall pay any deficiency, as calculated by Sublessor, to Sublessor on the next Payment Date;

(d) Sublessor may demand, by written notice to Co-Sublessees, that Co-Sublessees pay to Sublessor within thirty (30) days after receipt of such notice an amount equal to the Purchase Amount, then, upon Sublessor's receipt of the Purchase Amount, the Demised Premises shall be conveyed to District in accordance with Article XVI hereof, and if this remedy is elected and fee simple title to the Demised Premises is so conveyed to District, then Sublessor will have no other remedies under this Article XV.

(e) Sublessor may sue Co-Sublessees to collect all unpaid Rent and/or damages incurred by Sublessor as a result of the Event of Default, based upon, among other things, the balance of the Rent due and payable, and the probable rental which can be earned, during the remaining balance of the Term then in effect, and the period of time prior to any lease to a new lessee, as applied by courts in the State, in one or more proceedings as damages are ascertained, whether or not this Sublease shall have been terminated. Sublessor shall be entitled to collect all such damages at one time and shall not be required to delay collection of such damages based on the ongoing obligations of Co-Sublessees under this Sublease, whether or not this Sublease terminates.

(f) Sublessor may retain and apply against the Sublease Balance all sums which Sublessor would, absent such Event of Default, be required to pay to, or turn over to, Co-Sublessees pursuant to the terms of this Sublease; and/or

(g) If an Event of Default due to an Insolvency Event shall have occurred and be continuing, Sublessor, as a matter of right and with notice to Co-Sublessees, shall have the right to apply to any court having jurisdiction to appoint a receiver(s) of the Demised Premises, and Co-Sublessees hereby irrevocably consents to any such appointment. Any such receiver(s) shall have all of the usual powers and duties of receivers in like or similar cases and all of the powers and duties of Sublessor in case of entry onto the Demised Premises, and shall continue as such and exercise such powers until the date of confirmation of the sale of the Demised Premises unless such receivership is sooner terminated.

Section 15.3. Rights Cumulative. Except as provided in Section 15.2(d) hereof, no remedy herein conferred upon or reserved to Sublessor is intended to be exclusive of any other remedy herein or by Applicable Law provided or permitted, but each shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Every power or remedy given by any of the Operative Documents to Sublessor or to which it may otherwise be entitled, may be exercised, concurrently or independently, from time to time and as often as may be deemed expedient by Sublessor.

Section 15.4. Waiver. If any Party institutes legal or administrative proceedings against any other Party and a compromise or settlement thereof is made, such settlement or compromise

shall not constitute a waiver of either Party's obligations to comply with any covenant, agreement or condition, nor of any of either Party's rights hereunder.

Section 15.5. Sublessor's Right to Cure Co-Sublessee's Defaults. Sublessor, without waiving or releasing any obligation or Event of Default, may (but shall be under no obligation to), upon five (5) Business Days' prior notice to Co-Sublessees, remedy any Event of Default for the account and at the sole cost and expense of District, and may, to the fullest extent permitted by Applicable Law, and notwithstanding any right of quiet enjoyment in favor of Co-Sublessees, enter upon the Demised Premises, as necessary, for such purpose and take all such action thereon as may be necessary or appropriate therefor. No such entry shall be deemed an eviction of Co-Sublessees. All reasonable out-of-pocket costs and expenses so incurred (including reasonable attorneys' fees), together with interest thereon at the Overdue Rate from the date on which such sums or expenses are paid by Sublessor, shall be paid by District to Sublessor on demand as Additional Rent.

Section 15.6. Default by Sublessor under Prime Lease. Sublessor will duly and punctually pay all Basic Rent imposed by the Prime Lease (as defined therein) upon the lessee thereunder and will perform all obligations of lessee thereunder during the term thereof. Upon the occurrence of any default by Sublessor under the terms of the Prime Lease which is not cured after notice from Prime Lessor within the time periods for cure provided in the Prime Lease, Co-Sublessees shall have the right to perform any such obligation and cure any such default on Sublessor's behalf. Sublessor shall give Co-Sublessees any notice of default received by Sublessor from Prime Lessor under the Prime Lease.

## ARTICLE XVI PURCHASE PROVISIONS

### Section 16.1. Purchase Option.

(a) Subject to the conditions contained herein, on any Payment Date during the Purchase Option Period, District or City, for the use and benefit of District, may, at its option, purchase all, but not less than all, of the Demised Premises at a price equal to the Purchase Amount (the "Purchase Option"); *provided, however*, there shall be no continuing Event of Default by District or by City at the time the Purchase Option is exercised.

(b) In order to exercise the Purchase Option, District or City (as applicable) shall provide Prime Lessor and Sublessor with at least thirty (30) days' prior written Purchase Notice of such election to exercise the Purchase Option.

(c) If District or City, for the use and benefit of District, exercises the Purchase Option, then, upon Sublessor's receipt of the Purchase Amount, Sublessor shall transfer to District (or to City, for the use and benefit of District) all of Sublessor's right, title and interest in and to the Demised Premises in accordance with the procedures set forth in Section 16.2 hereof, such transfer to be effective as of the date specified in the Purchase Notice and to be subject to any deed restrictions, covenants or other requirements of record.

Section 16.2. Procedures Relating to Conveyance of Demised Premises Upon Purchase.

(a) In connection with any termination of this Sublease pursuant to any purchase of all, but not less than all, of the Demised Premises in accordance with Section 16.1 hereof, the terms of Section 14.3 hereof, or in connection with Co-Sublessees' obligations under Section 15.2(d) hereof or any other conveyance or purchase of the Demised Premises made pursuant to the terms hereof, then, upon the date on which the Sublease is to terminate with respect to the Demised Premises and upon tender by Co-Sublessees of the amounts set forth in such as applicable:

(i) Sublessor shall, at Co-Sublessees' reasonable cost and expense, execute and deliver to District (or to City, for the use and benefit of District) (A) a valid and recordable quit claim deed in respect of Sublessor's interest in the Demised Premises, all without representation and warranty, (B) a valid and recordable termination of the Memorandum of Sublease, (C) if requested by District or City, a termination of the Sublease, and (D) any other documents reasonably requested by District to effectuate the conveyance of the Demised Premises to District (or to City, for the use and benefit of District), all without representation and warranty;

(ii) the Demised Premises shall be conveyed to District (or to City, for the use and benefit of District) "AS IS, WHERE IS" and in its then-present physical condition together with an assignment, without warranty of any kind, of Sublessor's rights, if any, under Contract Documents, including any licenses granted under the Contract Documents; and

(iii) Sublessor shall cause all Sublessor Liens to be released.

(b) Effective upon the Expiration Date or the termination of this Sublease pursuant to an Event of Default or otherwise, Co-Sublessees shall (i) satisfy and discharge all liabilities of Co-Sublessees hereunder accruing to the effective date of such expiration or termination, (ii) otherwise comply with the provisions of this Sublease; and (iii) provide any documentation, assurances and assumptions required under and otherwise comply with the terms and conditions of the Contract Documents, and otherwise comply with the requirements under the Contract Documents for any transfer of the Demised Premises.

ARTICLE XVII  
MISCELLANEOUS

Section 17.1. Acceptance of Surrender. No surrender to Sublessor of this Sublease or of the Demised Premises or of any part of any thereof or of any interest therein shall be valid or effective unless agreed to and accepted in writing by Sublessor and no act by Sublessor, or any representative or agent of Sublessor, other than a written acceptance, shall constitute an acceptance of any such surrender.

Section 17.2. No Merger of Title. There shall be no merger of this Sublease or of the leasehold estate created by this Sublease by reason of the fact that the same person, firm, or corporation or other entity may acquire or own or hold directly or indirectly (a) this Sublease or

the leasehold estate created by this Sublease or any interest in this Sublease or in any such leasehold estate, and (b) the fee estate in the Land, Improvements or any part thereof or any interest in such fee estate and no such merger shall occur unless and until all corporations, firms and other entities having any interest in (i) this Sublease or the leasehold estate created by this Sublease, and (ii) the fee estate in the Land, Improvements or any part thereof shall join in a written instrument effecting such merger and shall duly record the same.

Section 17.3. Sublessor and Sublessee Relationship. Nothing contained in this Sublease shall be deemed or construed to create a partnership or joint venture of or between Sublessor and Co-Sublessees, or to create any other relationship between the Parties other than that of sublessor and co-sublessees.

Section 17.4. Estoppel Certificates. Co-Sublessees agree, upon not less than thirty (30) days prior written notice by Sublessor, to execute, acknowledge and deliver to Sublessor a statement in writing (a) certifying that this Sublease is unmodified and in full force and effect (or, if there have been modifications, that the Sublease is in full force and effect as modified and stating the modifications); (b) stating the dates to which Rent and other charges hereunder have been paid by Co-Sublessees; (c) stating whether, to the best knowledge of Co-Sublessees, Sublessor is in default in the performance of any covenant, agreement or condition contained in this Sublease, and, if so, specifying each such default of which Co-Sublessees may have knowledge; (d) stating the address to which notices to Co-Sublessees should be sent; and (e) agreeing not to pay Basic Rent more than thirty (30) days in advance or to amend the Sublease without the consent of any mortgage lender having a security interest in the Demised Premises. Any such statement delivered pursuant hereto may be relied upon by any owner of the Demised Premises, any prospective purchaser of the Demised Premises, any mortgagee or prospective mortgagee of the Demised Premises or of Sublessor's interest therein, or any prospective assignee of any such mortgage.

Section 17.5. Enforcement of Sublease. If Sublessor or Co-Sublessees bring an action at law or equity against any other Party to enforce the provisions of this Sublease or as an alleged default under this Sublease or an action for arbitration for such purposes, the prevailing party in such action shall be entitled to recover reasonable attorney's fees and expenses from the other.

Section 17.6. Notices. All notices required or permitted to be given under this Sublease shall be in writing and shall be deemed given and received: (i) one Business Day after deposit prepaid with a reputable overnight courier; (ii) upon personal delivery during regular business hours of the recipient; (iii) upon transmission via email during regular business hours of recipient, with a confirmation copy mailed by first class mail, postage prepaid, addressed to the other Parties' address; or (iv) by mail, postage prepaid, to the address of the Parties listed below by depositing the same with the United States Postal Service, to be effective three (3) days after mailing:

- (a) if to Sublessor at: Healthy Community Education Partners, Inc.  
ATTN: Vicki Lake  
111 E. Main Street, Ste. 201  
Jackson, TN 38301  
Email: vicki.lake@wth.org

- with copy to: Spragins, Barnett & Cobb, PLC  
ATTN: Nicholas B. Latimer  
312 East Lafayette Street  
Jackson, TN 38301  
Email: nbl@spraginslaw.com;
- (b) if to District at: Jackson-Madison County School System  
ATTN: Superintendent  
310 North Parkway  
Jackson, TN 38305  
Email: trwashington@jmcass.org
- with copy to: Rainey, Kizer, Reviere & Bell, P. L. C.  
ATTN: Dale Thomas  
209 East Main Street  
Jackson, TN 38301  
Email: dthomas@raineykizer.com;
- (c) if to City: City of Jackson, Tennessee  
ATTN: Mayor and City Recorder  
111 East Main Street  
Jackson, TN 38301  
Email: \_\_\_\_\_
- with copy to: Spragins, Barnett & Cobb, PLC  
ATTN: Jerry Spore  
312 East Lafayette Street  
Jackson, TN 38301  
Email: jpsore@spraginslaw.com; and
- (d) if to Prime Lessor at: Jackson Community Redevelopment Agency  
ATTN: Stan Pilant  
111 E. Main Street, Ste. 201  
Jackson, TN 38301  
Email: spilant@cityofjackson.net
- with copy to: Spragins, Barnett & Cobb, PLC  
ATTN: Nicholas B. Latimer  
312 East Lafayette Street  
Jackson, TN 38301  
Email: nbl@spraginslaw.com

The Party to receive notices and the place notices are to be sent for any Party may be changed by notice given pursuant to the provisions of this Section.

Section 17.7. Broker. Sublessor, District, and City each represent and warrant one to the other that neither has employed any broker in the negotiations for, or had any dealings with any broker relating to, this Sublease.

Section 17.8. Waiver of Jury Trial. Sublessor and Co-Sublessees waive trial by jury in any action, proceeding or counterclaim brought by any of the Parties against any of the other Parties on or with respect to any matter whatsoever arising out of or in any way connected with this Sublease, the relationship of Sublessor and Co-Sublessees hereunder, Co-Sublessees' use or occupancy of the Demised Premises, and/or any claim of injury or damage.

Section 17.9. Headings. The headings for each Section or Article hereof are for convenience of reference only and shall not be deemed a part of this Sublease.

Section 17.10. Performance Under Protest. In the event of a dispute or difference between Sublessor, District, and/or City as to any obligation which either may assert the other is obligated to perform or do, then the Party against whom such obligation is asserted shall have the right and privilege to carry out and perform the obligation so asserted against it without being considered a volunteer or deemed to have admitted the correctness of the claim, and shall have the right to bring an appropriate action at law, equity or otherwise against the other for the recovering of any sums expended in the performance thereof and in any such action, the prevailing party shall be entitled to recover in addition to all other recoveries such reasonable attorneys' fees as may be awarded by the court.

Section 17.11. Governing Law. This Sublease and the rights and obligations of the Parties hereunder shall be governed by the laws of State.

Section 17.12. Savings Clause. If any provision of this Sublease or the application thereof to any Person or circumstance is held invalid to any extent, then the remainder of this Sublease or the application of such provision to Persons or circumstances other than those as to which it is held invalid shall not be affected thereby, and each provision of the Sublease shall be valid and enforced to the fullest extent permitted by Applicable Laws.

Section 17.13. Bind and Inure. Subject to the provisions restricting assignments and subleases of the Demised Premises, the agreements and conditions in this Sublease contained on the part of Co-Sublessees to be performed and observed shall be binding upon Co-Sublessees and their successors and permitted assigns and shall inure to the benefit of Sublessor and its successors and assigns.

Section 17.14. Entire Agreement. This Sublease contains all the agreements made between the Parties, and no representations, inducements or agreements, oral or otherwise, between the Parties not contained in this Sublease shall be of any force or effect.

Section 17.15. Amendment. This Sublease may not be modified, amended or terminated in whole or in part in any manner other than by an agreement in writing duly signed by the Parties.

Section 17.16. Survival. The covenants, conditions and agreements contained herein shall survive the expiration of the Term or termination of this Sublease until fully performed by Sublessor, District, and/or City.

Section 17.17. Memorandum of Sublease. The Parties agree that they will, upon the request of any other Party, execute and acknowledge the Memorandum of Sublease for recording purposes.

Section 17.18. Discrimination. City and its agencies are equal employment opportunity employers, and shall not unlawfully discriminate against applicants or employees because of race, color, religion, sex, national origin, age, or disability. City's prohibition against discrimination applies to employment or hiring decisions, compensation, discipline, promotions, training, and all other terms and conditions of employment. City and its agencies do not limit, segregate, or classify employees or applicants for employment in any way which will deprive or tend to deprive any individual's race, color, religion, sex, national origin, age, or disability.

By signing this Sublease, Co-Sublessees agree to abide by and take affirmative action when necessary to ensure compliance with the nondiscrimination clause set out above. By signing this Sublease, Co-Sublessees agree to show proof of non-discrimination upon request of Sublessor and to post in conspicuous places, available to all employees and applicants, notices of non-discrimination.

During the Term, Co-Sublessees shall comply with all applicable provisions of Executive Orders 11141 (age), 11246, 11375 (women), 12086 (Vietnam Veterans), 110478 (federal employees), 11625 (minority business), 11701 (handicapped and specifically the handicapped affirmative action clause in Section 60-741.6 of the OFCCP Rules) and any and all other federal laws prohibiting discrimination.

Section 17.19. Tax Credits. The Parties hereby elect and agree that Sublessor shall be entitled to any investment tax or similar credit, or grants, with respect to the Demised Premises now or hereafter authorized by the Internal Revenue Code, or other legislation.

Section 17.20. No Personal Liability. Anything in this Sublease to the contrary notwithstanding, Co-Sublessees agree that it shall look solely to the estate and property of Sublessor in the Demised Premises, for the collection of any judgments (or other judicial process) requiring the payment of money by Sublessor in the event of any default or breach by Sublessor with respect to any terms, covenants and conditions of the Sublease to be observed and/or performed by Sublessor, and no other property or assets of Sublessor shall be subject to levy, execution or other procedures for the satisfaction of Co-Sublessees' remedies.

Section 17.21. Non-Recourse Obligations of Sublessor. Anything in this Sublease to the contrary notwithstanding, except with respect to Sublessor's gross negligence or willful misconduct, no recourse or relief shall be had under any Applicable Law, or by enforcement of any Claim arising from this Sublease, or any other document or instrument related hereto (whether by breach of any obligation, monetary or non-monetary on the part of Sublessor) against Sublessor personally or its "Unrelated Assets" (as hereinafter defined) or against any officer, member,

director or representative of Sublessor, including their successors, it being expressly understood and agreed that any liability or obligation of Sublessor under these agreements are chargeable to and compensable solely and exclusively from Sublessor interest's, if any, in and to the Demised Premises and any funds or proceeds (including rights to funds and proceeds) in actual possession of Sublessor in any manner derived from Sublessor's rights or interests under this Sublease. Accordingly, any claim of liability, other than the foregoing, is hereby expressly waived by Co-Sublessees and any other Person claiming by, through or under Co-Sublessees. As used in this Sublease, the term "Unrelated Assets" means all assets and property, of every kind and description, owned or held by Sublessor in conjunction with contracts and agreements having no connection, directly or indirectly, with the transactions contemplated by this Sublease.

Section 17.22. Exhibits Incorporated. All of the Exhibits attached to this Sublease are a part of this Sublease and are incorporated herein by reference as fully as if copied herein verbatim.

Section 17.23. Right of Lenders. This Sublease is subject and subordinate to all of the terms and provisions and Liens of all mortgages and/or deeds of trust (hereinafter collectively referred to as "mortgages") which may now or hereafter affect or encumber Sublessor's interest in the Land or the Demised Premises, and to all renewals, modifications, consolidations, replacements, amendments and extensions thereof. This clause shall be self-operative and no further instrument of subordination shall be required by any mortgagee (as used in this Sublease, "mortgagee" includes any mortgagee under a mortgage, any beneficiary or trustee under a deed of trust, and any lender or other secured party under a deed to secure debt or other instrument similar to any of the foregoing). In confirmation of such subordination, Co-Sublessees shall, within ten (10) Business Days of written request, execute any instrument that Sublessor may reasonably request, including, without limitation, a subordination, non-disturbance and attornment agreement on any such mortgagee's customary form.

#### ARTICLE XVIII NMTC REQUIRED PROVISIONS

Section 18.1 NMTC Required Provisions. In the event of any inconsistencies between the terms and conditions of this Section 18.1 and the terms and conditions of this Sublease, the terms and conditions of this Section 18.1 shall control and be binding.

(a) Co-Sublessees acknowledges that Sublessor is obtaining certain financing from [\_\_\_\_\_] (together with its successors and/or assigns, the "CDE Lender"), and that Sublessor will enter into certain loan documents evidencing, governing, and securing such financing (as the same may be amended from time to time, collectively, the "CDE Loan Documents"). The proceeds of such financing will be used to finance the [\_\_\_\_\_] comprising the Facility and that, accordingly, Co-Sublessees will benefit from such financing. Co-Sublessees further acknowledge that the terms of the CDE Loan Documents impose covenants and obligations upon Sublessor, the performance and observance of which will (in whole or in part) be dependent on Co-Sublessees' actions and inactions as tenants of the Demised Premises.

(b) In no event shall Co-Sublessees' use of the Demised Premises consist of operation of, nor shall Sublessor or Co-Sublessees permit any sublessee or occupant to use, occupy, or



With a copy to: Truist Community Capital, LLC  
c/o Truist Bank  
303 Peachtree Street, N.E., Suite 2200  
Atlanta, GA 30308  
Mailcode: GA-ATL-0243  
Attention: Christopher Leutzinger  
Email: chris.leutzinger@suntrust.com

With a copy to: [REDACTED]  
[REDACTED]  
[REDACTED]  
Attention: [REDACTED]  
Email: [REDACTED]

With a copy to: Jones Day  
100 High Street, 21st Floor  
Boston, MA 02110  
Attention: Douglas Banghart, Esq.  
Email: dbanghart@jonesday.com

Each Party shall provide CDE Lender with prompt notice of any asserted default against the other Party under this Sublease. In the event of any act or omission of either Party which would give the other Party the right, immediately or after lapse of time, to cancel or terminate this Sublease, or to claim a partial or total eviction or to exercise any other remedy, such Party shall not exercise such right or remedy until CDE Lender shall have received notice and a reasonable period of time to cure said default (provided such period shall not exceed ninety (90) days). Notwithstanding the foregoing, CDE Lender shall have no obligation to remedy or to continue to remedy any such act or omission. In the event CDE Lender elects to cure such default, the parties will accept such cure as if provided by the Sublessor or Co-Sublessees, as applicable.

(e) Notwithstanding anything contrary contained in this Sublease and subject to Co-Sublessees' rights under the subordination, non-disturbance and attornment agreement, following a Foreclosure, Lender or its designee shall be permitted to use the Demised Premises for any use permitted by Applicable Law.

***[COUNTERPART SIGNATURE AND ACKNOWLEDGMENT PAGES FOLLOW]***

**SUBLEASE AGREEMENT**  
(Madison Academic)

**IN WITNESS WHEREOF**, Sublessor, District, and City have caused this Sublease to be signed in their names by their duly authorized representatives and delivered as their act and deed, intending to be legally bound by its terms and provisions.

**SUBLESSOR:**

HEALTHY COMMUNITY EDUCATION PARTNERS,  
INC., a nonprofit public benefit corporation of the State of  
Tennessee

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

Before me, the undersigned Notary Public, of the State and County aforesaid, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be the \_\_\_\_\_ of HEALTHY COMMUNITY EDUCATION PARTNERS, INC., a nonprofit public benefit corporation of the State of Tennessee, the within named bargainor, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such officer.

WITNESS my hand and Notarial Seal at office this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**SUBLEASE AGREEMENT**  
(Madison Academic)

**DISTRICT:**

**JACKSON-MADISON COUNTY SCHOOL SYSTEM,**  
a governmental entity and political subdivision of the state  
of Tennessee

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

Before me, the undersigned Notary Public, of the State and County aforesaid, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be the \_\_\_\_\_ of JACKSON-MADISON COUNTY SCHOOL SYSTEM, the within named bargainor, a governmental entity and political subdivision of the state of Tennessee, and that such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the district by himself as such officer.

WITNESS my hand and seal at office this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**SUBLEASE AGREEMENT**  
(Madison Academic)

**CITY:**

**THE CITY OF JACKSON, TENNESSEE**, a municipal corporation organized under the laws of the State of Tennessee

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: City of Jackson Mayor

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

Before me, the undersigned Notary Public, of the State and County aforesaid, personally appeared \_\_\_\_\_, with whom I am personally acquainted (or proved to me on the basis of satisfactory evidence), and who, upon oath, acknowledged such person to be the MAYOR of THE CITY OF JACKSON, TENNESSEE, the within named bargainer, a municipal corporation organized under the laws of the State of Tennessee, and that such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the corporation by himself as such officer.

WITNESS my hand and seal at office this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**SUBLEASE AGREEMENT**  
(Madison Academic)

EXHIBIT "A"

Legal Description of the Land



**SUBLEASE AGREEMENT**  
(Madison Academic)

**EXHIBIT "B"**

**Memorandum of Sublease**

[See attached.]

## CRA TIF FUND CONTRIBUTION AGREEMENT

### (JCM/Madison Academic Schools Project)

This CRA TIF FUND CONTRIBUTION AGREEMENT (the "Agreement") is made as of the \_\_\_ day of \_\_\_\_\_, 2020, by and among, **JACKSON COMMUNITY REDEVELOPMENT AGENCY**, a public instrumentality created by the City of Jackson pursuant to the Community Redevelopment Act of 1998 ("CRA"); **THE COUNTY OF MADISON**, a political subdivision of the State of Tennessee ("County"); and **THE CITY OF JACKSON**, a municipal corporation organized under the laws of the State of Tennessee ("City") and together with the CRA and County, collectively the "Parties" and each, a "Party", with reference to the following:

#### WITNESSETH:

WHEREAS, the CRA has as its purpose to identify and address issues of slum and blight through executing contracts, acquiring and disposing of real property, establishing tax incremental financing districts, and other programs and financial instruments to help stabilize, revitalize, and redevelop certain areas of Jackson, Madison County, Tennessee;

WHEREAS, the CRA has identified a project initiative within the CRA's District 1 Redevelopment Area whereby the CRA will assist the Jackson-Madison County School System ("School System") with and facilitate the redevelopment and construction of two (2) new public educational institutions and related facilities in Jackson, Madison County, Tennessee, including a redeveloped middle/high school serving approximately 800 students (the "JCM Project") and a new magnet high school serving approximately 600 students (the "MA Project") and, together with JCM Project, collectively the "Project";

WHEREAS, the JCM Project will be located on a portion of the campus of the former Jackson Central-Merry High School (the "JCM Campus") and the MA Project will be located on the former location of Epworth Hall on the campus of the University of Memphis Lambuth ("MA Campus") and together with JCM Campus, collectively the "Project Locations";

WHEREAS, CRA owns or will own the real property at the Project Locations and will lease the Project Locations to Healthy Community Education Partners, Inc., a Tennessee nonprofit corporation ("HCEP");

WHEREAS, HCEP will proceed to cause the renovation, construction, redevelopment and equipping of the improvements at the Project Locations in order to facilitate the accomplishment of the redevelopment and construction of the Project;

WHEREAS, HCEP will sublease the JCM Project to County and School System pursuant to that certain JCM Sublease Agreement of even date herewith (the "JCM Sublease");

WHEREAS, HCEP will sublease the MA Project to City and School System pursuant to that certain Madison Academic Sublease Agreement of eventdate (the "MA Sublease" and together with the JCM Sublease, collectively the "Subleases");

WHEREAS, pursuant to the Community Redevelopment Act of 1998 as amended (the "Act"), City previously established a District 1 Redevelopment Trust Fund ("City TIF Fund"), for the benefit of the CRA, pursuant to that certain Ordinance #2009-025 passed by the Council of the City of Jackson on December 1, 2009 ("City TIF Ordinance");

WHEREAS, in support of the JCM Project, and pursuant to the Act and the Uniformity in Tax Increment Financing Act of 2012 as amended ("UTIF"), County has established a District 1 Redevelopment Trust Fund ("County TIF Fund"), for the benefit of the CRA, pursuant that certain Resolution #6.2F.121718 passed by the Commissioners of Madison County, Tennessee on December 17, 2018 ("County TIF Resolution");

WHEREAS, pursuant to the City TIF Ordinance, the City TIF Fund is funded annually with certain Increment (as defined in the City TIF Ordinance) revenues (the "City Increment Revenues") to be used by the CRA for the financing or refinancing of any community development undertaken within the CRA's District 1 and pursuant to the Act;

WHEREAS, pursuant to the County TIF Resolution, the County TIF Fund is funded annually with certain Increment Revenues (as defined in the County TIF Resolution) (the "County Increment Revenues") to be used by the CRA for the financing or refinancing of any community development undertaken within the CRA's District 1 and pursuant to the Act;

WHEREAS, in support of the MA Project, the CRA has agreed to contribute seventy-five percent (75%) of the annual City Increment Revenues allocated to and deposited into the City TIF Fund as calculated by using the base year of 2017 ("MA Project Contribution"), to City for the purpose of offsetting City's financial obligations under the Madison Academic Sublease;

WHEREAS, in support of the JCM Project, the CRA has agreed to contribute seventy-five percent (75%) of the annual County Increment Revenues allocated to and deposited into the County TIF Fund ("JCM Project Contribution"), to County for the purpose of offsetting County's financial obligations under the JCM Sublease;

WHEREAS, the Parties desire to enter into this Agreement for the purposes of setting forth terms and conditions for the holding, release, and use of both the MA Project Contribution and the JCM Project Contribution (collectively, the "Project Contributions");

WHEREAS, the governing board of the CRA approved this Agreement and the CRA's execution and delivery thereof pursuant to the action taken at such board's meeting held on \_\_\_\_\_, 2020;

WHEREAS, the governing body of the County approved this Agreement and the County's execution and delivery thereof pursuant to the action taken at such body's meeting held on \_\_\_\_\_, 2020; and

WHEREAS, the governing body of the City approved this Agreement and the City's execution and delivery thereof pursuant to the action taken at such body's City Council meeting held \_\_\_\_\_, 2020.

NOW, THEREFORE, in consideration of the mutual covenants, agreements set forth herein 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. Deposit of Project Contributions**

A. JCM Project TIF Account. Beginning in the year 2021, on an annual basis after the County Increment Revenues, if any, are allocated to and deposited into the County TIF Fund (which are deposited annually in arrears based on the previous year's taxes), the CRA will deposit the JCM Project Contribution into a separate account (the "JCM Project TIF Account"), insured by the FDIC, with the sums held therein to bear interest at the highest rate of interest available for accounts subject to immediate availability of funds. The interest earned on the JCM Project TIF Account shall accrue to the benefit of the County to be used pursuant to the terms and conditions of this Agreement. CRA may change the type of investment in which the County TIF Funds are placed only with the written permission of the County.

B. Madison Academic Project TIF Account. Beginning in the year 2021, on an annual basis after the City Increment Revenues, if any, are allocated to and deposited into the City TIF Fund (which are deposited annually in arrears based on the previous year's taxes), the CRA will deposit the MA Project Contribution into a separate account (the "MA Project TIF Account"), insured by the FDIC, with the sums held therein to bear interest at the highest rate of interest available for accounts subject to immediate availability of funds. The interest earned on the MA Project TIF Account shall accrue to the benefit of the City to be used pursuant to the terms and conditions of this Agreement. CRA may change the type of investment in which the City TIF Funds are placed only with the written permission of the City.

C. The base tax year for the City TIF Fund is 2009, however, the MA Project Contribution is calculated using the 2017 base tax year which is the base tax year of the County TIF Fund. It is the intent of the CRA and City that the CRA will retain the entire City Increment Revenues allocated and deposited annually into the City TIF Fund less and except the amount of the MA Project Contribution.

D. The CRA, City, and County each acknowledge and agree that the Madison County Property Assessor's 2017 calendar year valuation for the CRA's District 1 plan area was \$149,890,430.00, therefore, the Project Contributions will be calculated based on the increase, if any, above that amount and in accordance with the Act or UTIF, as applicable.

E. The CRA's obligations to make Project Contributions under this Agreement shall terminate upon the CRA's receipt and deposit of the Project Contributions, if any, related to the 2027 tax year.

F. The CRA's obligations to make Project Contributions shall terminate if either the City TIF Fund or the County TIF Fund is terminated by the respective governing bodies of the City or County.

G. The City and County each acknowledge and agree that the CRA will receive and retain One Hundred Percent (100%) of the County Increment Revenues and One Hundred Percent (100%) of the City Increment Revenues from the 2019 tax year (which are to be paid to the CRA in 2020), but that the CRA's receipt and retention of these amounts will allow the CRA to make the lump sum contributions toward the Project as described in Paragraph 5 of this Agreement. The City and County each agree to cause the respective Increment Revenues for the 2019 tax year to be paid to the CRA on or before April 1, 2020.

**2. Release of Project TIF Account Funds.**

A. Subject to Paragraph 3 of this Agreement, the CRA will release to County, or a third party designated by the County in writing, all or any portion of the funds in the JCM Project TIF Account upon receipt of written instructions from the County's Designated Representative.

B. Subject to Paragraph 3 of this Agreement, the CRA will release to City, or a third party designated by the City in writing, all or any portion of the funds in the MA Project TIF Account upon receipt of written instructions from the City's Designated Representative.

**3. Restrictions on Use of Project TIF Account Funds.** City and County acknowledge and agree that the Project Contributions shall only be used or applied to directly offset the respective financial obligations of the City and County pursuant to the Subleases, including, but not limited to, payment of basic rent and/or funding any purchase option; *provided, however*, that Project Contributions shall not be used or applied to directly or indirectly offset any obligations of the City or County related to or in connection with property maintenance and repair, additional improvements and/or modifications after construction of the Project is complete, insurance, or any other use or application not directly related to the financing or refinancing of the Project.

**4. Termination; Disbursement Upon Termination.**

A. Termination.

(i) The effectiveness of this Agreement shall terminate as to the County upon the earliest to occur of (a) termination or expiration of the JCM Sublease, or (b) termination or expiration of the County TIF Fund.

(ii) The effectiveness of this Agreement shall terminate as to the City upon the earliest to occur of (a) termination or expiration of the MA Sublease, or (b) termination or expiration of the City TIF Fund.

B. Disbursement Upon Termination. Upon termination of this Agreement as to either the County or City, CRA shall disburse any funds held in the respective TIF Accounts pursuant to this Agreement as follows:

- (i) any remaining funds in the JCM Project TIF Account shall be deposited into the County TIF Fund to be administered in accordance with the Act, UTIF, and County TIF Resolution, and
- (ii) any remaining funds in the MA Project Account shall be deposited into the City TIF Fund to be administered in accordance with the Act and City TIF Ordinance.

5. CRA Lump Sum Contribution to Project. In addition to the Project Contributions described hereinabove, on the Document Closing Date (as defined in the respective Subleases), the CRA agrees to contribute Three Hundred Thousand and No/100 Dollars (\$300,000.00) toward the financing of the MA Project and the CRA agrees to contribute Three Hundred Thousand and No/100 Dollars (\$300,000.00) toward the financing of the JCM Project.

6. Designated Representative of Each Party; Notices. Throughout the effectiveness of of this Agreement:

A. Victoria S. Lake, Chairperson of the CRA, at \_\_\_\_\_, will serve as the designated representative and point-of-contract for the CRA;

B. \_\_\_\_\_, at \_\_\_\_\_, will serve as the designated representative and point-of-contact for the County;

C. \_\_\_\_\_, at \_\_\_\_\_, will serve as the designated representative and point-of-contact for the City; and

D. The Parties agree that a copy of every notice, request or other statement made or delivered to a Party pursuant to this Agreement shall also be sent to the Jackson-Madison County School System, ATTN: Superintendent, at \_\_\_\_\_.

Each Party may replace, or appoint additional, designated representative(s) from time-to-time upon written notice to the other Parties; provided, however, any such replacement or additional representatives shall be mutually agreeable to the other Parties. Every notice, request or other statement to be made or delivered to a Party pursuant to this Agreement shall be directed to such Party at the physical address, e-mail address or facsimile number given immediately below such Party's signature on this Agreement or to such other address or facsimile number as the Party may designate in writing from time to time. Except as provided otherwise in this Agreement, any notice, request, statement, payment or other communication (including, without limitation, via e-mail or facsimile where transmission confirmation is received) shall be deemed to have been given on the date on which it is received by the recipient.

7. **Miscellaneous.**

A. **Controlling Law; Dispute Resolution.**

(i) This Agreement is made in Tennessee and shall be governed by and construed in accordance with the laws of the State of Tennessee and be subject to sole and exclusive jurisdiction of the State Courts in the County, the jurisdiction of which the Parties hereby consent to and waive all questions of jurisdiction and venue in that Court.

(ii) The Parties agree that any dispute between the Parties arising from or in any way related to this Agreement will first attempt to be resolved through non-binding mediation with a mediator that is mutually agreeable to the Parties, and the Parties shall share the costs of the dispute resolution process equally, although the attorneys and witnesses or specialists utilized by the respective Parties shall be the direct responsibility of each Party engaging such attorneys, witnesses or specialists, and their fees and expenses shall be the responsibility of the respective Parties. The Parties agree that only in the event that the non-binding mediation is unsuccessful in resolving any such dispute can any Party then institute suit and then only consistent with the foregoing Subsection (i).

B. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and may be amended, modified and/or supplemented only in a writing executed by each Party.

C. **Due Authorization; Binding Agreement.** Each Party represents and warrants (as to itself only) that the signatory signing on behalf of such Party is duly authorized by such Party to execute and deliver this Agreement on behalf of such Party, and by its signature does bind such Party to the terms of this Agreement.

D. **No Partnership or Joint Venture.** The Parties agree that nothing herein shall serve to create any agency, employment or other master and servant relationship or partnership or joint venture relationship or fiduciary relationship among the Parties.

E. **Waiver of Consequential Damages.** Notwithstanding anything to the contrary set forth in this Agreement, no Party (nor any of its officers, directors, employees or representatives, nor any affiliates thereof) shall be liable to the other party for any special, indirect or consequential losses or damages, for lost revenues or lost profits, or for any other special incidental, punitive, exemplary or similar damages, in each case arising out of, relating to or resulting from an actual or alleged default or breach of this Agreement, the transactions contemplated under this Agreement, or the relationship of the Parties, in each case even if the other Party has been advised of the possibility of such damages, and each Party hereby expressly releases the other Party (and its officers, directors, employees and representatives, and any affiliates thereof) therefrom.

F. **Assignment.** No Party shall assign this Agreement or any of their respective rights granted hereunder without the prior written consent of the other Parties in each instance.

G. Captions. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained herein.

H. Counterparts. This Agreement may be executed in one or more counterparts and by the different Parties hereto under separate counterparts, any one of which need not contain the signatures of more than one Party, but all of which when taken together shall constitute one and the same instrument notwithstanding that all Parties have not signed the same counterpart hereof.

I. Performance. TIME IS OF THE ESSENCE OF THIS AGREEMENT AND OF EACH PROVISION HEREOF.

J. Amendments. This Agreement is not subject to modification or amendment except by a writing of the same formality as this Agreement and executed by the signatories hereto.

K. Severability. Nothing contained herein shall be construed as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute law, ordinance, or regulation contrary to which the parties have no legal right to contract, the latter shall prevail, but the provisions of this Agreement affected shall be limited only to the extent necessary to bring it within the requirements of such law.

*[Counterpart Signatures on Following Page]*

**CRA TIF FUND CONTRIBUTION AGREEMENT**

**(JCM/Madison Academic Schools Project)**

IN WITNESS WHEREOF, the CRA, City, and County have caused this Agreement to be signed in their names by their duly authorized representatives and delivered as their act and deed, intending to be legally bound by its terms and provisions.

**JACKSON COMMUNITY REDEVELOPMENT AGENCY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Chairperson

**THE COUNTY OF MADISON, TENNESSEE**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Mayor

**THE CITY OF JACKSON, TENNESSEE**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Mayor

**AGREEMENT FOR THE DISTRIBUTION OF  
SURPLUS PURCHASE AMOUNT FUNDS**

**(JCM/Madison Academic Schools Project)**

This AGREEMENT (the "Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2020, by and among, **JACKSON COMMUNITY REDEVELOPMENT AGENCY**, a public instrumentality created by the City of Jackson pursuant to the Community Redevelopment Act of 1998 ("CRA"); **THE COUNTY OF MADISON**, a political subdivision of the State of Tennessee ("County"); and **THE CITY OF JACKSON**, a municipal corporation organized under the laws of the State of Tennessee ("City") and together with the CRA and County, collectively the "Parties" and each, a "Party", with reference to the following:

WITNESSETH:

WHEREAS, the CRA has as its purpose to identify and address issues of slum and blight through executing contracts, acquiring and disposing of real property, establishing tax incremental financing districts, and other programs and financial instruments to help stabilize, revitalize, and redevelop certain areas of Jackson, Madison County, Tennessee;

WHEREAS, the CRA has identified a project initiative within the CRA's District 1 Redevelopment Area whereby the CRA will assist the Jackson-Madison County School System ("District") with and facilitate the redevelopment and construction of two (2) new public educational institutions and related facilities in Jackson, Madison County, Tennessee, including a redeveloped middle/high school serving approximately 800 students (the "JCM Project") and a new magnet high school serving approximately 600 students (the "MA Project") and, together with JCM Project, collectively the "Project";

WHEREAS, the JCM Project will be located on a portion of the campus of the former Jackson Central-Merry High School (the "JCM Campus") and the MA Project will be located on the former location of Epworth Hall on the campus of the University of Memphis Lambuth ("MA Campus") and together with JCM Campus, collectively the "Project Locations";

WHEREAS, CRA owns or will own the real property at the Project Locations and will lease the Project Locations to Healthy Community Education Partners, Inc., a Tennessee nonprofit corporation ("HCEP");

WHEREAS, HCEP will proceed to cause the renovation, construction, redevelopment and equipping of the improvements at the Project Locations in order to facilitate the accomplishment of the redevelopment and construction of the Project;

WHEREAS, HCEP will sublease the JCM Project to County and District pursuant to that certain JCM Sublease Agreement of even date herewith (the "JCM Sublease");

WHEREAS, HCEP will sublease the MA Project to City and District pursuant to that certain Madison Academic Sublease Agreement of evendate (the "MA Sublease" and together with the JCM Sublease, collectively the "Subleases");

WHEREAS, the JCM Sublease grants the District or County (for the use and benefit of the District) the option and right to purchase the JCM Project for the greater of the Fair Market Value or the Sublease Balance;

WHEREAS, the MA Sublease grants the District or City (for the use and benefit of the District) the option and right to purchase the MA Project for the greater of the Fair Market Value or the Sublease Balance;

WHEREAS, it is anticipated that appreciation could cause the Purchase Amount for either or both Projects to be the Fair Market Value as opposed to the actual cost to finance the construction of such Project;

WHEREAS, the corporate charter currently in effect for HCEP provides that upon dissolution the assets of the corporation shall vest in and be transferred to the CRA or to such entity exempt from federal income tax as its board of directors may designate;

WHEREAS, it is anticipated that funds in excess of the actual cost to finance the construction of either or both Project could be distributed to the CRA upon the ultimate dissolution of HCEP and distribution of its corporate assets;

WHEREAS, the parties desire to enter into this Agreement for the purposes of setting forth terms and conditions for the distribution and release of funds, if any, received by the CRA from the ultimate dissolution of HCEP and distribution of its corporate assets;

WHEREAS, the governing board of the CRA approved this Agreement and the CRA's execution and delivery thereof pursuant to the action taken at such board's meeting held on \_\_\_\_\_, 2020;

WHEREAS, the governing body of the County approved this Agreement and the County's execution and delivery thereof pursuant to the action taken at such body's meeting held on \_\_\_\_\_, 2020; and

WHEREAS, the governing body of the City approved this Agreement and the City's execution and delivery thereof pursuant to the action taken at such body's City Council meeting held \_\_\_\_\_, 2020.

NOW, THEREFORE, in consideration of the mutual covenants, agreements set forth herein 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. Definitions.**

A. Capitalized terms, unless otherwise defined in this Agreement, shall have meanings ascribed to them in the respective Subleases as the context so requires.

B. "Fair Market Purchase" shall mean the circumstance when a Sublease requires the Purchase Amount to be the Fair Market Value.

C. "JCM Project Surplus" shall mean, in the event of a Fair Market Purchase with respect to the JCM Project, the amount equal to the difference between the actual amounts paid by the County to purchase the Demised Premises minus the Sublease Balance. For example, if, at the time the County exercises its option to purchase the Demised Premises, the Fair Market Value of the Demised Premises is \$15,000,000.00, and the Sublease Balance at such time is \$14,000,000.00, then the JCM Project Surplus would be \$1,000,000.00.

D. "MA Project Surplus" shall mean, in the event of a Fair Market Purchase with respect to the MA Project, the amount equal to the difference between the actual amounts paid by the City to purchase the Demised Premises minus the Sublease Balance. For example, if, at the time the City exercises its option to purchase the Demised Premises, the Fair Market Value of the Demised Premises is \$15,000,000.00, and the Sublease Balance at such time is \$14,000,000.00, then the MA Project Surplus would be \$1,000,000.00.

**2. Distribution of JCM Project Surplus.** In the event that the CRA receives funds upon the dissolution and distribution of HCEP's corporate assets, the CRA agrees to pay the JCM Project Surplus, if any, to the County.

**3. Distribution of MA Project Surplus.** In the event that the CRA receives funds upon the dissolution and distribution of HCEP's corporate assets, the CRA agrees to pay the MA Project Surplus, if any, to the City.

**4. Acknowledgments and Further Agreements.** The Parties acknowledge and agree that there may be circumstances where the CRA does not receive any funds at all from the dissolution and distribution of HCEP's assets. The Parties further acknowledge and agree that there may be circumstances where the CRA does not receive amounts necessary to distribute the full amount of either the JCM Project Surplus or the MA Project Surplus, and in such event(s), the CRA shall only be responsible for distributing any such amounts so distributed and in the possession of the CRA.

**5. Miscellaneous.**

A. Controlling Law; Dispute Resolution.

(i) This Agreement is made in Tennessee and shall be governed by and construed in accordance with the laws of the State of Tennessee and be subject to sole and exclusive jurisdiction of the State Courts in the County, the jurisdiction of which the Parties hereby consent to and waive all questions of jurisdiction and venue in that Court.

(ii) The Parties agree that any dispute between the Parties arising from or in any way related to this Agreement will first attempt to be resolved through non-binding mediation with a mediator that is mutually agreeable to the Parties, and the Parties shall share the costs of the dispute resolution process equally, although the attorneys and witnesses or specialists utilized by the respective Parties shall be the direct responsibility of each Party engaging such attorneys, witnesses or specialists, and their fees and expenses shall be the responsibility of the respective Parties. The Parties agree that only in the event that the non-binding mediation is unsuccessful in resolving any such dispute can any Party then institute suit and then only consistent with the foregoing Subsection (i).

B. Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and may be amended, modified and/or supplemented only in a writing executed by each Party.

C. Due Authorization; Binding Agreement. Each Party represents and warrants (as to itself only) that the signatory signing on behalf of such Party is duly authorized by such Party to execute and deliver this Agreement on behalf of such Party, and by its signature does bind such Party to the terms of this Agreement.

D. No Partnership or Joint Venture. The Parties agree that nothing herein shall serve to create any agency, employment or other master and servant relationship or partnership or joint venture relationship or fiduciary relationship among the Parties.

E. Waiver of Consequential Damages. Notwithstanding anything to the contrary set forth in this Agreement, no Party (nor any of its officers, directors, employees or representatives, nor any affiliates thereof) shall be liable to the other party for any special, indirect or consequential losses or damages, for lost revenues or lost profits, or for any other special incidental, punitive, exemplary or similar damages, in each case arising out of, relating to or resulting from an actual or alleged default or breach of this Agreement, the transactions contemplated under this Agreement, or the relationship of the Parties, in each case even if the other Party has been advised of the possibility of such damages, and each Party hereby expressly releases the other Party (and its officers, directors, employees and representatives, and any affiliates thereof) therefrom.

F. Assignment. No Party shall assign this Agreement or any of their respective rights granted hereunder without the prior written consent of the other Parties in each instance.

G. Captions. The captions contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision contained herein.

H. Counterparts. This Agreement may be executed in one or more counterparts and by the different Parties hereto under separate counterparts, any one of which need not contain the signatures of more than one Party, but all of which when taken together shall constitute one and the same instrument notwithstanding that all Parties have not signed the same counterpart hereof.

I. Performance. TIME IS OF THE ESSENCE OF THIS AGREEMENT AND OF EACH PROVISION HEREOF.

J. Amendments. This Agreement is not subject to modification or amendment except by a writing of the same formality as this Agreement and executed by the signatories hereto.

K. Severability. Nothing contained herein shall be construed as to require the commission of any act contrary to law, and wherever there is any conflict between any provision contained herein and any present or future statute law, ordinance, or regulation contrary to which the parties have no legal right to contract, the latter shall prevail, but the provisions of this Agreement affected shall be limited only to the extent necessary to bring it within the requirements of such law.

*[Counterpart Signatures on Following Page]*

**AGREEMENT**

**(JCM/Madison Academic Schools Project)**

IN WITNESS WHEREOF, the CRA, City, and County have caused this Agreement to be signed in their names by their duly authorized representatives and delivered as their act and deed, intending to be legally bound by its terms and provisions.

**JACKSON COMMUNITY REDEVELOPMENT AGENCY**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Chairperson

Address: \_\_\_\_\_

**THE COUNTY OF MADISON, TENNESSEE**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Mayor

Address: \_\_\_\_\_

**THE CITY OF JACKSON, TENNESSEE**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: Mayor

Address: \_\_\_\_\_

I, or we, hereby swear or affirm that the actual consideration for this transfer or value of the property transferred (whichever is greater) is \$0.00 – exempt - T.C.A. §67-4-409(f).

\_\_\_\_\_  
Affiant

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**Prepared By and Return to:**  
Nicholas B. Latimer  
Spragins, Barnett & Cobb, PLC  
312 E. Lafayette Street  
Jackson, Tennessee 38302

**Property Addresses:**  
Multiple

**Tax Parcels:**  
Map 78G, Group B, Parcels 1.00, 2.00,  
3.00, 4.00, 5.00, 10.00, 11.00

**Send Tax Notices To:**  
Jackson Community Redevelopment Agency  
111 East Main Street, Suite 201  
Jackson, Tennessee 38301

**QUITCLAIM DEED**

KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid, and other good and valuable considerations, the receipt of all of which is hereby acknowledged, **CITY OF JACKSON, TENNESSEE**, a municipal corporation (“Grantor”) has this day bargained and sold, and by these presents, does hereby sell, alien, transfer, quit-claim and convey unto **JACKSON COMMUNITY REDEVELOPMENT AGENCY**, a public instrumentality created by the City of Jackson pursuant to the Community Redevelopment Act of 1998 (“Grantee”), all of its right, title and interest in and to the parcels of real estate being in Jackson, Madison County, Tennessee, described on Exhibit A attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, Grantor has caused its name to be hereunto subscribed this the \_\_\_\_ day of \_\_\_\_\_, 2020.

**CITY OF JACKSON, TENNESSEE**

By: \_\_\_\_\_  
**Scott Conger, Mayor**

**STATE OF TENNESSEE  
COUNTY OF MADISON**

Personally appeared before me, the undersigned, a Notary Public, and for said State and County, **SCOTT CONGER**, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be Mayor of City of Jackson, Tennessee, and that he as such Mayor, being authorized so to do, executed the within instrument for the purposes therein contained.

WITNESS MY HAND and Official Seal, at Office, on this the \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**Exhibit A**

*Property descriptions taken from prior deeds of record.*

**Parcel 1**

Map 78G, Group B, Parcel 1.00

Property Address: 332 Lane Avenue, Jackson, Tennessee

**Tract 1 of Parcel 1**

BEGINNING at a stake 195 feet east of the east margin of Royal Street in the north margin of Lawler Avenue, runs thence East 50 feet to a stake; thence North 110 feet to a stake; thence West 50 feet to the east margin of a twelve-foot alley; thence South with said alley 110 feet to the point of beginning, known as 117 Lawler Street.

Being the same property conveyed to The City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 254, Page 370, in the Register's Office of Madison County, Tennessee

**Tract 2 of Parcel 1**

BEGINNING at a point in the north margin of Lawler Avenue 245 feet east of the east margin of North Royal Street, and runs thence North with the east line of the lot formerly owned by Mrs. Emma Britt 110 feet to the northeast corner of the said Britt lot; thence West with the north line of the Britt lot 58 feet to an alley; thence North with the east line of said alley 121 feet to the Coleman Company property now owned by Fred T. and Harry Smith; thence East with the south line of said Smith tract 188 feet to a stake; thence South with the west line of property owned by Fred T. and Harry Smith 231 feet to the north margin of Lawler Avenue and thence West with the north margin of Lawler Avenue 130 feet more or less to the southeast corner of the said Britt lot and to the point of beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 173, Page 391, in the Register's Office of Madison County, Tennessee

**Tract 3 of Parcel 1**

BEGINNING at a stake in the southeast corner of the intersection of Lane Avenue and North Royal Street and runs thence in an easterly direction with the south margin of Lane Avenue 500 feet more or less to a stake at the northeast corner of the tract of land described as the Second Tract in the deed to us from Floy P. Curtiss et al, recorded in the Register's Office of Madison County in Deed Book 159, page 343, hereinafter referred to; thence southeasterly with the east margin of said Second Tract 135 feet to a stake, thence east along the north margin of the Fourth Tract described in said deed to us from Floy P. Curtiss et al 287 feet more or less to the northeast corner of said tract, thence southwesterly with the east line of said Fourth Tract 100 feet to a corner thereof, thence east along the north line of said Fourth Tract 100 feet more or less to the right-of-way of the G. M. & O.R. 11 Co.; thence in a southwesterly direction with said right-of-way 467 feet more or less to the north margin of Lawler Street, thence west with the north margin of Lawler Street 340 feet more or less to the southeast corner of a tract of land of William H. Coleman Company, which is being conveyed by said Company to the grantee, the City of Jackson, thence north with the east line of said Coleman Company lot 231 feet to the northeast corner of said Coleman Company lot, thence west with the north line of said Coleman Company lot and the south line of the said Second Tract of land conveyed to us by Floy P. Curtiss et al, as aforesaid, 225 feet more or less to a stake in the north margin of an alley and at the southeast corner of a tract of land conveyed away from the larger tract as shown in Deed Book 79, page 267, thence north with the east line of said tract which was conveyed to others 80 feet to a stake, thence west with the north line of said tract conveyed in Deed Book 79, page 267, 150 feet to the east margin of North Royal Street, thence in a northerly direction with the east margin of North Royal Street 400 feet more or less to the point of beginning, containing approximately 11 acres, more or less, and comprising three tracts of land.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 173, Page 389, in the Register's Office of Madison County, Tennessee

**Tract 4 of Parcel 1**

Beginning at Mrs. Huddleston's northeast corner on Lane Avenue which is to be extended west from the M&O Railroad and runs thence east 75 feet to a stake; thence south about 135 feet to my south boundary line; thence west 75 feet to Mrs. Huddleston's line; thence in a northwesterly direction with line about 140 feet to beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Order On Motion For Default Judgment and Complaint to Quiet Title to Real Property entered January 22, 2020, and recorded

January 29, 2020, in Deed Book 755, Page 1569, in the Register's Office.

Tract 5 of Parcel 1

Beginning at a stake in the south margin of Lane Avenue Extended to Ely Macklin's northeast corner, runs thence east fifty (50) feet to the northwest corner of the Bonds (formerly H. L. White) lot; thence south one hundred forty (140) feet to said Bonds' south boundary line; thence west fifty (50) feet to said Macklin's southeast corner, thence north with said Macklin's east boundary line one hundred forty (140) feet to the beginning; being the same real estate a one-third un-divided interest in which was conveyed to the grantors herein; as appears of record in Deed Book 134, at page 404 in the Register's Office of Madison County, Tennessee.

Being the same property conveyed to the City of Jackson by Order of Condemnation in the matter of *The City of Jackson vs. Clarence Floyd and wife, Velma Floyd, Verlon Jamison and wife, Hannah Mae Jamison, Minnie Hill and husband, Walter Hill and Lorice Collier*, Rule Docket No. 1602 (JD 153), in the Circuit Court of Madison County, Tennessee, and of record in Circuit Court Minute Book 12, Page 573, in the Circuit Court Clerk's Office of Madison County, Tennessee.

Tract 6 of Parcel 1

Begins at Bullock's northwest corner on the east side of Lane Avenue extended, and runs thence west 51 feet more or less to Earl Anderson's northeast corner, thence south with Anderson's east line about 135 feet more or less to Bullock's southwest corner, thence north with his west line 135 feet more or less to the beginning.

Being the same property conveyed to the City of Jackson by Order of Condemnation in the matter of *The City of Jackson vs. George Barnes and wife, Gussie Barnes*, Rule Docket No. 1605, in the Circuit Court of Madison County, Tennessee, and of record in Circuit Court Minute Book 12, Page 522, in the Circuit Court Clerk's Office of Madison County, Tennessee.

Tract 7 of Parcel 1

BEGINNING on a stake in the south margin of Lane Avenue, Cathey's northeast corner, runs thence south with said Cathey's east line 134 feet to a stake in W. H. Coleman Company's north line; thence east with said W. H. Coleman Company's north line 60 feet to a stake; thence northerly 134 feet to the south margin of Lane Avenue; thence west with the south margin of Lane Avenue 50 feet to the point of beginning, being the same real estate conveyed by Simpson Russell and wife to D. M. Pulliam and wife, Victoria S. Pulliam, by deed recorded in Deed Book No. 128 at page 141, in said Register's Office. David M. Pulliam, Jr., and D. M. Pulliam are one and the same person.

Being the same property conveyed to the City of Jackson by Order of Condemnation in the matter of *The City of Jackson vs. Victoria S. Pulliam, a widow, First Federal Savings and Loan Association and Second National Bank*, Rule Docket No. 1604 (JD 154), in the Circuit Court of Madison County, Tennessee, and of record in Circuit Court Minute Book 12, Page 585, in the Circuit Court Clerk's Office of Madison County, Tennessee.

Tract 8 of Parcel 1

LOT 1: Beginning on a stake in the south margin of Lane Avenue, at the northwest corner of a lot belonging to Henry Bullock, and runs thence south with the west line of this lot, one hundred and fifty feet to a stake; thence west twenty-five feet to the southeast corner of a lot belonging to George Bullock; thence north with the east line of this lot, one hundred and fifty feet to Lane Avenue; thence east with Lane Avenue twenty-five feet to the beginning, being a portion of a lot of land conveyed to H. Bullock by H. L. White and wife, by deed duly recorded in the Register's Office of Madison County, Tennessee, in Deed Book 82, Page 447, and by H. Bullock, deceased, devised to the said Gertrude Lary, under his Will duly probated and of record in the County Court of Madison County, Tennessee, in Will Book "C" on Page 76. See also Deed Book 95, Page 576, in the Register's Office of Madison County, Tennessee.

LOT 2: Beginning on a stake in the south margin of Lane Avenue, at the northwest corner of a lot of land belonging to Gertrude Lary, runs thence south with the west line of this lot one hundred and fifty feet to a stake; thence west twenty-five feet to the southeast corner of a lot now owned by T. I. Taylor; thence north with his east line one hundred and fifty feet to the south margin of Lane Avenue; thence east with Lane Avenue, twenty-five feet to the beginning, being the first lot described in the deed of Narcissus J. Bullock and others to George Bullock, duly appearing of record in the Register's Office of Madison County, Tennessee and by deed from George Bullock to Gertrude Lary by deed appearing of record in Deed Book 96, Page 495, in the Register's Office of Madison County, Tennessee.

Being the same property conveyed to the City of Jackson by Order of Condemnation in the matter of *The City of Jackson vs. Gertrude Lary*, Rule Docket No. 1606, in the Circuit Court of Madison County, Tennessee, and of record in Circuit Court Minute Book 12, Page 522, in the Circuit Court Clerk's Office of Madison County, Tennessee.

Tract 9 of Parcel 1

Beginning at a point in the south margin of Lane Avenue 20 feet west of the northwest corner of a two story brick story building owned by Maney, runs thence west with the south margin of Lane Avenue 100 feet to a stake; thence south 130 feet to a stake; thence east 100 feet to a stake; thence north 130 feet to the point of beginning, being known as 306 and 362 Lane Avenue. See Deed Book 95, Page 519, and Deed Book 147, Page 3, in the Register's Office of Madison County, Tennessee. See also Deed Book 82, Page 32, in said Register's Office of Madison County, Tennessee

Being the same property conveyed to the City of Jackson by Order of Condemnation in the matter of *The City of Jackson vs. Dr. Henry Bullock and First Federal Savings and Loan Association*, Rule Docket No. 1616, in the Circuit Court of Madison County, Tennessee, and of record in Circuit Court Minute Book 12, Page 525, in the Circuit Court Clerk's Office of Madison County, Tennessee.

Tract 10 of Parcel 1

Beginning at a stake in the south margin of Lane Avenue, where said Avenue intersects with the west margin of the G. M. & O. R. R. Right of Way, and runs thence in a southwesterly direction with the G. M. & O. R. R. Right of Way 73.5 feet to a stake; thence west 80 feet to a stake; thence northeasterly 62 feet to the south margin of Lane Avenue; thence east with the south margin of Lane Avenue 105 feet to the point of beginning, being Lots 1 and 2 of the Subdivision of the Smith Lot-Addition to the City of Jackson, Madison County, Tennessee, a plat of which is recorded in Plat Book 1 at page 163. Being the same real estate conveyed to Hasteen Ewells now Henning by a Warranty Deed appearing of record in the Register's Office of Madison County, Tennessee, in Deed Book 159, page 595.

Being the same property conveyed to the City of Jackson by Order of Condemnation in the matter of *The City of Jackson vs. A. Z. Maney and wife, Alline Maney, and L. W. Birmingham*, Rule Docket No. 1607 in the Circuit Court of Madison County, Tennessee, and of record in Circuit Court Minute Book 12, Page 523, in the Circuit Court Clerk's Office of Madison County, Tennessee.

Tract 11 of Parcel 1

First Tract: Beginning at a stake in the west margin of the Gulf Mobile & Ohio Right of Way, at the northeast corner of Lot #4, of the Smith Subdivision which appears of record in Plat Book 1 at page 163, in the Register's Office of Madison County, Tennessee, runs thence northeast 29 feet to a stake in the west margin of said right of way, thence northwesterly 80 feet to the southwest corner of Lot #2 of said Subdivision, thence south 25 feet to a stake, thence easterly 70 feet to a stake, the point of beginning and being Lot #3 of the Smith Subdivision as appears of record aforesaid.

Second Tract: Beginning at a point the southeast corner of the above lot and runs thence westerly 70 feet the same being the south line of said above lot Tract # 1, thence south 8 feet to a stake thence east about 80 feet to a stake the west margin of the Gulf Mobile & Ohio R. R. Right of Way, thence north 8 feet to the beginning. See Deed Book 140, Page 514, in the Register's Office of Madison County, Tennessee

Being the same property conveyed to the City of Jackson by Order of Condemnation in the matter of *The City of Jackson vs. F. D. Johnson and wife, Lola Johnson, Wade Bush and W. S. Record*, Rule Docket No. 1603, in the Circuit Court of Madison County, Tennessee, and of record in Circuit Court Minute Book 12, Page 539, in the Circuit Court Clerk's Office of Madison County, Tennessee.

Tract 12 of Parcel 1

BEGINNING on a stake in the west margin of the right of way of the G.M. & O. Railroad, said point being the southeast corner of Lot #5 of the subdivision of the Smith lot, a plat of which appears of record in the Register's Office of Madison County, Tennessee, in Plat Book 1, at Page 163 and runs thence in a northeasterly direction with the west margin of said Railroad right of way 50 feet to the southeast corner of Lot #3 of said subdivision; thence in a westerly direction 75 feet to a stake, the southwest corner of the aforesaid Lot #3; thence in a southerly direction 50 feet to a stake in the southwest corner of the aforesaid Lot #5; thence in an easterly direction 50 feet to the point of beginning, being Lot #4 of said Smith Subdivision.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Order On Motion For Default Judgment and Complaint to Quiet Title to Real Property entered January 22, 2020, and recorded January 29, 2020, in Deed Book 755, Page 1565, in the Register's Office.

Tract 13 of Parcel 1

Beginning at the southeast corner of the H. L. White lot, formerly owned by H. Bullock, and runs thence south, parallel with the right of way of the Mobile and Ohio Railroad 50 feet to a stake; thence west 100 feet; thence north 50 feet; thence east 100 feet to the point of beginning, and being the same real estate conveyed to Pattye Ballard and Ann Jeanette Ballard, by deed of Eliza Comer of record in Deed Book 156 at page 463 in the Register's Office of Madison County, Tennessee.

Being the same property conveyed to the City of Jackson by Order of Condemnation in the matter of *The City of Jackson vs. Rubin Martin and wife, Mandy Martin, Ann Janette Ballard, a minor, Lionel Ballard and Pattye Ballard*, Rule Docket No. 1608, in the Circuit Court of Madison County, Tennessee, and of record in Circuit Court Minute Book 12, Page 524, in the Circuit Court Clerk's Office of Madison County, Tennessee

Tract 14 of Parcel 1

Beginning at the southeast corner of a lot of land formerly belonging to R. T. Brown, runs thence south 50 feet parallel with the west margin of the Mobile and Ohio Railroad right of way to a stake; thence west 100 feet to a stake; thence north 50 feet to a stake; thence east 100 feet to the beginning, being the same parcel of real estate conveyed to Arthur Como and wife, Eliza Como, by deed of Narcissa J. Bullock, et al as appears of record in Deed Book 91 page 29 in the Register's Office of Madison County, Tennessee. Arthur Como is deceased and Eliza Como is his widow.

Being the same property conveyed to the City of Jackson by Order of Condemnation in the matter of *The City of Jackson vs. Lionel Ballard and wife, Pattye Ballard, and Eliza Como*, Rule Docket No. 1621, in the Circuit Court of Madison County, Tennessee, and of record in Circuit Court Minute Book 12, Page 526, in the Circuit Court Clerk's Office of Madison County, Tennessee.

**Parcel 2**

Map 78G, Group B, Parcel 2.00

Property Address: 748 N. Royal Street, Jackson, Tennessee

BEGINNING in the east margin of North Royal Street and Grand Avenue (an alley), formerly northwest corner of Walsh Estate; runs thence East 150 feet to a stake; thence North 80 feet to a stake; thence West 150 feet to the east margin of North Royal St.; thence South with the east margin of said street 80 feet to the point of beginning.

Being a portion of the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 261, Page 148, in the Register's Office of Madison County, Tennessee

**Parcel 3**

Map 78G, Group B, Parcel 10.00

Property Address: 317 Allen Avenue, Jackson, Tennessee

Tract 1 of Parcel 3

BEGINNING at a stake in the east margin of Allen Alley, runs thence East 51 feet to a stake in the Olive Clark and Novella Wilson property; thence South 71 feet to the north margin of Allen Avenue; thence West with said margin of Allen Avenue 50 feet to a stake; thence North with the east margin of Allen Alley, 70 feet to a stake, being the point of beginning. Said property as 317 Allen Avenue.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 617, in the Register's Office of Madison County, Tennessee

Tract 2 of Parcel 3

BEGINNING at a stake in the north margin of Allen Avenue, thence runs North 71 feet to a stake; thence East 60 feet to a stake in the west margin of Arnold Alley; thence runs in a southwesterly direction with the west margin of Arnold Alley 69 feet to a stake in the north margin of Allen Avenue; thence West with said north margin of Allen Avenue 43 feet to a stake and being the point of beginning. On this property there is located a 4-room house known as 319 Allen Avenue.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 615, in the Register's Office of Madison County, Tennessee

Tract 3 of Parcel 3

BEGINNING at a stake in the east margin of Allen Alley, being 77 feet from the south margin of Lawler Street, thence runs South with Allen Alley 40 feet to a stake; thence runs East 68 feet to a stake; thence North 40 feet to a stake; thence West 68 feet to the east margin of Allen Alley, being the point of beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 265, in the Register's Office of Madison County, Tennessee

Tract 4 of Parcel 3

BEGINNING at a stake in the west side of Arnold Alley being 69 feet from the north margin of Arnold Avenue; thence runs West 51 feet to a stake; thence runs North 35 feet to a stake; thence East 59 feet to a stake in the west margin of Arnold Alley; thence in a southwesterly direction with said west side of Arnold Alley 35 feet to a stake, being the point of beginning, and being known as 301 Arnold Alley.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 263, in the Register's Office of Madison County, Tennessee

Tract 5 of Parcel 3

BEGINNING at a stake in the west side of Arnold Alley; this point being 73 feet from the southwest corner of Lawler Street; thence runs in a southwesterly direction with the west margin of Arnold Alley 52 feet more or less to a stake; thence West 67 feet more or less to a stake; thence North 50 feet more or less to a stake; thence East 79 feet to a stake in the west margin of Arnold Alley; this being the point of beginning. On this property is located a 4-room frame dwelling known as 307 Arnold Street.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 261, in the Register's Office of Madison County, Tennessee

Tract 6 of Parcel 3

BEGINNING at a stake in the east margin of Allen Alley, being 70 feet from the north margin of Allen Avenue; runs thence North with said Allen Alley 39 feet to a stake; thence East 51 feet to a stake; thence South 39 feet to a stake; thence West 51 feet to a stake in the east margin of Allen Alley; this being the point of beginning. On this property is located a 4-room house.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 212, in the Register's Office of Madison County, Tennessee

Tract 7 of Parcel 3

BEGINNING at a point in the east margin of Allen Alley, said point being 109 feet north of the north margin of Allen Avenue; runs thence east 66 feet to a stake; thence north 37 feet to a stake; thence west 66 feet to a stake in the east margin of Allen Alley; thence south with the east margin of Allen Alley 36 feet to the point of beginning. On this property is located a house known as 315 Allen Alley.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 116, in the Register's Office of Madison County, Tennessee

Tract 8 of Parcel 3

BEGINNING at a stake in the east margin of Allen Alley, this being 117 feet from the south margin of Lawler Street; runs thence east 68 feet to a stake; thence south 34 feet to a stake; thence west 66 feet to the east margin of Allen Alley; thence north with the said east margin of Allen Alley 35 feet to the point of beginning. On this property is located a 3-room frame dwelling known as 313 Allen Alley.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 73, in the Register's Office of Madison County, Tennessee

Tract 9 of Parcel 3

BEGINNING at a stake in the south margin of Lawler Street, being 82 feet from the corner of the east margin of Allen Alley and the south margin of Lawler Street; thence runs east with the south margin of Lawler Street 23 feet to a stake; thence south 77 feet to a stake; thence west 23 feet to a stake; thence north 77 feet to a stake in the south margin of Lawler Street; this being the point of beginning. On this property is located a house known as 122 Lawler Street.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 27, in the Register's Office of Madison County, Tennessee

Tract 10 of Parcel 3

BEGINNING at a stake in the south margin of Lawler Street, being 49 feet from the east margin of Allen Alley; runs thence due east with the south margin of Lawler Street 33 feet to a stake; thence south 77 feet to a stake; thence west 33 feet to a stake; thence north 77 feet to a stake in the southern margin of Lawler Street and being the point of beginning. On this property is located a four-room house known as 120 Lawler Street.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 01, in the Register's Office of Madison County, Tennessee

Tract 11 of Parcel 3

BEGINNING at a point where the east margin of Allen Alley and the south margin of Lawler Street intersect, and runs thence east 49 feet with the south margin of Lawler Street to a stake; thence south 74 feet to a stake; thence west 48 feet to a stake in the east margin of Allen Alley; thence north with the east margin of Allen Alley 74 feet to the point of beginning. On this property is located a house known as 116 Lawler Street.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 254, Page 541, in the Register's Office of Madison County, Tennessee

Tract 12 of Parcel 3

BEGINNING at a stake in the west margin of Arnold Alley, being 138 feet from the north side of Allen Avenue, in the corner of Allen Avenue and Arnold Alley; thence runs in a northeasterly direction 35 feet with the west margin of Arnold Alley to a stake; thence west 67 feet to a stake; thence south 35 feet to a stake; thence east 60 feet to the west margin of Arnold Alley, this being the point of beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 254, Page 397, in the Register's Office of Madison County, Tennessee

Tract 13 of Parcel 3

BEGINNING at a stake in the west margin of Arnold Alley, this point of beginning being 104 feet from the north margin of Allen Avenue; thence runs in a northeasterly direction 34 feet to a stake; thence west 60 feet to a stake; thence south 32 feet to a stake; thence east 60 feet to a stake in the west margin of Arnold Alley, this being the point of beginning. On this property is located a 4-room house known as 303 Arnold Alley.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 254, Page 395, in the Register's Office of Madison County, Tennessee

Tract 14 of Parcel 3

BEGINNING at a stake in the south margin of Lawler Street, this being the corner of Lawler Street and Arnold Alley, thence runs south with the west margin of Arnold's Alley, 73 feet to a stake in the west margin of Arnold's Alley, thence runs west 17 feet to a stake, thence north to a stake in the south margin of Lawler Street, thence east with said south margin of Lawler Street, 33 feet to a stake, this being the point of beginning. There is a frame dwelling on the above description known as 126 Lawler Street.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 254, Page 301, in the Register's Office of Madison County, Tennessee

Tract 15 of Parcel 3

BEGINNING at a point in the south margin of Lawler Street, said point being 105 feet east of the intersection of Allen Alley and Lawler Street, and runs thence south 77 feet to a stake; thence east 23 feet to a stake; thence north 77 feet to a stake in the south margin of Lawler Street; thence with the south margin of Lawler Street west 23 feet to the point of beginning. On this property is located a house known as 124 Lawler Street.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 254, Page 224, in the Register's Office of Madison County, Tennessee

**Parcel 4**

Map 78G, Group B, Parcel 11.00

Property Address: 321 Allen Avenue, Jackson, Tennessee

**Tract 1 of Parcel 4**

BEGINNING at a stake in the south margin of Lawler Avenue, said stake being about 230 feet, 7 inches west of the intersection of Lawler Avenue and Railroad Avenue, runs thence south about 71 feet to a stake in the north line of a lot formerly owned by Mrs. Mary E. Bailey. This west line of herein conveyed lot actually runs exactly one half way of the distance, which is 11 feet, 10 inches, between these two adjoining houses, numbers 140 and 138 Lawler Avenue, as they now exist; thence east with Mrs. Bailey's north line about 51 feet to the southwest corner of a lot now owned by Emma Campbell; thence north with said Campbell's west line about 71 feet to said Campbell's northwest corner on Lawler Avenue; thence west with the south margin of Lawler Avenue about 51 feet to the point of beginning. There is a frame house on this lot known as 140 Lawler Street.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 256, Page 131, in the Register's Office of Madison County, Tennessee

**Tract 2 of Parcel 4**

BEGINNING in the north margin of Allen about 430 feet east of the intersection of North Royal and Allen, the point being actually one half way between two houses Nos. 325 and 327 Allen; runs thence east 42 feet to the southwest corner of Person lot; runs thence north 135 feet 6 inches to a stake; thence west 42 feet to a stake; runs thence south 135 feet 6 inches to the beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 256, Page 78, in the Register's Office of Madison County, Tennessee

**Tract 3 of Parcel 4**

BEGINNING at a point in the south margin of Lawler Street, about 230 feet 8 inches west of the intersection of Lawler Avenue and Railroad Avenue, runs thence south 71 feet to a stake in the north margin of a lot formerly owned by Mrs. Mary Bailey. This east line of the herein conveyed lot actually runs exactly half way of the distance, which is 11 feet 10 inches, between these two adjoining houses, Nos. 138 and 140 Lawler Avenue, as they now exist. Thence runs west with Mrs. Bailey's north line about 2 feet to Mrs. Bailey's northwest corner; thence runs south 65 feet to a stake; thence runs north about 140 feet to a stake in the south margin of Lawler Ave. This west line of the herein conveyed lot actually runs exactly half way of the distance, which is about 5 feet 8 inches between two adjoining houses, Nos. 136 and 138 Lawler Avenue, as they now exist. Thence runs east with the south margin of Lawler Avenue about 22 feet 8 inches to the beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 256, Page 76, in the Register's Office of Madison County, Tennessee

**Tract 4 of Parcel 4**

BEGINNING in the north margin of Allen Avenue, at the southwest corner of a lot conveyed by J. I. Medlin to E. C. Bailey, the same being at a point eighty (80) feet west of the right of way of the Mobile & Ohio Railroad, runs thence west with the north margin of Allen Avenue fifty-three (53) feet; thence runs north one hundred thirty-five and one-half (135-1/2) feet; thence runs east fifty-three (53) feet to the northwest corner of said lot sold by Medlin to Bailey above referred to, the said corner being a point one hundred twenty-five (125) feet west of the right of way of the Mobile and Ohio Railroad; thence south with the west boundary line of said Bailey lot one hundred thirty five and one-half (135-1/2) feet to the beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 256, Page 05, in the Register's Office of Madison County, Tennessee

**Tract 5 of Parcel 4**

BEGINNING at the Southwest corner of Lawler Avenue and Railroad Street in the Third Ward of the City of Jackson, Madison County, Tennessee; runs thence West about one hundred and twenty-five feet and three inches (125 feet and 3 inches) to a stake in the East line of Mrs. Ida Eppinger; runs thence South with the East line of Mrs. Ida Eppinger about seventy-one (71) feet to a stake in the North line of the property of Mrs. Mary E. Bailey; runs thence East with the North line of the said Mrs. Mary E. Bailey about ninety-eight (98) feet to a stake in the West margin of Railroad Street; thence North with the West margin of Railroad Street about seventy-one (71) feet to the point of beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 619, in the Register's Office of Madison County, Tennessee

Tract 6 of Parcel 4

BEGINNING at a point in the north margin of Allen Avenue about 307 feet east of the intersection of North Royal and Allen Avenue; thence runs east with the north margin of Allen Avenue 36 feet to a stake; thence runs north 135.6 feet to a stake; thence west 36 feet to a stake; thence south 135.6 feet to the point of beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 578, in the Register's Office of Madison County, Tennessee

Tract 7 of Parcel 4

BEGINNING on the southeast corner of Mrs. Mary Bailey's home place in the west margin of Railroad Street, thence runs South with Railroad Street 43-1/2 feet; thence runs West about 100 feet to Mrs. Ward's east line; thence runs North with Mrs. Ward's east line 42-1/2 feet to the south line of Mrs. Bailey's home place; thence runs East to Mrs. Bailey's line 118 feet to the point of beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 255, Page 543, in the Register's Office of Madison County, Tennessee

Tract 8 of Parcel 4

BEGINNING in the west margin of Railroad Street at Latham's northwest corner; runs thence west 116 feet to a stake; runs thence north 25 feet to a stake; runs thence west 55 feet to a stake, same being at Mrs. Ida Eppinger's southeast corner; thence north with Mrs. Ida Eppinger's east line 67 feet to a stake, thence east 204 feet to Railroad Street; thence south with the west margin of Railroad Street 102 feet to the beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 254, Page 439, in the Register's Office of Madison County, Tennessee

Tract 9 of Parcel 4

BEGINNING in the north margin of Allen Avenue about 388 feet 10 inches east of the intersection of North Royal Street and Allen Avenue, which point is actually one-half way between two houses as they now exist, Numbers 323 and 325 Allen Avenue, runs thence East with the north margin of Allen Avenue about 40 feet 10 inches to the southwest corner of a lot formerly owned by Sam Barnett; runs thence North with Barnett's west line about 135 feet 6 inches to a stake; runs thence West about 40 feet 10 inches to a stake; runs thence South about 135 feet 6 inches to the beginning. There is a house on this lot, Number 325 Allen Avenue.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 254, Page 133, in the Register's Office of Madison County, Tennessee

Tract 10 of Parcel 4

BEGINNING in the north margin of Allen Avenue, 353 feet east of the intersection of Allen and Royal Streets, runs thence East with the North margin of Allen Avenue, 35' 10" to a stake; runs thence North 135' 6" to a stake; runs thence West 35' 10" to a stake; thence South 135' 6" to the

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 254, Page 80, in the Register's Office of Madison County, Tennessee

Tract 11 of Parcel 4

FIRST LOT: BEGINNING on a stake in the north margin of Allen Avenue and in the west margin of Railroad Avenue and runs thence north with the west margin of Railroad Avenue 25 feet to a stake; thence west 89 feet to a stake; thence in a southerly direction 25 feet more or less to the north margin of Allen Avenue; thence east with the north margin of Allen Avenue 80 feet to the point of beginning.

SECOND LOT: BEGINNING on a stake in the west margin of Railroad Avenue at a point 25 feet north of the north margin of Allen Avenue and runs thence north with the west margin of Railroad Avenue 43-1/2 feet to a stake; thence west 100 feet to a stake; thence in a southerly direction 43-1/2 feet more or less to a stake; thence east 89 feet to the west margin of Railroad Avenue, the point of beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 254, Page 08, in the Register's Office of Madison County, Tennessee

Tract 12 of Parcel 4

BEGINNING on the south side of Lawler Avenue at the northwest corner of a lot bequeathed to Mrs. M. E. Bailey by her father, Michael Lawler, deceased, the same being Lot #5 of Mrs. M. E. Bailey Subdivision to the City of Jackson as platted of record; runs thence south with the west line of Lot #5, 139 feet to a stake, the southwest corner of Lot #5; thence west 84.2 feet to a stake; thence in a northeasterly direction 141 feet to the south margin of Lawler Avenue; thence east with the south side of Lawler Avenue 55 feet to the point of beginning and being Lot #6 of Mrs. M. E. Bailey Subdivision.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 253, Page 608, in the Register's Office of Madison County, Tennessee

**Parcel 5**

Map 78G, Group B, Parcel 3.00

Property Address: 742 North Royal Street, Jackson, TN

BEGINNING on a stake in the east margin of Royal Street, at a point two hundred and fourteen feet north of Lawler Avenue, and south margin of an alley, and runs thence south with the east margin of Royal Street, fifty four feet to a stake; thence east one hundred and seventy five feet to an alley; thence north with said alley, fifty four feet to said first mentioned alley; thence east with said last named alley, one hundred and seventy five feet to the beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 260, Page 319, in the Register's Office of Madison County, Tennessee

**Parcel 6**

Map 78G, Group B, Parcel 4.00

Property Address: 738 North Royal Street, Jackson, TN

BEGINNING at a stake in the east margin of North Royal Street at B. F. Summers' southwest corner, now Mitchell's southwest corner; runs thence south with the east margin of North Royal Street 58 feet more or less, to a stake at the northwest corner of the H. B. Mosley lot; runs thence east with Mosley's north line 175 feet to a 12 foot alley; runs thence north with the west margin of said alley 58 feet, more or less, to B. F. Summers' southeast corner, now Mitchell's southeast corner; thence west with Summers' south line 175 feet to the point of beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 262, Page 25, in the Register's Office of Madison County, Tennessee.

**Parcel 7**

Map 78G, Group B, Parcel 5.00

Property Address: 730 North Royal Street, Jackson, TN

FIRST LOT: BEGINNING on the east side of North Royal Street at R. H. McAnally's northwest corner and runs thence east with his north line 175 feet to a 12 foot alley; thence north with the west margin of said alley 50 feet to a stake; thence west 175 feet to Royal Street; thence south with the east margin of said street 50 feet to the beginning.

SECOND LOT: BEGINNING at a stake in the east margin of North Royal Street and in the north margin of Lawler Avenue, at a point 32 feet north of J. T. Meyers' northwest corner, and runs thence east with the north margin of Lawler Avenue 175 feet to a stake in the west margin of an alley, thence north 52 feet to a stake at the southwest corner of Allen's property, thence west with the south line of Allen 175 feet to the east margin of North Royal Street, and thence south 52 feet to the point of beginning.

Being the same property conveyed to the City of Jackson, a municipal corporation, by Warranty Deed of record in Deed Book 263, Page 273, in the Register's Office of Madison County, Tennessee

I, or we, hereby swear or affirm that the actual consideration for this transfer or value of the property transferred (whichever is greater) is \$0.00 – exempt - T.C.A. §67-4-409(f).

\_\_\_\_\_  
Affiant

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

**Prepared By and Return to:**  
Nicholas B. Latimer  
Spragins, Barnett & Cobb, PLC  
312 E. Lafayette Street  
Jackson, Tennessee 38302

**Property Addresses:**  
Multiple

**Tax Parcels:**  
Map 78G, Group B, Parcels 1.00 through 11.00

**Send Tax Notices To:**  
Jackson Community Redevelopment Agency  
111 East Main Street, Suite 201  
Jackson, Tennessee 38301

**QUITCLAIM DEED**

KNOW ALL MEN BY THESE PRESENTS: That for and in consideration of the sum of One Dollar (\$1.00), cash in hand paid, and other good and valuable considerations, the receipt of all of which is hereby acknowledged, **CITY OF JACKSON, TENNESSEE**, a municipal corporation, **MADISON COUNTY, TENNESSEE**, a political subdivision and body politic of the State of Tennessee, and **JACKSON-MADISON COUNTY SCHOOL SYSTEM**, a Tennessee governmental entity (collectively, "Grantors") have this day bargained and sold, and by these presents, does hereby sell, alien, transfer, quitclaim and convey unto **JACKSON COMMUNITY REDEVELOPMENT AGENCY**, a public instrumentality created by the City of Jackson pursuant to the Community Redevelopment Act of 1998 ("Grantee"), all of their right, title and interest in and to the parcels of real estate being in Jackson, Madison County, Tennessee, described on **Exhibit A** attached hereto and incorporated herein by reference.

IN WITNESS WHEREOF, Grantors have caused their names to be hereunto subscribed this the \_\_\_\_ day of \_\_\_\_\_, 2020.

**CITY OF JACKSON, TENNESSEE**

By: \_\_\_\_\_  
**Scott Conger, Mayor**

**MADISON COUNTY, TENNESSEE**

By: \_\_\_\_\_  
**Jimmy Harris, Mayor**

**JACKSON-MADISON COUNTY SCHOOL SYSTEM**

By: \_\_\_\_\_  
**James Johnson, School Board Chairman**

**STATE OF TENNESSEE  
COUNTY OF MADISON**

Personally appeared before me, the undersigned, a Notary Public, and for said State and County, **SCOTT CONGER**, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be Mayor of City of Jackson, Tennessee, and that he as such Mayor, being authorized so to do, executed the within instrument for the purposes therein contained.

WITNESS MY HAND and Official Seal, at Office, on this the \_\_\_\_ day of \_\_\_\_\_,  
2019.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**STATE OF TENNESSEE  
COUNTY OF MADISON**

Personally appeared before me, the undersigned, a Notary Public, and for said State and County, **JIMMY HARRIS**, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be Mayor of Madison County, Tennessee, and that he as such Mayor, being authorized so to do, executed the within instrument for the purposes therein contained.

WITNESS MY HAND and Official Seal, at Office, on this the \_\_\_\_ day of \_\_\_\_\_,  
2019.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**STATE OF TENNESSEE  
COUNTY OF MADISON**

Personally appeared before me, the undersigned, a Notary Public, and for said State and County, **JAMES JOHNSON**, with whom I am personally acquainted, and who, upon oath, acknowledged himself to be the School Board Chairman of Jackson-Madison County School System, Tennessee, and that he as such School Board Chairman, being authorized so to do, executed the within instrument for the purposes therein contained.

WITNESS MY HAND and Official Seal, at Office, on this the \_\_\_\_ day of \_\_\_\_\_,  
2020.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**Exhibit A**

**Legal Description**

**BEGINNING** at the intersection of the east margin of North Royal Street (25 feet from the centerline) and the north margin of Allen Avenue (15 feet from the centerline) and being the southwest corner of the Jackson Madison County School System tract as described in Deed Book 541 Page 496 of which is included in the property being described; Runs thence with the east margin of North Royal Street, North 04 degrees 19 minutes 43 seconds East a distance of 354.67 feet; Thence along a curve to the right having a radius of 2475.00 feet and a curve length of 283.24 feet, having a chord direction of North 07 degrees 36 minutes 25 seconds East and a chord length of 283.09 feet; Thence North 10 degrees 53 minutes 08 seconds East a distance of 350.13 feet; Thence North 20 degrees 28 minutes 49 seconds East a distance of 30.14 feet to the intersection of the south margin of Lane Avenue (20 feet from the centerline); Runs thence with the south margin of Lane Avenue, South 82 degrees 07 minutes 29 seconds East a distance of 635.23 feet; Thence along a curve to the left having a radius of 5020.00 feet, an arc length of 342.76 feet, having a chord direction of South 84 degrees 04 minutes 51 seconds East and a chord length of 342.69 feet to the west margin of the Southern Railway Company (50 feet from the centerline); Runs thence with the west margin of said railroad, South 30 degrees 00 minutes 35 seconds West a distance of 490.59 feet; Thence along a curve to the left having a radius of 3964.43 feet, and a arc distance of 570.11 feet, having a chord direction of South 27 degrees 23 minutes 10 seconds West and a chord length of 569.62 feet to the north margin of Allen Avenue; Runs thence with the north margin of Allen Avenue, North 85 degrees 34 minutes 51 seconds West a distance of 605.43 feet to the Point of Beginning containing 18.17 acres as surveyed by Surveying Services, Inc., 41 Heritage Square, Jackson, Tennessee 38305 (731-664-0807).

Being a consolidated description of the same property conveyed to the Jackson Community Redevelopment Agency by deeds of record in Deed Book \_\_\_\_, Page \_\_\_\_; Deed Book \_\_\_\_, Page \_\_\_\_; and Deed Book \_\_\_\_, Page \_\_\_\_, each in the Register's Office of Madison County, Tennessee.

<u>Item</u>	<u>Healthy Community</u>		<u>Difference</u>
	<u>Madison Academic Updated</u>	<u>Madison Academic Original</u>	
Land	\$ -	\$ -	
Construction Cost Costs	\$12,599,875	\$ 10,149,300	\$ 2,450,575
Architecture & Engineering	\$669,854	\$ 608,958	\$ 60,896
Legal, Accounting &	\$53,094	\$ 304,479	\$ (251,385)
Closing Fees & Expenses	\$50,746	\$ 101,493	\$ (50,747)
Interest Carry	\$313,965	\$ -	\$ 313,965
Developer Overhead & Misc	\$405,972	\$ 405,972	\$ -
Soft Cost	\$1,493,631	\$ 1,420,902	\$ 72,729
<b>Total Project Cost</b>	<b>\$14,093,506</b>	<b>\$ 11,570,202</b>	<b>\$ 2,523,304</b>
QEI - Current Commitments	\$9,234,400	\$ -	
NMTC Equity (32.37% of QEI)	\$(2,989,175)	\$ -	
NMTC Cost (12.167% of QEI)	\$1,123,549	\$ -	
<b>Net Equity from NMTC</b>	<b>\$(1,865,626) #</b>	<b>\$ (2,314,040)</b>	<b>\$ 448,414</b>
<b>CRA Contribution</b>	<b>\$(300,000)</b>		
<b>Loan Required</b>	<b>\$11,927,880</b>	<b>\$ 9,256,162</b>	<b>\$ 2,671,718</b>

<u>Debt Service Terms:</u>	<u>Yrs 1-7</u>	<u>Yrs 1-7</u>	
Source Loan	\$6,495,125		
Source Loan Interest Rate	3.55%	4%	
Annual Debt Service	\$230,577		
Direct Loan	\$5,432,755		***20 year amortization***
Direct Loan Interest Rate	3.50%	4%	
Annual Debt Service	\$378,093		
Total Debt Service	\$608,670	\$ 462,808	\$ 145,862
Annual Fees & Expenses	\$24,304	\$ 37,025	\$ (12,721)
<b>Gross Rent</b>	<b>\$632,974</b>	<b>\$ 499,833</b>	<b>\$ 133,141</b>
JMCSS Pmt of Annual Fees	\$(24,304)		
CRA Min Annual Contribution	\$(150,000)		
<b>Net Rent</b>	<b>\$458,670</b>	<b>\$ 499,833</b>	<b>\$ (41,163)</b>

#### Loan Payoff After 7 Years

Source Loan	\$6,495,125	Interest Only
Direct Loan	\$3,944,398	***20 year amortization***
<b>Total Debt Balance</b>	<b>\$10,439,523</b>	

Comptroller Approved 9,718,970  
 \*\*\*proforma is subject to change\*\*\* 720,553 ÷ 3 = 240,184 revised 1.14.2020

# Final % of NMTC will be applied based on Final Project Costs

\* Interest Rates on Source & Direct Loans are as of 11/15/19, final rates will be fixed at closing

\*\* Source & Direct Loan Balances After 7 Years are based on Principal Balance after 84 Months Amortization

**DEVELOPMENT AGREEMENT  
(MADISON ACADEMIC)**

**FOR**

**MADISON ACADEMIC SCHOOL PROJECT**

**BY AND BETWEEN**

**HEALTHY COMMUNITY, LLC,  
A TENNESSEE LIMITED LIABILITY COMPANY**

**AND**

**HEALTHY COMMUNITY EDUCATION PARTNERS, INC.,  
A NONPROFIT PUBLIC BENEFIT CORPORATION OF THE STATE OF TENNESSEE**

**AND**

**JACKSON-MADISON COUNTY SCHOOL SYSTEM,  
A GOVERNMENTAL ENTITY AND POLITICAL SUBDIVISION OF THE STATE OF TENNESSEE**

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Dated as of \_\_\_\_\_, 2020

## DEVELOPMENT AGREEMENT

(Madison Academic)

This DEVELOPMENT AGREEMENT (Madison Academic) (this "Agreement") is entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2020 ("Effective Date"), by and between HEALTHY COMMUNITY, LLC, a Tennessee limited liability company ("Developer"); HEALTHY COMMUNITY EDUCATION PARTNERS, INC., a nonprofit public benefit corporation of the State of Tennessee ("Owner"); and JACKSON-MADISON COUNTY SCHOOL SYSTEM, a governmental entity and political subdivision of the state of Tennessee ("District" and together with District and Developer, collectively the "Parties" and each, a "Party").

WITNESSETH:

WHEREAS, District is interested in the wellbeing of its students and believes that there is both the need and demand for additional new and better educational opportunities for residents of Jackson, Madison County, Tennessee, and that it can play a valuable role in assisting with and facilitating the redevelopment and construction of quality public middle- and high-school educational institutions and related facilities for District students, and that such a role is consistent with its mission and purpose;

WHEREAS, the Jackson Community Redevelopment Agency, a public instrumentality created pursuant to the Community Redevelopment Act of 1998 (the "CRA") has as its purpose to identify and address issues of slum and blight through executing contracts, acquiring and disposing of real property, establishing tax incremental financing districts, and other programs and financial instruments to help stabilize, revitalize, and redevelop certain areas of Jackson, Madison County, Tennessee;

WHEREAS, the Parties and the City of Jackson, a political subdivision of the state of Tennessee ("City") entered into that certain Pre-Development Agreement dated June 26, 2019 (the "Pre-Development Agreement"), for pre-development activities in connection with the redevelopment and construction on the Land (defined herein) of a public educational institution and related facilities consisting of approximately 58,800 square feet of new and renovated construction, as further provided herein (the "Project");

WHEREAS, pursuant to the certain Prime Lease Agreement between CRA, as prime lessor, and Owner, as prime lessee, of even date herewith (the "Prime Lease"), CRA has leased to Owner certain real property located in Jackson, Madison County, Tennessee and more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "Land");

WHEREAS, CRA conveyed title to the Improvements (defined herein) on the Land to Owner pursuant to that certain Quitclaim Deed of record at Instrument No. \_\_\_\_\_ in the Register's Office of Madison County, Tennessee;

WHEREAS, consistent with the Pre-Development Agreement, Owner and District desire to retain the services of Developer for Project Construction (defined herein) and for oversight of Project Construction;

WHEREAS, Owner and District require the Project to be completed as provided in this Agreement by the Guaranteed Date (defined herein) and further require the total cost of the Project not exceed the Fixed Price (defined herein), all in accordance with the terms and conditions of this Agreement;

WHEREAS, Developer has agreed to complete the Project as provided in this Agreement by the Guaranteed Date in consideration for the Development Fee (defined herein) in accordance with the terms and conditions of this Agreement;

WHEREAS, simultaneously with the Effective Date, Owner, as sublessor, District, as co-sublessee, and City, as co-sublessee, will enter into a sublease agreement (the "Sublease") whereby Owner will lease to District and City the Project Site;

WHEREAS, the governing board of District approved the form of this Agreement and District's execution and delivery thereof pursuant to the action taken at such board's meeting held on \_\_\_\_\_, 2020;

WHEREAS, the obligations of the Parties under this Agreement are conditioned on the simultaneous closing of the Construction Loan (defined herein); and

WHEREAS, the Parties wish to enter into this Agreement to set forth their respective rights and obligations concerning the Project.

NOW, THEREFORE, in consideration of the mutual covenants, agreements set forth herein 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:

ARTICLE I  
DEFINITIONS; INTERPRETATION

Section 1.1. Interpretation. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person's successors and assigns and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
- (c) reference to any gender includes the other gender;

(d) reference to any agreement, document or instrument means such agreement, document or instrument as amended, replaced, extended, restated, supplemented, or otherwise modified and in effect from time to time in accordance with the terms thereof;

(e) reference to any Applicable Laws means such Applicable Laws as amended, modified, codified, replaced or reenacted, in whole or in part, and in effect from time to time, including rules and regulations promulgated thereunder and reference to any section or other provision of any Applicable Laws means that provision of such Applicable Laws from time to time in effect and constituting the substantive amendment, modification, codification, replacement or reenactment of such section or other provision;

(f) “herein”, “hereunder”, “hereof”, “hereto” and words of similar import shall be deemed references to the Agreement as a whole and not to any particular Article, Section, or other provision thereof; and

(g) “including” (and with correlative meaning “include”) means including without limiting the generality of any description preceding such term.

Section 1.2. Accounting Terms. In the Agreement, unless expressly otherwise provided, accounting terms shall be construed and interpreted, and accounting determination and computations shall be made in accordance with GAAP.

Section 1.3. Legal Representation of the Parties. The Agreement was negotiated by the Parties with the benefit of legal representation and any rule of construction or interpretation otherwise requiring the Agreement to be construed or interpreted against any Party shall not apply to any construction or interpretation hereof.

Section 1.4. Table of Contents; Titles and Headings. The table of contents, the titles of the articles, and the headings of the sections of this Agreement are solely for convenience of reference, are not a part of this Agreement, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

Section 1.5. Defined Terms. Unless a clear contrary intention appears, terms defined herein have the respective indicated meanings when used herein:

Abnormal Weather Conditions. Severe or inclement weather conditions that substantially deviate from the average of the preceding five (5) year precipitation levels (e.g., rain, sleet, snow, or hail) or other climatic conditions (e.g., temperatures, wind, frost, and lightning) during the same time interval based on National Oceanic and Atmospheric Administration National Weather Service statistics for the locality of the Project Site and based on weather logs kept at the Project Site reflecting the effect of the weather on the progress in completing the Project.

Access and Utility Agreements: As defined in Section 8.07(c) hereof.

Additive Change Order: A Change Order which would result in an increase in the amount of any line item of the Development Budget.

Affiliate: With respect to any Person (a) each Person (a "Controlling Person") that directly, or indirectly through one or more intermediaries, controls such Person or (b) each Person which is controlled by or is under common control with a Controlling Person. As used herein, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise.

Agreement: This Development Agreement by and between Developer, Owner, and District, as it may be amended, modified, and/or restated from time to time in accordance with the provisions hereof.

Applicable Laws: All federal, State, and local statutes, rules, guidelines, regulations (including Environmental Laws), ordinances, codes and administrative or judicial precedents or authorities, including the interpretation or administration thereof by any Governmental Authority charged with the enforcement, interpretation or administration thereof.

Approvals: All Permits, other permits, licenses, waivers, consents, approvals, entitlements, authorizations, registrations, qualifications, designations, declarations, and filings, which are necessary for the lawful construction, use, and operation of the Project.

Architect: LRK Inc., a Tennessee corporation. Architect is a Principal Consultant (and a Consultant).

Architectural Contract: That certain agreement by and between Developer and Architect with respect to the Project.

Bankruptcy Code: The Bankruptcy Code in Title 11 of the United States Code.

Business Day: Each Monday, Tuesday, Wednesday, Thursday and Friday which is not a day on which banks in Jackson, Tennessee, are generally authorized or obligated, by law or executive order, to close.

Casualty: An event of damage or casualty relating to any portion of the Project Site.

Certificate of Substantial Completion: That certificate of substantial completion, in a form substantially similar to AIA Document G704, prepared by Architect, subject to Owner's and District's approval (which shall not be unreasonably withheld or delayed) which shall establish responsibilities of Owner and Developer for security, maintenance, heat, utilities, damage to the work and insurance, and shall fix the time within which General Contractor shall finish all Punch List Items attached thereto

Change Order: A written instrument signed by Developer, Architect, General Contractor, Owner, and District that modifies (except for Minor Field Changes and Code Compliance Changes) the Construction Documents.

Change Order Request: A written request for a modification to the Construction Documents either (a) from Developer to Owner or (b) from Owner to Developer.

City: The City of Jackson, Tennessee.

Claims: Any and all obligations, liabilities, losses, actions, suits, judgments, enforcement actions, proceedings, damages, penalties, fines, claims, demands, settlements, costs and expenses (including reasonable legal fees and expenses) of any nature whatsoever.

Code Compliance Change: Any modification of or amendment to the Construction Documents which is required by any Governmental Authority in connection with its review and inspection process and which also:

- (a) does not increase the total amount of the Development Budget;
- (b) does not extend the Guaranteed Date; and
- (c) does not materially reduce the value or utility of the Project or the mechanical, structural or architectural integrity thereof.

Completion Delay Event: Any actual delay in the completion of Developer's obligations under this Agreement that causes a delay in the critical path of the Project Schedule and is due to any (a) Significant Casualty (subject to Section 7.02 hereof); (b) Partial Condemnation which Developer reasonably expects to delay the completion of the Project beyond the Guaranteed Date; (c) Force Majeure Event (subject to Section 9.05 hereof); or (d) Owner Delay.

Condemnation: Any condemnation, requisition, confiscation, seizure or other taking or sale of the use of or title to the Project Site or any part thereof for any public or quasi-public purpose in, by or on account of any eminent domain proceeding or other action by any Governmental Authority or other Person under the power of eminent domain or otherwise or any transfer in lieu of or in anticipation thereof. A Condemnation shall be deemed to have occurred on the earliest of the dates that such use or title is taken or transferred.

Construction Budget: The sum of the Hard Cost Budget and the Soft Cost Budget delineated as such in the Development Budget, as the same may be revised in accordance with the provisions hereof.

Construction Contract: That certain construction management agreement by and between Developer and General Contractor for Project Construction in accordance with the Construction Documents.

Construction Documents: Collectively, the Plans and Specifications, the Construction Drawings, and the Change Orders.

Construction Drawings: The drawings, including schematic drawings, design development drawings, and construction drawings, prepared by Developer, General Contractor, Architect, or other Consultants and approved by Owner and District for Project Construction and any changes, modifications, or supplements thereto.

Construction Loan: That certain loan, including any NMTC Financing, provided by Lender pursuant to the Construction Loan Documents and used to finance the Development Costs for Construction of the Project in an amount as set forth in the Development Budget.

Construction Loan Documents: Those certain documents memorializing and securing the Construction Loan including, but not limited to a construction loan agreement, promissory note, mortgage and any other agreements, documents, or instruments evidencing, guarantying, securing or otherwise relating to the promissory note, or executed or delivered in connection with the Construction Loan, as such agreements, documents, and instruments may be amended, modified, extended, renewed or supplemented from time to time. In the event there is a conflict between the Construction Loan Documents on the one hand and this Agreement on the other hand, the Parties hereby agree that the Construction Loan Documents are to control.

Construction Oversight Agreement: That certain construction oversight agreement of even date herewith whereby Owner shall pay Henry Turley Company LLC the Construction Oversight Fee.

Construction Oversight Fee: The fee paid to Henry Turley Company LLC pursuant to and in accordance with the Construction Oversight Agreement in consideration of Henry Turley Company LLC's oversight of Project Construction.

Construction Phase: The period commencing with the date of Owner's delivery to Developer of a notice to proceed and ending on the Final Completion Date.

Consultant: Each Person (other than the Parties and their respective agents and employees) who contracts with, and is paid by or charges a fee to Developer, General Contractor, or both, to perform any duties or services relating to Project Construction. General Contractor and Architect are Principal Consultants (and Consultants). Contractors (other than General Contractor), and Suppliers are Consultants.

Contract Documents: Each contract and agreement relating to Project Construction entered into or to be entered into by Developer with Consultants, including, without limitation, the Construction Contract and the Architectural Contract, as each may be amended, modified, and/or restated from time to time.

Contractor: General Contractor, each subcontractor, and each sub-subcontractor providing work, labor, equipment, or materials under the Construction Budget and selected by Developer. Contractors (other than General Contractor) are Consultants.

County: The County of Madison, a political subdivision of the State.

CRA: The Jackson Community Redevelopment Agency, a public instrumentality created pursuant to the Community Redevelopment Act of 1998.

Debtor Relief Law: The Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

Deductive Change Order: A Change Order which would result in a decrease in the amount of any line item of the Development Budget.

Default: Any Event of Default or any condition, occurrence, or event which, after notice or lapse of time or both, would constitute an Event of Default.

Delay Damages: As defined in Section 4.02 hereof.

Developer: Healthy Community, LLC, a Tennessee limited liability company.

Developer Default: Any Developer Default Event or any condition, occurrence, or event which, after notice or lapse of time or both, would constitute a Developer Default Event.

Developer Default Event: As defined in Section 9.01 hereof.

Developer's Insurance: The insurance required to be maintained by Developer pursuant to this Agreement and as set forth in Exhibit "C" attached hereto and made a part hereof.

Developer Representative: The individual designated in writing by Developer to Owner and District as Developer's agent and contact for all purposes under this Agreement. When Developer's consent or approval is required hereunder, such consent or approval by Developer may be granted only by Developer Representative. The initial Developer Representative shall be, collectively, Pete Evans whose telephone number is (901) 527-2770 and email address is pevans@henryturley.com, and Lance Henderson whose telephone number is (901) 255-2125 and email address is lhenderson@henryturley.com.

Development Budget: As set forth in Exhibit "B" attached hereto and made a part hereof, the sum of (a) the Construction Budget and (b) the Development Fee, as the same may be revised in accordance with the provisions hereof.

Development Costs: All costs included in the Development Budget.

Development Cost Overruns: The amount, if any, by which the actual total Development Costs of the Project (as Finally Complete) exceeds the Fixed Price.

Development Fee: That portion of the Development Budget delineated as such therein, being the fee paid to Developer in accordance with the provisions of Section 3.01 hereof in consideration of the performance of the Services relating to the development of the Project.

District: Jackson-Madison County School System, a governmental entity and political subdivision of the state of Tennessee.

District Representative: The individual designated in writing by District to Owner and Developer as District's agent and contact for all purposes under this Agreement. The initial District Representative is Ray Washington whose telephone number is (731) 984-6023 and email address is trwashington@jmcss.org.

Dollars and "\$": Dollars in lawful currency of the United States of America.

Draw: As defined in Section 6.04 hereof.

Draw Request: As defined in Section 6.04 hereof.

Effective Date: The date set forth in the first paragraph of this Agreement.

Environmental Laws: Any present and future federal, state or local laws, common laws, ordinances codes, rules, orders, regulations, licenses, permits, governmental approvals, judgments, comfort letters, environmental deed restrictions, no further action letters, consent decrees, restrictions, or other requirements of, or legally binding agreement with, any Government Authority, in each case, relating to pollution, natural resources or wildlife, or the protection of human health, safety, the environment and natural resources, including laws relating to Hazardous Substances, reclamation of land and waterways, and emissions, discharges, Releases or threatened Releases of pollutants, contaminants, chemicals, or industrial, toxic or Hazardous Substances or wastes into the environment (including ambient air, surface water, ground water, land surface or subsurface strata) or otherwise relating to the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollution, contaminants, chemicals, or industrial, toxic or Hazardous Substances or wastes to the extent applicable to the relevant matter.

Event of Default: Any Developer Default Event or Owner Default Event.

Finally Complete and Final Completion: As defined in Section 4.04 hereof.

Final Completion Date: The date Final Completion is achieved.

Financial Closing: The closing of the Construction Loan.

Fixed Price: \$13,779,541.00, as the same may be revised in accordance with the provisions hereof.

Force Majeure Event: In reference to delays in the performance of obligations, that one or more of the following events (the existence of which at the Effective Date was not known, or would not reasonably have been expected to be discovered through the exercise of commercially reasonable due diligence, by Developer or any Consultant) have caused such delay: general strikes, acts of God, war, acts of terrorism, Abnormal Weather Conditions, Casualty, fire, storm, wind, flood, tornado, earthquake, explosions, government activities or inactivities directly interfering with Project Construction, any general inability to obtain labor or materials, civil commotion and enemy action, discovery of the presence of any Hazardous Substance on the Project Site, and Unforeseen Site Conditions; but excluding, in all cases, any event, cause or condition that results from an act or omission of Developer or any Consultant, a breach by Developer or any Consultant of its obligations, representations or warranties hereunder or under the Contract Documents, from Developer's or any Consultant's financial condition or failure to pay or from the bankruptcy or insolvency of Developer or any Consultant, or any event, cause or condition which could have been avoided or which could be remedied or mitigated through the exercise of commercially reasonable efforts or the commercially reasonable expenditure of funds or other commercially reasonable action, election or arrangement which would correct or resolve the impact of such event on Project Construction.

GAAP: Generally accepted accounting principles in the United States applied on a consistent basis.

General Contractor: Crocker Construction Company, Inc, a Tennessee corporation, selected by Developer with the prior written approval of Owner and District. General Contractor is a Principal Consultant (and a Consultant).

Governmental Authority: Any federal, State or other political subdivision thereof or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

Governmental Charges: All real estate taxes and assessments, and water and sewer charges and the cost of other utilities, together with, general and special, ordinary and extraordinary, unforeseen as well as foreseen, assessments, impositions, costs, fees, and other charges levied against or relating to, any part of the Project Site, which shall become due and payable during the Term.

Guaranteed Date: The date as of which the Project is required to be Substantially Complete in accordance with the provisions of Section 4.02 hereof and as shown in the Project Schedule. The initial Guaranteed Date is July 1, 2021; *provided, however*, Guaranteed Date shall be extended one (1) day for each day which Financial Closing occurs after March 1, 2020.

Hard Cost Budget: The hard cost budget delineated as such in the Development Budget, as the same may be revised in accordance with the provisions hereof.

Hazardous Substance: Any substance, waste, or material which (a) is classified, regulated, listed, defined, or otherwise characterized under any Environmental Law as toxic, explosive,

corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, a contaminant or a pollutant, or otherwise hazardous, including petroleum, crude oil or any fraction thereof, petroleum derivatives, byproducts and other hydrocarbons, asbestos, urea formaldehyde foam insulation, polychlorinated biphenyls and radon gas, any underground storage tanks, and toxic mold or fungus of a type that might pose a risk to human health or the environment or negatively impact the value of the Project Site; or (b) is or becomes regulated by any Governmental Authority, including any agency, department, commission, board or instrumentality of the United States or the State or any political subdivision of either of the foregoing.

Improvements: The improvements now existing or to be constructed on the Land as shown in the Construction Documents.

IRC: The Internal Revenue Code of 1986, as amended. Reference herein to any specific provision of the IRC shall be deemed to include a reference to any successor provision or provisions to such provision and to any regulations issued or proposed under or with respect to such provision.

IRS: The United States Internal Revenue Service.

Key Personnel: As set forth in Section 2.04 hereof.

Land: The underlying real estate described in Exhibit "A" hereof on which the Project is being constructed, renovated, and/or installed by Developer.

Lender: Truist Bank, a North Carolina banking corporation, and any other lender which has loaned (or will loan) money or has extended (or will extend) credit to Owner, including, without limitation, any lender associated with the NMTC Financing.

Lien: With respect to any asset, any mortgage, deed of trust, lien, pledge, hypothecation, charge, security interest or encumbrance of any kind in respect of such asset.

Madison Academic School Project Responsibility Matrix: The project responsibility matrix attached hereto as Exhibit "F" and made a part hereof.

Minor Field Changes: Any modification of or amendment to the Construction Documents and/or the Contract Documents which:

- (a) does not increase the total amount of the Development Budget;
- (b) does not extend the Guaranteed Date; and
- (c) does not materially reduce the value or utility of the Project or the mechanical, structural or architectural integrity thereof.

Monthly Progress Report: As defined in Section 2.03(a) hereof.

New Market Tax Credit Program: A federal program created under the Community Renewal Tax Relief Act of 2000 to stimulate economic and community development in the low-income communities, as incorporated at Section 45D of the IRC.

NMTC Financing: The capital and/or financing provided in connection with the New Market Tax Credit Program.

Overdue Rate: A fixed rate of interest per annum equal to .0% points per annum above the Prime Rate.

Owner: Healthy Community Education Partners, Inc., a nonprofit public benefit corporation of the State of Tennessee.

Owner Default: Any Owner Default Event or any condition, occurrence, or event which, after notice or lapse of time or both, would constitute an Owner Default Event.

Owner Default Event: As defined in Section 9.03 hereof.

Owner Delay: Work on the critical path of the Project Schedule has been delayed by the actions or failure to act when action was due of Owner for more than ten (10) consecutive days following the time periods provided herein for such action to occur.

Owner Representative: The individual designated in writing by Owner to District and Developer as Owner's agent and contact for all purposes under this Agreement. The initial Owner Representative is Vicki Lake whose telephone number is (731) 984-2160 and email address is vicki.lake@wth.org.

Partial Condemnation: Any Condemnation which is not a Significant Condemnation.

Parties: Developer, Owner, and District, collectively.

Performance Bond and Payment Bond: The performance bond and payment bond required to be provided by the provisions of Section 2.11 hereof, the forms of which are shown in Exhibit "G" attached hereto and made a part hereof.

Permit: Any permit, license, certificate, approval, authorization, or consent from any Governmental Authority which is necessary for Project Construction, including, without limitation, all zoning and site plan approvals, erosion and sedimentation plan and NPDES permit approvals, subdivision approvals, building permits, certificates of compliance, and certificates of occupancy.

Person: Any individual, partnership, joint venture, firm, corporation, limited liability company, association, trust or other enterprise (whether or not incorporated), or any government or political subdivision or any agency, department or instrumentality thereof.

Plans and Specifications: The final plans and specifications for Project Construction prepared by Developer, General Contractor, and their Consultants, and approved in writing by Owner and District.

Prime Rate: The rate announced from time to time as the prime rate, base rate or reference rate in The Wall Street Journal. Any change in such prime rate announced by The Wall Street Journal shall take effect at the opening of business on the day specified in the public announcement of such change.

Principal Consultants: General Contractor and Architect. Principal Consultants are also Consultants.

Pre-Development Agreement: That certain Pre-Development Agreement dated June 26, 2019, by and between Parties and City for pre-development activities in connection with the Project.

Prime Lease: That certain Prime Lease Agreement between CRA, as lessor, and Owner, as lessee, pursuant to which CRA has leased the Land to Owner.

Project: The approximately 58,800 square foot educational complex to be constructed, renovated, and/or installed on the Project Site as described in the Construction Documents, including all buildings, structures, fixtures, and other improvements of every kind related thereto existing at any time and from time to time on or under the Project Site, together with any and all site development, all paving, grading, utility pipes, fencing, conduits and lines, signs, retaining walls, lighting, electrical and drainage structures, parking areas and roadways.

Project Construction: The design, construction, redevelopment, and installation of the Project on the Project Site as contemplated by the Construction Documents.

Project Development Account: As defined in Section 6.03 hereof.

Project Schedule: The schedule prepared and updated by Developer that represents the best current estimate of the timetable required to complete the Project. The initial Project Schedule approved by Owner and District is attached hereto as Exhibit "D" and made a part hereof.

Project Site: The Land together with the Improvements.

Punch List Item: Any unfinished items of on-site construction and correction of any such work that are not necessary for the issuance of any temporary or final certificate of occupancy or for completion of the Project in accordance with the terms of this Agreement, that will be completed within sixty (60) days following Substantial Completion, all as reasonably determined by the Parties; provided that such 60-day period shall be extended for a reasonable period of time which shall not exceed, in any event, 120 days in the aggregate, to enable completion of Punch

List Items, so long as Developer is in good faith diligently pursuing a resolution to any outstanding Punch List Item as of the end of such 60-day period.

Release: Any release, migrating, pumping, pouring, emptying, injecting, escaping, leaching, dumping, seepage, spill, leak, flow, discharge, disposal or emission of a Hazardous Substance into the environment, including ambient air, surface water, ground water or land.

Services: As defined in Section 2.03(a) hereof.

Services Agreements: As defined in Section 2.03(a) hereof.

Significant Casualty: That (a) the Project shall be totally destroyed by any cause, or (b) the Project or the Project Site shall be so substantially damaged or destroyed that reconstruction would require more than one (1) year to complete beyond the original scheduled Substantial Completion Date.

Significant Condemnation: That (a) title to all of the Project Site shall be taken or appropriated by a Governmental Authority under the power of eminent domain or otherwise, or (b) all of the Project Site shall be taken, confiscated, seized or requisitioned for use by any Governmental Authority under the power of eminent domain or otherwise, and any such taking, appropriation, confiscation, seizure or requisition for use pursuant to these clauses (a) and (b) is for a period that exceeds one hundred eighty (180) days or, if less, the remaining portion of Term.

Soft Cost Budget: The soft cost budget delineated as such in the Development Budget, as the same may be revised in accordance with the provisions hereof.

State: The State of Tennessee.

Sublease: That certain Sublease Agreement by and between Owner, as sublessor, District, as co-sublessee, and City, as co-sublessee, whereby Owner will lease to District and City the Project Site.

Substantial Completion Date: The date Substantial Completion is achieved.

Substantially Complete and Substantial Completion: That both (a) Architect has issued a Certificate of Substantial Completion, subject only to the completion of Punch List Items, if any, to be attached to such Certificate of Substantial Completion, and (b) the appropriate Governmental Authority has issued a temporary or permanent certificate(s) of occupancy.

Suppliers: The suppliers of materials to the Project, each of whom shall be selected by General Contractor subject to objection by Developer. Suppliers are Consultants.

Term: As defined in Section 4.01 hereof.

Termination Date: The date that is the earliest of (a) twelve (12) months after Substantial Completion, (b) the abandonment of the Project by Owner, (iii) the termination of this Agreement by Owner pursuant to the terms and provisions hereof, (iv) the termination of this Agreement by District pursuant to the terms and provisions hereof, and (v) the termination of this Agreement by Developer pursuant to the terms and provisions hereof.

Unforeseen Site Conditions: Any latent, concealed, or subsurface physical conditions that materially differ from the conditions which Developer reasonably anticipated.

Value Engineering: The engineering of the Project including, without limitation, the analysis of estimates, bids, or proposed costs and the making and adopting of recommendations of ways and means to reduce actual total Development Costs of the Project to an amount not exceeding the Fixed Price; *provided, however*, such recommendations shall not include any deletions or changes which render the Project incomplete or inadequate for its intended use as a public educational institution.

Warranty Period: Beginning on and including the Substantial Completion Date through and including the first (1st) annual anniversary thereof.

## ARTICLE II DEVELOPER'S OBLIGATIONS

Section 2.01. Engagement. Subject to the terms and conditions set forth herein, Owner hereby engages Developer for the performance of the duties herein set forth. Owner acknowledges that Developer is not a licensed architect or engineer. Subject to the provisions of this Agreement, Developer hereby accepts such engagement and, acting as an independent contractor, shall, during the Term, act as the developer in connection with the development, design, and construction of the Project. Developer agrees that it shall enter into a Construction Contract with General Contractor for Project Construction in accordance with the Construction Documents. Developer agrees that Owner and District shall be third-party beneficiaries of the Construction Contract.

### Section 2.02. Project Site.

(a) Owner shall make the Project Site available to Developer free and clear of restrictions on or impediments to Developer's use thereof for the performance of Developer's Services as set forth in this Agreement.

(b) Developer accepts the Project Site as-is, where-is, with all improvements, buildings, structures, infrastructure, defects and deficiencies, and with no representation, warranty, guarantee, promise, indemnity or other undertaking, express or implied, by Owner or District, regarding the condition of or the marketability or suitability for permitted use or value thereof. Developer acknowledges that neither Owner nor District have represented or warranted anything to Developer about the Project Site or anticipated conditions pertaining thereto, and Owner and District disclaim any representations or warranties to Developer regarding site conditions. Any information about the Project Site provided to Developer by Owner or District was provided for

informational purposes, and neither Owner nor the District can vouch for the accuracy of said information, and none of said information was provided as an inducement, representation or warranty to Developer upon which Developer is intended to rely. Developer shall perform its own due diligence and investigation regarding all Project Site conditions, whether readily observable or not, and shall not rely on any representation, warranty, statement or omission of Owner or District in entering into this Agreement. Developer shall rely solely and exclusively upon the results of its own due diligence and investigation as inducement into this Agreement.

(c) Developer shall, and shall cause General Contractor to, confine its operations to the Project Site and may not otherwise perform any construction work, preparation or staging on property of Owner, District, or other persons or entities outside the boundaries of the Project Site, except as approved in advance in writing by Owner and District and subject to such conditions as may be reasonably specified and approved by Owner or District. Developer shall not store any material or equipment on property of Owner, District, or other persons or entities outside the boundaries of the Project Site unless the off-site storage facility is properly secured, insured and bonded. Any loss or damage to stored material or equipment before installation on the Project Site shall be the responsibility of Developer and Developer shall ensure that Developer or General Contractor has appropriate insurance in place to protect against damage or expenses due to such loss or damage. Developer shall be responsible for safety at, and the securing of, the Project Site. Developer shall protect all work in place and materials stored offsite and shall at all times keep, and cause General Contractor and all other Consultants to keep, the Project Site reasonably clean and free from waste materials and rubbish. A mandatory pre-construction meeting shall be conducted by Owner and Developer prior to commencement of Project Construction for the purpose of reviewing security procedures, utility coordination, access to the Project Site, and construction coordination issues. Such meeting shall be attended, at a minimum, by Owner, District, Developer, General Contractor, and key Contractors, through their respective project managers and superintendents.

#### Section 2.03. Developer's Services.

(a) Subject to Section 3.01 hereof, Developer agrees to perform all Project Construction work and services required or necessary to complete the Project and other services customarily and reasonably within the general scope of such services and responsibilities, including, without limitation, the following (collectively, the "Services"):

(i) Negotiate and execute all agreements, purchase orders, amendments, and supplements related to Project Construction, including, without limitation, all surveys, architectural, environmental, geotechnical, and other testing or consulting service agreements, the Construction Contract, the Architectural Contract, and all other Contract Documents (collectively, as they may be amended, modified, and/or restated from time to time in accordance with the provisions hereof and thereof, the "Services Agreements"), which shall be consistent with the Development Budget, as amended;

(ii) Obtain all necessary Approvals and represent Owner as might be required by any Governmental Authority in connection therewith;

- (iii) Provide and update the Project Schedule for Owner;
- (iv) Provide assistance, oversight, and direction to Principal Consultants in developing the Construction Documents and all related submissions to any Governmental Authority;
- (v) Submit all Construction Documents and related design specifications to Owner and District for approval, and obtain such approval at least five (5) Business Days before releasing such documents for construction;
- (vi) Require General Contractor to obtain bids from Contractors in accordance with the Project Schedule;
- (vii) Diligently manage and monitor General Contractor's construction so as to keep actual construction costs within the Construction Budget;
- (viii) Provide Value Engineering and related assistance to Owner;
- (ix) Establish and implement appropriate administrative and financial controls for Project Construction, including:
  - (A) manage, coordinate, and/or work with Consultants, attorneys, and other professionals employed or retained in connection with Project Construction;
  - (B) keep Owner and District informed of Project progress on a regular basis by delivering monthly written progress reports to Owner and District no later than ten (10) Business Days after the end of each month, in the form of reports required by this Agreement ("Monthly Progress Reports"); and
  - (C) deliver an updated Project Schedule to Owner and District on a monthly basis along with the Monthly Progress Reports;
- (x) Verify services, work, equipment, materials, and labor used on the Project so that Developer will have a reasonable basis:
  - (A) to approve or disapprove requests for payment made by Consultants and any other parties with respect to Project Construction; and
  - (B) to determine that the Project is being designed, constructed, and completed in accordance with this Agreement and the Contract Documents or, if Project Construction is not being so completed, to promptly notify Owner and District;

(xi) As needed, attend job meetings and conferences required by this Agreement or called by Owner, General Contractor, or any other Consultant, and report on such conferences to Owner and District;

(xii) Review the results of, and inform Owner and District of actions to remedy, all inspections made by General Contractor, other Consultants, or any Governmental Authority;

(xiii) Prepare, file, and execute on Owner's behalf any notices of commencement and completion required or permitted to be filed on completion of the Project. As needed, act to obtain any certificates of occupancy or equivalent documents required for the occupancy of the Project (and provide copies to Owner and District);

(xiv) Following Substantial Completion, coordinate the compilation of all as-built Construction Documents, and operating and maintenance manuals for all applicable aspects of the Project. Deliver to Owner and District five (5) hard copy sets of as-built Construction Documents plus one (1) electronic copy of as-built Construction Documents;

(xv) Assist Owner and District in preparing punch list items, defect notices, or warranty claims;

(xvi) Provide Owner with any information reasonably requested by any Lender under the Construction Loan Documents, including without limitation, information relating to construction jobs as requested under a Community Benefits agreement with a Lender;

(xvii) Perform various management services, including, without limitation, all tax and NMTC Financing reporting requirements, administration of rent collection under the Sublease, administration of debt service under the Construction Loan, incorporation of the Project into the surrounding neighborhood and community, coordination with Owner and Governmental Authorities to improve surrounding infrastructure that provides safe and walkable streets and sidewalks, assisting with the expansion of the Project's connectivity to other community anchors, remediating slum and blight from the surrounding neighborhood and community via programs such as the Blight Elimination Program and the Tennessee Loan Repair Program, and all other attendant and related tasks; and

(xviii) Provide the following additional services:

(A) regularly observe and record all significant activities related to Project Construction during the Construction Phase;

(B) manage and administer compliance with all contractual requirements of Consultants and other parties with whom Owner or Developer has contracted in connection with Project Construction, and notify Owner and District in writing in the event that any such requirements are not being met;

(C) use diligent efforts to maintain a cooperative attitude among the Consultants;

(D) use diligent efforts to have General Contractor maintain on a current basis a daily written log or diary to record job conditions (including daily weather conditions, a list of important visitors or officials to the Project Site, daily progress and activities on the Project Site, which Contractors worked each day, and the number of Contractors which worked each day), which log or diary will be available to Developer, Owner, and District for review and copying upon request;

(E) use diligent efforts to cause General Contractor to keep, on behalf of General Contractor and Developer, available for inspection by Owner and District at any time, in the field office, a complete set of all Construction Documents and Contract Documents;

(F) in collaboration with Principal Consultants, use procedures to expedite the processing and approval of shop drawings;

(G) use diligent efforts to have General Contractor maintain on a current basis a log of approvals of requests for information (“RFI’s”), submittals, and shop drawings to make sure all such terms and drawings have been properly approved by General Contractor before starting related work;

(H) use diligent efforts to have General Contractor receive material samples furnished at the Project Site by other Consultants, record the date the samples (or copies) are received and from whom, and notify Owner and District, if applicable, of the availability of the samples for examination;

(I) direct General Contractor to review and approve any RFI from Owner as necessary, and see that proper clarifications are issued, with all clarifications noted in the Construction Drawings, dated, and initialed by the issuing party;

(J) attend all construction meetings and conferences and use diligent efforts to have General Contractor prepare complete and accurate minutes for all such meetings and issue them to all parties who attended or as Owner and/or District may direct;

(K) subject to the requirements of the Agreement, use reasonably diligent efforts to coordinate the processing of any Change Orders and submissions to Owner and District for approval;

(L) perform periodic Project Site supervision and observations of Project work in progress as a basis for determining conformance of such work and

any materials and equipment with the Construction Documents, and report any defective work or deficiencies to General Contractor, Owner, and District;

(M) verify and confirm the progress of the Project work and the amounts requested by General Contractor for payment;

(N) coordinate Project Site safety with General Contractor.

(b) Developer shall perform the Services and deliver the finished Project to Owner at a total cost to Owner equal to the Fixed Price. Developer shall cause all Development Costs to be paid either from the proceeds of Draws promptly upon receipt from Owner or, with respect to Development Cost Overruns, as set forth in Section 6.01 hereof.

(c) Developer shall be permitted to contract with any qualified Consultant to perform any one or more of the Services; *provided, however*, regardless of how Developer may contract for or obtain any services, labor, or materials in connection with the development of the Project, Developer shall have the responsibility to Owner for the completion of the Project in accordance with this Agreement and as set forth in the Construction Documents, within the time period set forth herein, and at a cost not to exceed the Fixed Price.

(d) Developer shall perform the Services in accordance with the standard of care and expertise normally employed by development firms performing similar services, and all duties under this Agreement shall be measured and interpreted in accordance with such standard of performance.

(e) Prior to Final Completion, Developer shall obtain and submit to Owner and District all certifications by Developer, General Contractor, Architect, and others, together with schedules, documents, and copies of documents, permits and approvals, application for payment, monthly progress reports, and any other information required hereunder.

(f) Notwithstanding anything to the contrary contained herein, Developer shall not be responsible for and the Services shall not include any line item set forth in the Madison Academic School Project Responsibility Matrix and the responsibility for which has been assumed and undertaken by a party other than Developer.

#### Section 2.04. Development Team.

(a) Developer shall supply qualified staff and employ qualified and appropriately licensed Consultants to perform all of the Services in a prompt and timely manner. All such qualified staff shall be paid by Developer from the Development Fee, and all such qualified and appropriately licensed Consultants shall be paid from the Development Budget.

(b) Developer confirms that Developer's team includes the Contractors and Consultants listed in Exhibit "E" attached hereto and made a part hereof.

(c) Developer has assigned to the Project the following persons (collectively referred to herein as "Key Personnel"), who shall be available to Owner for consultation at all reasonable times:

NAME	POSITION
Pete Evans	Developer Representative
Lance Henderson	Developer Representative
Ray Washington	District Representative
Vicki Lake	Owner Representative

Key Personnel shall provide such time commitments as may be reasonably necessary so that the Services are properly performed in accordance with this Agreement.

(d) Developer Representative shall be the liaison and coordinator among Owner, District, and Developer, shall be the principal person responsible to Owner and District for the management of the Project and shall have the full authority to bind Developer and District hereunder, including the authority to negotiate and execute Change Orders.

(e) In the performance of this Agreement, Developer and Consultants shall comply with all Applicable Laws, including those affecting employees. Developer, Consultants, and all personnel used or employed by Developer and/or Consultants to perform the Services shall have and keep all required or necessary licenses, permits, and insurance coverages.

#### Section 2.05. Limitations and Restrictions.

(a) Developer agrees to act in good faith and with prudence and diligence in performance of the Services; *provided, however*, Developer shall not be liable for any delay, loss, or damage to Owner to the extent that such delay, loss, or damage is caused by Owner's failure to provide Developer upon request with funds necessary to permit Developer to perform hereunder.

(b) Developer, Consultants, and their respective contractors, subcontractors, subconsultants, agents, employees, and others supplying labor, equipment, or material by or through them to the Project may not do either of the following without Owner's prior written consent (and in the case of item (ii) of this Subsection, without District's prior written consent)

(i) make any expenditure or incur any obligation on behalf of Owner unless otherwise permitted by this Agreement; or

(ii) make any change to the Construction Documents or the Guaranteed Date, unless otherwise permitted by this Agreement.

(c) Notwithstanding anything to the contrary contained herein, Developer may take the actions described in subparagraphs (b)(i) of this Section without Owner's prior written consent, if:

(i) Developer in its reasonable, good faith judgment considers that such action is necessary to preserve the structural integrity of the Project or to protect the safety and welfare of people or property. If Developer takes such action, Developer shall immediately notify Owner of the action taken, and, if required under Section 2.06 hereof, an appropriate Change Order shall be issued in connection therewith.

(ii) Such action is necessary to comply with the requirements of a Governmental Authority.

(iii) Developer requests that Owner or District consent to such action in writing, and Owner or District (as applicable) fails to respond to such request within five (5) Business Days after the date of such request

Section 2.06. Change Orders.

(a) Developer shall not modify the Construction Documents or utilize a Change Order except upon the terms and conditions set forth in this Section.

(b) The following modifications to the Construction Documents which are undertaken by Developer shall not require the approval of either Owner or District:

(i) Minor Field Changes;

(ii) Code Compliance Changes; and/or

(iii) A shift by Developer from one (1) line item in the Development Budget to another line item that does not increase the total amount of the Development Budget;

(c) Except for those modifications set forth in the preceding subsection (b), any modification of the Construction Documents that either Developer, Owner, or District may deem necessary or desirable shall be requested of the other Parties via a Change Order Request which shall set forth in detail the nature of the requested modification. Upon agreement in writing by Developer and Owner of any adjustments in time and/or costs for the Services necessitated by any Change Order Request, and upon approval thereof by District, such Change Order Request and the associated estimated changes in time and/or cost shall constitute a Change Order.

(i) If such Change Order would not result in an increase in the total amount of the Development Budget or an extension of the Guaranteed Date, no further action shall be required in connection with such Change Order.

(ii) If such Change Order would, in and of itself, constitute an Additive Change Order, it will be valid and effective only (A) if Developer agrees that after payment of such additional costs, sufficient funds remain in the Development Budget to complete the Project in accordance with this Agreement; (B) if the Additive Change Order were paired

with a Deductive Change Order in an amount such that the total amount of the Development Budget, after accounting for the net effect of the paired Change Orders, would not result in an increase in the total amount of the Development Budget; (C) if, as a result of net decreases in the total amount of the Development Budget due to any prior Deductive Change Order(s) or savings from other line items in the Development Budget, the Additive Change Order would not increase the total amount of the Development Budget; (D) in the case of a Force Majeure Event, if the Change Order would result in an increase in the total amount of the Development Budget or a delay of the Guaranteed Date, Owner shall agree that, after Value Engineering and other efforts of the Parties to address any potential shortfall have been undertaken, and upon exhaustion of all of the proceeds of the Construction Loan and any other available Project funds, funds are required to complete the Project Construction, Owner shall deposit an amount equal to any such increase attributable to the Change Order in the Project Development Account and/or agree in writing to an appropriate extension of the Guaranteed Date, as applicable.

(d) Each Change Order Request initiated by Developer shall be delivered to Owner and District by email pursuant to Section 10.03(iii) hereof and contain all information reasonably necessary for Owner and District to evaluate the proposed change. District shall respond within five (5) business days after receipt of the Change Order Request, and the Change Order Request will be deemed approved if there is a failure to respond to the Change Order Request by District within the 5-day period.

(e) Agreement on any Change Order Request shall constitute a final settlement on all direct costs covered therein, subject to performance thereof and payment therefor pursuant to the terms of this Agreement.

(f) Change Orders requested by Owner or District which are outside the scope of the Construction Documents and which increase the total amount of the Development Budget shall be at the sole cost and expense of Owner or District.

#### Section 2.07. Insurance Obligations

(a) Throughout the Term, Developer shall acquire and maintain in force Developer's Insurance, and such Developer's Insurance shall be a cost of the Project.

(b) Owner and Developer waive all rights against each other and the agents, employees, and Affiliates of each, for damages caused by fire or any other peril to the extent covered by any property insurance obtained under this Section or any other property insurance applicable to the Project Construction, except rights to proceeds of that insurance.

(c) Developer shall cause General Contractor to obtain and maintain property casualty insurance pursuant to this Agreement and as set forth in Exhibit "C" attached hereto and made a part hereof. In the event Developer fails to cause such insurance coverages to be obtained, Developer shall pay all costs of restoration of the Project arising from such uninsured event.

(d) Developer shall cause Architect to obtain and maintain professional errors and omissions insurance coverage with limits in amounts reasonably acceptable to Owner and District.

Section 2.08. Environmental Matters.

(a) Except for its agents and employees fully qualified to do so and then in full compliance with all Environmental Laws, Developer may not:

(i) direct, suffer, or permit any of its Project agents and employees to handle, use, manufacture, store, or dispose of any Hazardous Substance in or about the Project Site; or

(ii) knowingly or negligently suffer or permit:

(A) any Hazardous Substance to be used by any third-party in any manner not fully in compliance with all Environmental Laws; or

(B) any Hazardous Substance to be used, handled, manufactured, stored, remediated, abated, released or disposed of by its agents, employees, Consultants, or by any other third-party in any manner not fully in compliance with all Environmental Laws; or

(C) the Project Site to become contaminated with any Hazardous Substance.

(b) Notwithstanding the foregoing, Developer may handle, store, use, or dispose of any Hazardous Substance to the extent customary and necessary for the performance of Developer's duties hereunder to the extent the same is done in a safe and lawful manner, and in full compliance with all Environmental Laws. Developer shall also take reasonable precautions to prevent any handled, stored, used, or disposed Hazardous Substance from contaminating the Land or the environment or violating any Applicable Laws.

(c) Developer shall promptly provide Owner with complete and accurate copies of all disposal tickets for materials (hazardous or not) from the Project Site that are disposed of off the Project Site.

Section 2.09. Developer Records.

(a) Developer will establish and maintain at its office designated in the notice provision of this Agreement a complete set of books, accounts, records, plans and files (including the Plans and Specifications) for the Project. Such records shall be sufficient for the preparation of financial statements in accordance with GAAP. All books and records made or kept by Developer pertaining to the Project shall be available for and subject to audit, inspection, and copying by Owner or Owner Representative and District or District Representative during normal business hours and after reasonable notice. Developer shall cooperate with Owner and District to provide copies of

documents necessary to Owner and District upon the reasonable request of Owner or District and payment of reasonable costs to Developer.

(b) Business and financial records shall be maintained by Developer and available to Owner and District for three (3) years after Final Completion; *provided, however*, records regarding any dispute involving the Project shall be retained for at least three (3) years following the resolution of such dispute. Before destruction of any such records by Developer, Developer shall notify Owner and District of its intention to destroy the records and, upon request of Owner or District, Developer shall make the records available to the requesting Party for transfer, at the sole expense of such requesting Party.

(c) If requested, Developer shall cooperate with Owner and District to ensure the proper and timely filing of all forms, reports and returns required by Governmental Authorities and relating to the Project.

#### Section 2.10. Construction Warranties.

(a) Developer shall cause to be warranted to Owner and District by Consultants that the completed Project will be in conformity with the Construction Documents and free of material defects in workmanship and materials during the Warranty Period. Developer shall assist Owner and District in conducting a warranty inspection of the Project prior to the expiration of the Warranty Period. Developer shall assist Owner and District in enforcement of warranties and coordinate all warranty work until all provisions of the Warranty Period are satisfied. Developer shall be entitled to reimbursement for all reasonable costs incurred in conducting such warranty inspections, in enforcement of warranties and in the coordination of all warranty work, including without limitation, travel, lodging, professional fees incurred to third parties, and the like, to the extent that any defect in the work under warranty was not due to the fault or neglect of Developer.

(b) At least thirty (30) days before the expiration of the Warranty Period, Owner or District may deliver to Developer a list of defects in workmanship and materials. Developer shall cause General Contractor or other appropriate Consultants to repair or replace any defective part of the Project promptly after its discovery during the Warranty Period. For purposes of this Section, "defects in workmanship and materials" shall not include ordinary wear and tear, misuse, abuse, or improper maintenance. Such warranties also apply to all utility facilities, including transmission lines, constructed or installed as part of the Project (including the portions thereof outside the Project Site) and shall run for one (1) year after the Substantial Completion Date.

(c) Warranties required by the Construction Documents and this Agreement shall commence on the Substantial Completion, Date or designated portion thereof if not all buildings are Substantially Complete, unless otherwise provided in this Agreement or the Certificate of Substantial Completion.

(d) NOTWITHSTANDING THE FOREGOING, NEITHER DEVELOPER NOR GENERAL CONTRACTOR MAKE ANY REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SERVICES OR THE IMPROVEMENTS OTHER THAN AS EXPRESSLY

CONTAINED HEREIN, WITH RESPECT TO DEVELOPER, OR IN THE CONSTRUCTION CONTRACT, WITH RESPECT TO GENERAL CONTRACTOR, AND BOTH DEVELOPER AND GENERAL CONTRACTOR HEREBY DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Section 2.11. Payment Bond and Performance Bond. Developer shall cause General Contractor to provide payment and performance bonds from a surety approved by Owner and in the form attached hereto as Exhibit "G" and made a part hereof (each bond to be in the amount of the Construction Budget, with General Contractor as contractor and principal, Developer, as developer, and Owner and District as owner/obligee).

### ARTICLE III DEVELOPER'S COMPENSATION

#### Section 3.01. Development Fee.

(a) In consideration of the performance of Developer's Services relating to the development of the Project as set forth in this Agreement, Owner shall pay Developer the Development Fee of \$279,973.00, which shall be deemed earned and shall be payable as follows:

(i) Fifty percent (50%) of the Development Fee (\$139,986.50) shall be deemed earned and shall be due and payable on the Effective Date.

(ii) Thirty percent (30%) of the Development Fee (\$83,991.90) shall be deemed earned and shall be due and payable in fifteen (15) equal monthly installments of \$5,599.46, with the first such installment due on the first day of the month following the commencement of the Construction Phase and the remainder of such installments due on the first (1st) day of each month thereafter.

(iii) Twenty percent (20%) of the Development Fee (\$55,994.60) shall be deemed earned and shall be due and payable upon Substantial Completion.

(b) Development Fee payments may be delayed or withheld in whole or in part if there exists a Developer Default Event. If Owner so withholds payment, then, upon Developer curing or otherwise resolving such Developer Default Event, the installment schedule set forth in foregoing subsection (ii) shall be recalculated based on a revised Project Schedule prepared by Developer to reflect the Developer Default Event and subject to approval by Owner and District. Development Fee payments shall not be delayed or withheld for any reason other than an uncured Developer Default Event.

Section 3.02. Construction Oversight Fee. Owner shall pay Henry Turley Company LLC the Construction Oversight Fee pursuant to and in accordance with the Construction Oversight Agreement.

Section 3.03. Interest on Developer Compensation. Any amount payable to Developer pursuant to this Article which is not paid on the due date therefor shall bear interest at the Overdue Rate from the due date to the date paid by Owner.

ARTICLE IV  
TERM; COMPLETION

Section 4.01. Term. The term of this Agreement (the “Term”) shall be the period commencing on the Effective Date and ending on the Termination Date or otherwise as provided in this Agreement. The Parties recognize that Developer has performed some Services prior to the Effective Date. Further, the Parties acknowledge and agree that Developer’s services under Section 2.03(a)(xvii) hereof shall expressly survive the termination of this Agreement.

Section 4.02. Substantial Completion.

(a) When Developer considers that the Services for the Project have been substantially performed, Developer shall so notify Owner and District in writing. Upon receipt of Developer’s notification, Owner and District, together with Architect and Developer, shall make an inspection of the Project Site during which the Parties shall prepare a list of Punch List Items, which enumerates those items that remain to be completed and the estimated costs before the Project can be considered Finally Complete. General Contractor shall, before the Project is considered Finally Complete, complete or correct such Punch List Items the resolution of which Developer will oversee.

(b) Developer shall achieve Substantial Completion not later than the Guaranteed Date, which may be extended at no expense to or obligation of Developer due to the occurrence of any Completion Delay Event. Owner and District understand and agree that Developer and General Contractor may adjust near-term schedules from time to time in order for Developer to achieve Substantial Completion by the Guaranteed Date. The Parties agree that the Guaranteed Date shall be extended one (1) day for each day which Financial Closing occurs after March 1, 2020 at no expense to or obligation of Developer.

(c) (i) In the event that District shall not be able to occupy and operate the Project on or before the Guaranteed Date (subject to any extensions of that date as expressly provided for in this Agreement), Developer shall pay to District Two Thousand and No/100 Dollars (\$2,000.00) per day following the Guaranteed Date while Owner is unable to use the Project for its intended purpose (“Delay Damages”). Developer’s liability for Delay Damages shall not begin to accrue until the date following the Guaranteed Date, as such date may be extended pursuant to this Agreement.

(ii) Any liquidated damages assessed pursuant to this Section shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties, and any other damages, whether special or consequential, and of whatsoever nature, incurred by Developer that are occasioned by any delay in achieving Substantial Completion on or before the Guaranteed Date. The Parties have bargained for this stipulated damages

provision, giving consideration to the following: The Parties recognize that failure of the Project to open on schedule would cause Owner and District to suffer loss of services available to District students, upheaval and distress to District students during their school year, which damages are impossible to determine with certainty. As such, the damages to be suffered by Owner and District in the event of a failure by Developer to timely reach Substantial Completion of the relevant buildings are difficult to quantify and the parties wish to stipulate to the amount thereof. In addition, the Parties expressly agree that all stipulated damages herein are not in any way a penalty.

(iii) Payment by Developer under this Section shall be monthly in arrears on the tenth (10th) day of each month, or if such day is not a Business Day, on the immediately succeeding Business Day.

#### Section 4.03. Completion Delay Events.

(a) The Parties acknowledge that Project Construction may be delayed for reasons beyond Developer's control. Therefore, the Parties agree that the Guaranteed Date shall be extended one (1) day for each day of any delay in the achievement of Substantial Completion caused by Completion Delay Events. Other than Completion Delay Events, no other event, circumstance, or occurrence shall be the basis for an extension of the Guaranteed Date under this Section. Notwithstanding the foregoing, in the event delays to the Project are encountered for any reason, the Parties agree to undertake all reasonable steps to mitigate the effect of such delay.

(b) Upon the occurrence of an event which constitutes or may constitute a Completion Delay Event, Developer shall notify Owner and District as soon as possible (but in any event within fifteen (15) Business Days) and shall keep complete, detailed, and accurate records relating to such event including, without limitation, the precise effect on Developer's ability to perform the Services. If Developer asserts that an event constitutes or may constitute a Completion Delay Event, Developer shall provide to Owner and District a detailed written description of such event and why it constitutes a Completion Delay Event. The determination that a Completion Delay Event has occurred must be evidenced by written affirmation of Architect.

#### Section 4.04. Final Completion.

(a) For purposes of this Agreement the Project will be deemed finally complete ("Finally Complete" or "Final Completion" shall be deemed to have occurred) when:

(i) All Services are fully performed and the Project Improvements are constructed in accordance with the Construction Documents (including completion of all Punch List Items), all buildings and facilities have been thoroughly cleaned and no work whatsoever remains to be done to complete the Services required by this Agreement (except ongoing warranty oversight); and

(ii) Developer has delivered to Owner and District the Architect's certificate stating that (A) the Project has been completed in accordance with all Construction

Documents as approved (or deemed approved) by Owner and District, and (B) no Punch List Item remains incomplete; and

(iii) All required final certificates of occupancy are issued by the appropriate Governmental Authorities; and

(iv) the Project is free from all Liens and Claims asserted against Owner or its interests by Consultants (as evidenced in part by Developer's delivery to Owner of final, fully and properly executed lien waivers and releases from all such Consultants) except to the extent such Liens or Claims have been filed or asserted as a result of Owner's failure to satisfy its payment obligations hereunder; and

(v) Owner and District shall have received an "as built" ALTA/ACSM survey of the Project Site certified to Owner showing no encroachments by the Project on or over any property outside the Project Site and otherwise reasonably acceptable to Owner and District; and

(vi) All appropriate Governmental Authorities having jurisdiction over the Project have given their final approval of the Project; and

(vii) Developer has delivered to Owner and District all Construction Documents, operation and maintenance manuals for materials, equipment and systems incorporated into the Project, completed all Owner and District training, and provided and assigned to Owner all warranties and related items required by the Contract Documents; and

(viii) Expiration of thirty (30) days after filing Notice of Completion in Madison County Register's Office.

(b) Final Completion shall occur within a reasonable time after the Substantial Completion Date, but in no event later than one hundred twenty (120) days after the Substantial Completion Date; *provided however*, if one or more of the above conditions to Final Completion shall be unfulfilled sixty (60) days after written notice thereof from Developer to Owner due solely to any Owner Default, then Developer may disregard that condition and declare the Project Finally Complete under this Agreement.

## ARTICLE V REPRESENTATIONS AND WARRANTIES

Section 5.01. Developer's Representations and Warranties. Developer makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The execution and delivery by Developer of this Agreement, the consummation of the transactions herein contemplated, and the fulfillment of or the compliance with all of the provisions hereof and thereof (i) are within the power, legal right, and authority of Developer;

(ii) are legal and will not conflict with or constitute on the part of Developer a violation of or a breach of or a default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance upon any property of Developer under the provisions of, any charter instrument, bylaw, operating agreement, indenture, mortgage, deed of trust, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which Developer is a party or by which Developer or its properties are otherwise subject or bound, or, to its knowledge, any license, law, statute, rule, regulation, judgment, order, writ, injunction, decree, or demand of any court or governmental agency or body having jurisdiction over Developer or any of its activities or properties; and (iii) have been duly authorized by all necessary and appropriate action on the part of Developer. This Agreement is the valid, legal, binding, and enforceable obligation of Developer except as such enforceability may be limited by Debtor Relief Laws that affect the enforcement of creditors' rights in general and the availability of equitable remedies and, in the case of indemnification obligations, public policy. The officer of Developer executing this Agreement is duly and properly in office and is fully authorized and empowered to execute the same for and on behalf of Developer.

(b) Developer is a limited liability company of the State and is in good standing under the laws of the State, and is duly qualified to transact business in the State.

(c) To the best of Developer's knowledge, there are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of Developer, threatened against or affecting Developer in any court or by or before any Governmental Authority or arbitration board or tribunal that involve the likelihood of materially and adversely affecting the properties, business, prospects, profits, operations, or condition (financial or otherwise) of Developer, the ability of Developer to perform its obligations hereunder, or the transactions contemplated hereby; or that, in any way, would adversely affect the validity or enforceability of this Agreement or any other agreement or instrument to which Developer is a party and that is used or contemplated for use in the consummation of the transactions contemplated hereby, nor is Developer aware of any facts or circumstances currently existing that would form the basis for any such action, suit, or proceeding. Developer is not in default with respect to any judgment, order, writ, injunction, decree, demand, rule, or regulation of any court, Governmental Authority, or arbitration board or tribunal. All tax returns (federal, state, and local) required to be filed by or on behalf of Developer have been duly filed (or an extension timely filed), and all taxes, assessments, and other Governmental Charges shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by Developer in good faith, have been paid or adequate reserves have been made for the payment thereof.

(d) Neither Developer nor any of its business or properties, nor any relationship between Developer and any other Person, nor any circumstance in connection with the execution, delivery, and performance by Developer of its obligations under this Agreement is such as to require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any Governmental Authority on the part of Developer in connection with the execution, delivery, and performance of this Agreement or the consummation of any transaction herein contemplated, except as shall have been obtained or made and as are in full force and effect, except as are not currently obtainable. To the knowledge of Developer, it will

be able to obtain all such additional consents, approvals, permissions, orders, licenses, or authorizations of Governmental Authorities as may be required on or prior to the date Developer is legally required to obtain the same.

(e) No event has occurred and no condition exists that would constitute an Event of Default or that, with the lapse of time or with the giving of notice or both, would become an Event of Default. To the knowledge of Developer, it is not in default or violation in any material respect under any charter instrument, bylaw, operating agreement, or other agreement or instrument to which it is a party or by which it may be bound. For purposes of this subsection (e), a default or violation shall be deemed “material” if it would adversely affect the ability of Developer to perform its obligations hereunder.

(f) To the knowledge of Developer, it is not in violation of Applicable Laws to which it is subject and has not failed to obtain any licenses, permits, franchises, or other governmental authorizations (that are currently obtainable) necessary to the ownership of its properties or to the conduct of its business, which violation or failure to obtain might materially and adversely affect the properties, business, prospects, profits, or condition (financial or otherwise) of Developer.

Section 5.02. Owner’s Representations and Warranties. Owner makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The execution and delivery by Owner of this Agreement, the consummation of the transactions herein contemplated, and the fulfillment of or the compliance with all of the provisions hereof and thereof (i) are within the power, legal right, and authority of Owner; (ii) are legal and will not conflict with or constitute on the part of Owner a violation of or a breach of or a default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance upon any property of Owner under the provisions of, any charter instrument, bylaw, operating agreement, indenture, mortgage, deed of trust, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which Owner is a party or by which Owner or its properties is otherwise subject or bound, or, to its knowledge, any license, law, statute, rule, regulation, judgment, order, writ, injunction, decree, or demand of any court or Governmental Authority or body having jurisdiction over Owner or any of its activities or properties; and (iii) have been duly authorized by all necessary and appropriate corporate action on the part of Owner. This Agreement is the valid, legal, binding, and enforceable obligation of Owner except as such enforceability may be limited by Debtor Relief Laws that affect the enforcement of creditors’ rights in general and the availability of equitable remedies and, in the case of indemnification obligations, public policy. The officer executing this Agreement is duly and properly in office and is fully authorized and empowered to execute the same for and on behalf of Owner.

(b) Owner is a nonprofit public benefit corporation of the State and is in good standing under the laws of the State, and is duly qualified to transact business in the State.

(c) To the best of Owner’s knowledge, there are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of Owner, threatened against or affecting

Owner in any court or by or before any Governmental Authority or arbitration board or tribunal that involve the likelihood of materially and adversely affecting the properties, business, prospects, profits, operations, or condition (financial or otherwise) of Owner, the ability of Owner to perform its obligations hereunder, or the transactions contemplated hereby; or that, in any way, would adversely affect the validity or enforceability of this Agreement or any other agreement or instrument to which Owner is a party and that is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby, nor is Owner aware of any facts or circumstances currently existing that would form the basis for any such action, suit, or proceeding. Owner is not in default with respect to any judgment, order, writ, injunction, decree, demand, rule, or regulation of any court, Governmental Authority, or arbitration board or tribunal. All tax returns (federal, state, and local) required to be filed by or on behalf of Owner have been duly filed (or an extension timely filed), and all taxes, assessments, and other Governmental Charges shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by Owner in good faith, have been paid or adequate reserves have been made for the payment thereof.

(d) Neither Owner nor any of its business or properties, nor any relationship between Owner and any other Person, nor any circumstance in connection with the execution, delivery, and performance by Owner of its obligations under this Agreement is such as to require any additional consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any Governmental Authority on the part of Owner in connection with the execution, delivery, and performance of this Agreement or the consummation of any transaction herein contemplated, except as shall have been obtained or made and as are in full force and effect, except as are not currently obtainable. To the knowledge of Owner, it will be able to obtain all such additional consents, approvals, permissions, orders, licenses, or authorizations of Governmental Authorities as may be required on or prior to the date Owner is legally required to obtain the same.

(e) No event has occurred and no condition exists that would constitute an Event of Default or that, with the lapse of time or with the giving of notice or both, would become an Event of Default. To the knowledge of Owner, it is not in default or violation in any material respect under any charter instrument, bylaw, operating agreement, or other agreement or instrument to which it is a party or by which it may be bound. For purposes of this subsection (e), a default or violation shall be deemed "material" if it would adversely affect the ability of Owner to perform its obligations hereunder.

(f) To the knowledge of Owner, it is not in violation of any Applicable Laws to which it is subject and has not failed to obtain any licenses, permits, franchises, or other governmental authorizations (that are currently obtainable) necessary to the ownership of its properties or to the conduct of its business, which violation or failure to obtain might materially and adversely affect the properties, business, prospects, profits, or condition (financial or otherwise) of Owner.

(g) The Project will be utilized exclusively for Owner's exempt purposes; accordingly, it qualifies for an exemption from *ad valorem* taxes levied by the State, pursuant to Tenn. Code Ann. § 67-5-212.

Section 5.03. District's Representations and Warranties. District makes the following representations and warranties as the basis for the undertakings on its part herein contained:

(a) The execution and delivery by District of this Agreement, the consummation of the transactions herein contemplated, and the fulfillment of or the compliance with all of the provisions hereof and thereof (i) are within the power, legal right, and authority of District; (ii) are legal and will not conflict with or constitute on the part of District a violation of or a breach of or a default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance upon any property of District under the provisions of, any charter instrument, bylaw, operating agreement, indenture, mortgage, deed of trust, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which District is a party or by which District or its properties is otherwise subject or bound, or, to its knowledge, any license, law, statute, rule, regulation, judgment, order, writ, injunction, decree, or demand of any court or Governmental Authority or body having jurisdiction over District or any of its activities or properties; and (iii) have been duly authorized by all necessary and appropriate corporate action on the part of District. This Agreement is the valid, legal, binding, and enforceable obligation of District except as such enforceability may be limited by Debtor Relief Laws that affect the enforcement of creditors' rights in general and the availability of equitable remedies and, in the case of indemnification obligations, public policy. The officer executing this Agreement is duly and properly in office and is fully authorized and empowered to execute the same for and on behalf of District.

(b) District is a governmental entity and political subdivision of the state of Tennessee.

(c) To the best of District's knowledge, there are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of District, threatened against or affecting District in any court or by or before any Governmental Authority or arbitration board or tribunal that involve the likelihood of materially and adversely affecting the properties, business, prospects, profits, operations, or condition (financial or otherwise) of District, the ability of District to perform its obligations hereunder, or the transactions contemplated hereby; or that, in any way, would adversely affect the validity or enforceability of this Agreement or any other agreement or instrument to which District is a party and that is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby, nor is District aware of any facts or circumstances currently existing that would form the basis for any such action, suit, or proceeding. District is not in default with respect to any judgment, order, writ, injunction, decree, demand, rule, or regulation of any court, Governmental Authority, or arbitration board or tribunal. All tax returns (federal, state, and local) required to be filed by or on behalf of District have been duly filed (or an extension timely filed), and all taxes, assessments, and other Governmental Charges shown thereon to be due, including interest and penalties, except such, if any, as are being actively contested by District in good faith, have been paid or adequate reserves have been made for the payment thereof.

(d) Neither District nor any of its business or properties, nor any relationship between District and any other Person, nor any circumstance in connection with the execution, delivery, and performance by District of its obligations under this Agreement is such as to require any

additional consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any Governmental Authority on the part of District in connection with the execution, delivery, and performance of this Agreement or the consummation of any transaction herein contemplated, except as shall have been obtained or made and as are in full force and effect, except as are not currently obtainable. To the knowledge of District, it will be able to obtain all such additional consents, approvals, permissions, orders, licenses, or authorizations of Governmental Authorities as may be required on or prior to the date District is legally required to obtain the same.

(e) No event has occurred and no condition exists that would constitute an Event of Default or that, with the lapse of time or with the giving of notice or both, would become an Event of Default. To the knowledge of District, it is not in default or violation in any material respect under any charter instrument, bylaw, operating agreement, or other agreement or instrument to which it is a party or by which it may be bound. For purposes of this subsection (e), a default or violation shall be deemed “material” if it would adversely affect the ability of District to perform its obligations hereunder.

(f) To the knowledge of District, it is not in violation of any Applicable Laws to which it is subject and has not failed to obtain any licenses, permits, franchises, or other governmental authorizations (that are currently obtainable) necessary to the ownership of its properties or to the conduct of its business, which violation or failure to obtain might materially and adversely affect the properties, business, prospects, profits, or condition (financial or otherwise) of District.

## ARTICLE VI

### DEVELOPMENT COSTS; PROJECT SCHEDULE; AND DRAW REQUESTS

#### Section 6.01. Development Costs.

(a) Owner and District have approved the Development Budget attached hereto as Exhibit “B”, as may be amended as needed to reflect changes to the Project approved by Owner and District. Developer may reallocate demonstrated costs savings in any line item(s) of the Development Budget to other line item(s) of the Development Budget so long as the Fixed Price is unaffected.

(b) The duties and obligations of Developer hereunder are subject to sufficient funds being made available to the Project in order for Developer to perform such duties and obligations. The Parties acknowledge and agree that the only source of funds available for payment of Development Costs are the proceeds derived from (i) the Construction Loan, (ii) Owner’s or District’s own funds under the circumstances described in Section 2.06(f) hereof, or (iii) Developer’s own funds in the event of Development Cost Overruns.

(c) In the event of Development Cost Overruns despite reallocation of savings and amendment of the Project Budget, Developer agrees to pay for any Development Cost Overrun, as hereinafter provided:

(i) Developer is not responsible for any Development Cost Overrun resulting from (A) a Force Majeure Event, (B) Owner Delay, (C) change order requested by Owner or District pursuant to Section 2.06(f) hereof, (D) Significant Casualty as provided in Section 7.02(b) hereof, and/or (E) Partial Condemnation as provided in Section 7.03(c) hereof.

(ii) Developer shall notify Owner and District within five (5) days after determining that actual Development Costs will exceed the Fixed Price and shall set forth in such notice Developer's estimation of Development Cost Overruns. Developer shall promptly inform Owner and District of any changes to the Development Cost Overruns payable by Developer. Developer agrees to indemnify and hold Owner and District harmless from and against any liability for payment of the Development Cost Overruns.

(iii) Developer's responsibility for any Development Cost Overrun is subject to Developer's right to engage in Value Engineering in accordance with Section 6.06 hereof.

(iv) Developer shall pay or cause to be paid all Development Cost Overruns on or prior to the date any such Development Cost Overruns shall be due and payable. With respect to any work attributable to Development Cost Overruns, Developer shall be required to furnish to Owner all of the information otherwise required for a Draw Request pursuant to the provisions hereof, even though Developer is required to pay all such Development Cost Overruns. Promptly upon payment of any Development Cost Overruns, Developer shall obtain and furnish to Owner lien waivers with respect to the Development Cost Overruns paid and the work performed in connection therewith.

(v) Notwithstanding anything in this Agreement, Developer shall not be responsible for the payment of any Development Cost Overruns until all of the proceeds of the Construction Loan and any other available Project funds provided for in the Development Budget have been exhausted.

#### Section 6.02. Project Schedule.

(a) Owner and District have approved the Project Schedule attached hereto as Exhibit "D", as may be amended as needed to reflect changes to the Project approved by Owner and District.

(b) Developer shall provide Owner with information in connection with updating the Project Schedule as construction progresses, and the Project Schedule shall be modified from time to time based on such updates to the extent such modifications are approved in writing by Owner, District, and Developer. If the development and construction of the Project does not progress in accordance with the dates required by the Project Schedule, Developer shall advise Owner of all reasonably available means to speed up the work, including utilization of overtime, additional work crews and alternate material suppliers.

#### Section 6.03. Project Development Account.

(a) Within ten (10) Business Days after the Effective Date, Developer shall open and thereafter keep open one (1) operating account (the “Project Development Account”). The Project Development Account shall be at Truist Bank located in Memphis, Tennessee, and both Developer and Owner shall be authorized signatories on the account, although absent a Developer Default, only Developer’s signature on checks drawn on the Project Development Account shall be required.

(b) Developer shall deposit or cause to be deposited by Lender, all Draws and Development Fee installments into the Project Development Account. Developer shall make all Project payments to itself and Consultants (other than General Contractor) from the Project Development Account. Developer shall make, keep, and furnish to Owner, upon request, accurate records of all deposits and withdrawals from the Project Development Account. Each withdrawal record made by Developer shall indicate the associated Draw Request, the payee, the amount, the date, the type of Development Cost involved, and any other information that Owner or Lender reasonably requires.

(c) All funds in the Project Development Account shall be separate from, and not commingled with, all other funds of Developer.

(d) If there exists an uncured Developer Default Event, then Owner, following the expiration of any cure period set forth herein, may assume sole control of the Project Development Account during the pendency of such uncured Developer Default Event after ten (10) Business Days’ notice to Developer. During such time, (x) Owner shall be solely liable for payment of all sums held in and disbursed from the Project Development Account, (y) Developer shall not be held responsible for any action or inaction of Owner related to the Project Development Account, and (z) Owner shall indemnify Developer for any actions taken by or failed to be taken by Owner related to Owner’s takeover of the Project Development Account.

(e) The Parties agree that a disbursement agreement will be entered into with respect to disbursement process relating to the Construction Loan. To the extent that the foregoing provisions of this Section 6.03 conflict with the provisions of such disbursement agreement, the Parties agree that the provisions of disbursement agreement shall control.

#### Section 6.04. Draw Requests and Draws.

(a) Developer shall make all requests (“Draw Requests”) for payments of Development Costs (“Draws”) in writing to Owner. Only one (1) Draw Request may be made in any thirty (30) day period, each Draw Request shall be made at least fifteen (15) days prior to the date funds are requested to be made available, and all Draw Requests shall be subject to the prior approval of Owner and Developer. Draws may be used only to pay for Development Costs incurred.

(b) Draw Requests shall include the following and any other information reasonably required by Owner and/or Lender (a copy of which shall be provided to District):

(i) Summary Report: A listing, by Development Budget line item, of Development Costs incurred, in the form and specificity reasonably required by Owner.

(ii) Detail Report: A listing by Consultant for each of the Development Budget line items listed in the Summary Report, in the form and specificity reasonably required by Owner.

(A) *Supporting Documentation*. A copy of all schedules of values for amounts of at least Ten Thousand Dollars (\$10,000) (and, if requested by Owner, for lesser amounts for particular items) or other documentation supporting the total amount of the current Draw Request, including:

(1) An Application and Certificate of Payment (AIA Document G702), or other document acceptable to Owner, which shall include certifications by General Contractor, Architect, and Developer that Project Construction to the date of the Draw Request is in substantial compliance with the Construction Documents and certification by Architect of the percentage of completion of Project Construction as of date of the Draw Request;

(2) A copy of General Contractor's application for payment, including its conditional lien waivers on progress payments for work in process;

(3) Contractors' duly executed unconditional lien waivers (AIA Document G706) for progress payments made from the previous Draw; and

(4) Other documents reasonably necessary to support Development Costs to be paid by the Draw.

(B) *General Ledger Detail Report*: A cash-basis general ledger reflecting all activity from the date of the most recent Draw Request to the date of the current Draw Request.

(C) *Statement of Cash Receipts and Disbursements*: A listing of all sources and uses of cash from the date of the most recent Draw Request to the date of the current Draw Request.

(D) *Other Supporting Documentation*: All other documents and information reasonably required by Owner or Lender under the Construction Loan Documents.

(c) Owner and Developer acknowledge and agree that written approval of a particular Draw Request by Owner is a prerequisite to funding of such Draw Request or any portion thereof. Owner, upon receipt of the Draw Request from Developer, shall promptly approve of such Draw

Request that are proper for approval so that Developer may process the Draw Request and pay all such costs; *provided, however*:

(i) If Owner shall dispute a Draw Request, Owner shall notify Developer in writing within ten (10) Business Days of Owner's receipt thereof.

(ii) Upon receipt of such a dispute notice, Developer shall provide any additional information or documentation to Owner to explain the nature and propriety of the amount in question.

(iii) If Owner shall continue to dispute a Draw Request after receiving such additional information or documentation, Owner shall notify Developer in writing within five (5) Business Days of Owner's receipt of such additional information or documentation.

(iv) Any failure to dispute a Draw Request, or to continue to dispute a Draw Request, within the ten (10) and five (5) Business Day periods described in paragraphs (i) and (ii) of this subsection (c) shall be deemed to constitute acceptance of such Draw Request by Owner.

(v) District shall be provided written notification of Owner's approval or dispute of a Draw Request.

(d) Developer shall discharge or cause to be discharged of record by bond or otherwise, within twenty (20) days following the date whereupon Developer receives actual knowledge of the filing, of any Lien or Claim filed against the Project for work or materials claimed to have been furnished at Developer's request to or for the benefit of Developer and/or the Project. If Developer shall fail to cause such Lien or Claim to be so discharged or bonded within such period, in addition to any other right or remedy Owner may have, Owner may, but shall not be obligated to, discharge such Lien or Claim by procuring the discharge of such Lien or Claim by the deposit in a court or by bonding, and, in any event, Owner shall be entitled, if Owner shall so elect, to compel the prosecution of any action for the foreclosure of such Lien or Claim by the lienor or claimant and to pay the amount of the judgment, if any, in favor of the lienor, with interest, costs and allowances. Developer shall be liable to Owner, on demand and from time to time, for any sum or sums so paid by or on behalf of Owner and all costs or expenses incurred by Owner, including, but not limited to, reasonable attorneys' fees actually incurred in prosecuting such discharge or in defending any such action; *provided, however*, that if such Lien is established as a result of Owner's failure to make payments hereunder or under the Construction Contract, then Developer shall not be responsible for the removal or satisfaction of such Lien under this Section. Developer agrees to provide Owner with written notice of any Lien filed against the Project promptly following Developer's obtaining actual knowledge of such Lien.

Section 6.05. Reimbursement for Construction Advances. In the event Developer makes any advance to General Contractor or pursuant to any other Construction Contract prior to the date Owner is required to fund such advance, Developer shall be entitled to seek reimbursement for such advance from Owner but only if, and to the extent, such advance is in accordance with the

Development Budget, Project Schedule, and the applicable Construction Contract or such expenditure is approved in writing by Owner. Developer shall submit to Owner a summary of expenses incurred along with all appropriate backup documentation to support the expenses incurred (including but not limited to copies of General Contractor billing statements, Contractor billing statements, lien waivers and other relevant documentation which is required to support the amount of the reimbursement being requested).

Section 6.06. Value Engineering. In the event that Developer determines that the actual total Development Costs of the Project shall exceed the Fixed Price, then upon Developer's determination that such action is necessary, Developer, Architect and General Contractor will undertake Value Engineering to reduce the Development Costs of the Project, subject to approval by Owner and District.

## ARTICLE VII CONDEMNATION AND CASUALTY

### Section 7.01. Developer's Duties in Case of Loss.

(a) Developer shall promptly notify Owner and District of any fire or other damage to the Project or any portion of the Project Site. Developer shall arrange for an insurance adjuster to view the Project Site or the Project before any necessary repairs are commenced. Developer may not settle any losses, complete loss reports, adjust losses, or endorse loss drafts without Owner's and District's prior written consent.

(b) Developer shall promptly notify Owner and District of any personal injury or property damage occurring to the Project or on the Project Site.

### Section 7.02. Casualty.

(a) If, prior to Substantial Completion, a Significant Casualty occurs, then District shall have the right to terminate this Agreement as of the date of such Significant Casualty (i) by notifying Developer and Owner within sixty (60) days after such Significant Casualty, and (ii) subject to (A) Owner's payment of amounts for which Developer is responsible, including, without limitation, work or materials currently in place or ordered, but not yet paid for by Owner (plus applicable fees thereon), any sums Developer is responsible to pay General Contractor under the Construction Contract, plus a prorated portion of any remaining unpaid amount of the Development Fee from Owner to Developer; (B) Owner's payment of all amounts due to any Consultants or other parties in connection with Project Construction; and (C) those matters that expressly survive the termination of this Agreement as set forth herein.

(b) If, prior to Substantial Completion, a Significant Casualty occurs but District does not elect to terminate this Agreement as provided in the preceding Subsection, then Developer shall, subject to the availability of funds to reconstruct the Project and to pay the Development Fee, upon written notice from District acknowledging same, promptly proceed to reconstruct, restore, and repair the Project and/or the Project Site, as applicable, to the condition substantially

equivalent to its condition immediately prior to the Significant Casualty. In such event, a Completion Delay Event shall be deemed to have occurred as of the date of the Significant Casualty, and the completion deadlines under this Agreement shall be extended in accordance with Section 4.03 hereof.

Section 7.03. Condemnation.

(a) If, during the Term, a Significant Condemnation occurs, then District shall terminate this Agreement as of the date of such Significant Condemnation (i) by giving written notice to Developer and Owner, and, (ii) subject to (A) Owner's payment of amounts for which Developer is responsible, including, without limitation, work or materials currently in place or ordered, but not yet paid for by Owner (plus applicable fees thereon), any sums Developer is responsible to pay General Contractor under the Construction Contract, plus a prorated portion of any remaining unpaid amount of the Development Fee from Owner to Developer; (B) Owner's payment of all amounts due to any Consultants or other parties in connection with Project Construction; and (C) those matters that expressly survive the termination of this Agreement as set forth herein.

(b) If, during the Term, a Partial Condemnation occurs, then District shall give Developer and Owner prompt written notice thereof, and the part of the Project Site so taken shall no longer constitute part of the Project, but this Agreement shall continue in full force and effect as to the remainder of the Project Site not so taken; *provided, however*, that upon any Partial Condemnation, District may elect to terminate this Agreement if (i) in the good faith judgment of District, the remaining portion of the Project Site cannot be economically and practically utilized by District for Project Construction and operation of the Project; or (ii) the Partial Condemnation shall have a material adverse effect upon the means of access to the Project Site or the Project. District shall give notice to Developer and Owner of District's election to terminate this Agreement not later than sixty (60) days after notice of such Partial Condemnation, and this Agreement shall terminate, subject to (x) Owner's payment of amounts for which Developer is responsible, including, without limitation, work or materials currently in place or ordered, but not yet paid for by Owner (plus applicable fees thereon), any sums Developer is responsible to pay General Contractor under the Construction Contract, plus a prorated portion of any remaining unpaid amount of the Development Fee from Owner to Developer; (y) Owner's payment of all amounts due to any Consultants or other parties in connection with Project Construction; and (z) those matters that expressly survive the termination of this Agreement as set forth herein.

(c) If, during the Term, a Partial Condemnation occurs but District does not elect to terminate this Agreement as provided in the preceding Subsection and Developer reasonably expects the Partial Condemnation to delay the completion of the Project beyond the Guaranteed, then a Completion Delay Event shall be deemed to have occurred as of the date of the Partial Condemnation and the completion deadlines under this Agreement shall be extended in accordance with Section 4.03 hereof and a revised Development Budget and revised Construction Documents shall be prepared by Developer and submitted to Owner and District for their approval (such approval not to be unreasonably withheld), and which shall, upon Owner's and District's approval

thereof, reflect the changes to the Project and the cost to complete the Project as a result of such Partial Condemnation.

ARTICLE VIII  
COVENANTS AND AGREEMENTS

Section 8.01. Negative Covenants of Developer. Developer shall not, without the prior written consent of Owner and District, do or permit to be done any of the following:

(a) Amend or modify the Construction Contract, the Architectural Contract, or the Construction Documents (except upon the terms and conditions set forth in Section 2.06 hereof); and

(b) Amend or modify the Project Budget, other than to reallocate demonstrated line item savings, as necessary.

Section 8.02. Owner's and District's Obligations. During the Term, Owner and District shall:

(a) cooperate with Developer in developing and finalizing the Contract Documents, the Construction Documents, the Project Schedule, the Development Budget, and Construction Loan Documents for the Project;

(b) promptly respond to requests from Developer including giving necessary consents and approvals to Developer within any reasonable time for such consent or approval specified by Developer; *provided, however*, if Owner or District shall fail or refuse to respond to any such request from Developer within five (5) Business Days, such failure or refusal shall be deemed an approval thereof;

(c) ensure Owner Representative and District Representative, respectively, attend Project progress meetings to discuss procedures, progress, problems and scheduling;

(d) direct through Developer any and all communications with Consultants and any others related to Project Construction;

(e) not consent to any amendment to any Construction Loan Document the result of which would be to increase the duties, obligations or liabilities of Developer without Developer's prior written consent;

(f) review and approve all Draw Requests in accordance with Article VI hereof, ensure the timely funding of all Development Costs in accordance with the Development Budget, and ensure that all monthly applications for payment for Development Costs, Development Fees, and any other expenses and reimbursements that are properly prepared and submitted in accordance with the requirements of this Agreement are promptly paid; and

### Section 8.03. Indemnity.

(a) Developer shall indemnify, defend, and hold harmless Owner and District, their members, and their respective officers, managers, directors, agents, and employees from and against any and all Claims, demands, losses, liabilities, actions, lawsuits, and other proceedings, judgments, awards, costs, and expenses (including reasonable attorneys' fees and disbursements) related to the Project and arising out any breach of Developer's representations or obligations hereunder, except for such Claims, demands, losses, liabilities, actions, lawsuits, and other proceedings, judgments, awards, costs, and expenses (including reasonable attorneys' fees and disbursements) as are caused directly by the negligence of Owner and/or District, or their officers, directors, or employees. The indemnity obligation provided for herein shall terminate upon the Termination Date, *provided* that Developer shall be and remain liable for any liability arising hereunder prior to the Termination Date.

(b) Owner shall indemnify, defend, and hold harmless Developer, and its officers, directors, agents, and employees from and against any and all Claims, demands, losses, liabilities, actions, lawsuits, and other proceedings, judgments, awards, costs, and expenses (including reasonable attorneys' fees and disbursements) related to the Project and arising out of any breach of Owner's representations or obligations hereunder, except for such Claims, demands, losses, liabilities, actions, lawsuits, and other proceedings, judgments, awards, costs, and expenses (including reasonable attorneys' fees and disbursements) as are caused directly by the negligence of Developer, or its officers, directors, or employees. The indemnity obligation provided for herein shall terminate upon the Termination Date, *provided* that Owner shall be and remain liable for any liability arising hereunder prior to the Termination Date.

(c) Notwithstanding anything to the contrary contained herein, Owner acknowledges that any and all latent conditions, environmental conditions, Hazardous Substances or contamination existing on, in or under, or affecting, the Project Site as of the Effective Date (whether known or unknown) are the sole responsibility of Owner. Owner will defend, indemnify and hold Developer harmless and hereby releases Developer and all of its officers, employees, directors, members and agents from any and all Claims, demands, liabilities, costs and expenses (including reasonable attorneys' fees) caused by, growing out of, or otherwise happening in connection with any such environmental or other conditions for which Owner is responsible under this Section. Owner further acknowledges that it will be solely responsible for the cost of all remediation of any environmental or other conditions and contamination for which it is responsible under this Section.

### Section 8.04. Related Contracts.

(a) Developer agrees, at Developer's expense, to enforce or cause to be enforced, performance, as applicable, of provisions of the Services Agreements in a commercially reasonable manner such that all work performed and services provided under each Services Agreement will be performed and provided, as the case may be, in accordance with its terms. Notwithstanding the foregoing, Owner and District shall have the right to enforce each such Services Agreement directly, and Developer shall cooperate with Owner and District in all

reasonable respects to such enforcement. Upon the request of Owner and District from time to time, Developer shall provide or cause to be provided to Owner and District a list and copies of all Services Agreements.

(b) Developer shall use commercially reasonable efforts to include in all Services Agreements and any other contracts it executes in connection with the Project after the Effective Date an indemnity provision requiring the other contracting party to indemnify and save harmless Owner and its officers, directors, managers, agents, and employees from and against all Claims, losses, and liability resulting from any damage to, injury to, or death of, people or property caused by, occasioned by, in connection with, or arising out of the performance of the Services or work of that contracting party, its employees, or agents, and from and against all related fees, costs, and attorneys' fees and costs.

(c) Subject to the terms and provisions of this Agreement, Owner and District recognize and acknowledge that Developer may contract with and/or obtain goods and services for the Project from subsidiaries and other Affiliates of Developer; *provided, however*, all such arrangements must be previously approved in writing by Owner.

Section 8.05. Assignment of Guaranties and Warranties. Developer, as assignor, hereby conditionally assigns, transfers and sets over to Owner, as assignee, all of its right, title, and interest in and to all guaranties and warranties received by Developer from Consultants in connection with the design, construction, and development of the Project, *provided* Developer shall be subrogated to the rights of Owner with respect to any Claims which have been guaranteed hereunder and satisfied by Developer pursuant hereto. Developer shall not take, and has not taken, any action or done anything which could limit the enforceability of such guaranties and warranties.

Section 8.06. Inspections and Monitoring. Owner, District, and Lender each may inspect and monitor the Project and the Services at any time, upon reasonable prior notice to Developer, Developer Representative, or the General Contractor. However, Owner, District, and Lender, as applicable, will be required to sign in with Developer at the Project Site and to follow Developer's safety regulations in all respects. No such inspections or monitoring shall be of a nature that causes any delays in the progress of the development of the Project. In the event any such inspections or monitoring shall cause any delays in the progress of the development of the Project, the Guaranteed Date shall be extended by the number of days of such delay, *provided* that Developer shall give written notice to Owner and District of any such claimed delays within seven (7) days after the event causing any such delay.

Section 8.07. Utilities.

(a) Developer, as part of the Services, shall:

(i) install, or cause to be installed, all infrastructure required to provide the Project with utilities, including, without limitation, electricity, water, sewer, gas, telephone and fiber optic cable (including internet service);

(ii) install, or cause to be installed, all connections and wiring for fully servicing the Project in accordance with the Construction Documents; and

(iii) construct and install, or cause to be constructed and installed, all sewer facilities within and outside the Project Site that are required or contemplated by the Project;

(b) Included as Development Cost will be all costs and expenses for the provision of all utilities to the Project Site in a timely manner for purposes of enabling Developer to perform the Services in accordance with this Agreement and as needed for utilities to be available at the Project permanently after Final Completion.

(c) Developer shall prepare and negotiate such contracts, easements, licenses and other agreements as are necessary or desirable for the provision of water, sewer, gas, electric, telephone, cable television and other utilities (collectively, "Access and Utility Agreements"), in capacities adequate for the development and use of the Project for its intended purposes. Developer is hereby authorized by Owner and District to sign all such Access and Utility Agreements as agent for and in the name of Owner and/or District. Owner shall cooperate in all reasonable respects with respect to granting easements on Owner's and property where reasonably required to facilitate the provision of utilities to the Project Site.

ARTICLE IX  
DEFAULT; TERMINATION; AND FORCE MAJEURE EVENT

Section 9.01. Developer Default Events. The occurrence of any one or more of the following events (whether such event shall be voluntary or involuntary or come about or be effected by operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body) shall constitute a "Developer Default Event":

(a) Developer shall fail or refuse to provide any of the Services or to perform any other duties or obligation under this Agreement in the manner and within the time period required by this Agreement and such failure or refusal shall continue for a period of thirty (30) days after written notice specifying such failure or refusal and requesting that it be corrected, cured, or remedied shall have been given to Developer by Owner or District. In the case of any failure that, by its nature, cannot with due diligence be corrected, cured, or remedied within such thirty (30) day period, but that can be wholly corrected, cured, or remedied within a period of time not materially detrimental to the rights or interests of Owner and District, such failure shall not constitute a Developer Default Event if corrective action shall be instituted by Developer within the applicable period and diligently pursued until the failure shall have been corrected, cured, or remedied to the satisfaction of Owner and District (but in no event shall the cure period exceed one hundred twenty (120) days from the expiration of the initial thirty (30) day period);

(b) A Consultant shall commit or permit a breach of any of the duties or obligations required to be performed by Developer under this Agreement in the manner and within the time

period required by this Agreement and such breach shall continue for a period of thirty (30) days after written notice specifying such breach and requesting that it be corrected, cured, or remedied shall have been given to Developer by Owner or District. In the case of any breach that, by its nature, cannot with due diligence be corrected, cured, or remedied within such thirty (30) day period, but that can be wholly corrected, cured, or remedied within a period of time not materially detrimental to the rights or interests of Owner and District, such breach shall not constitute a Developer Default Event if corrective action shall be instituted by Developer or Consultant within the applicable period and diligently pursued until the failure shall have been corrected, cured, or remedied to the satisfaction of Owner and District (but in no event shall the cure period exceed one hundred twenty (120) days from the expiration of the initial thirty (30) day period);

(c) Any representation or warranty made by Developer in any statement or certificate furnished to Owner or District shall prove to have been inaccurate in any material respect as of the date of the issuance or making thereof and shall not have been corrected within thirty (30) days after written notice specifying such inaccuracy and requesting that it be corrected, cured, or remedied shall have been given to Developer by Owner or District. In the case of any such inaccuracy that, by its nature, cannot with due diligence be corrected, cured, or remedied within such thirty (30) day period, but that can be wholly corrected, cured, or remedied within a period of time not materially detrimental to the rights or interests of Owner and District, such inaccuracy shall not constitute a Developer Default Event if corrective action shall be instituted by Developer within the applicable period and diligently pursued until the inaccuracy shall have been corrected, cured, or remedied to the satisfaction of Owner and District (but in no event shall the cure period exceed one hundred twenty (120) days from the expiration of the initial thirty (30) day period);

(d) Developer shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any Debtor Relief Law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of, or taking possession by, any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing;

(e) An involuntary case or other proceeding shall be commenced against Developer seeking liquidation, reorganization or other relief with respect to it or its debts under any Debtor Relief Law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) days; or an order for relief shall be entered against Developer under the federal bankruptcy laws as now or hereafter in effect; or

(f) Developer shall fail to maintain Developer's Insurance as required by Section 2.07 hereof.

Section 9.02. Owner's and District's Remedies.

(a) Upon the occurrence of any Developer Default Event and at any time thereafter, Owner or District may, so long as such Developer Default Event is continuing, terminate this Agreement, subject to the Construction Loan Documents, and in addition to any other right or remedy Owner may have on account of such Developer Default Event.

(b) In order to entitle Owner or District to exercise any remedy reserved to it in this Section, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

(c) Upon any termination of the Agreement under the provisions of this Section:

(i) Owner shall pay to Developer, within sixty (60) days of the date of such termination, reimbursable costs payable hereunder up to the date of such termination; *provided; however*, Owner may offset any amounts payable as Delay Damages to Owner against any amount to be paid to Developer under this subsection;

(ii) Developer and Owner shall meet as soon as practicable and, as approved by Lender and District, Developer shall develop a program to transfer or shut down the Project, give appropriate notices, and implement an appropriate program to secure the Property against unlawful entry and vandalism;

(iii) Owner shall promptly pay to Developer the cost of all services, materials and supplies, if any, which may have been ordered or requested by Developer as a result of its obligations arising under this Agreement so long as such items consist of Development Costs and have been paid for by Developer as of the date of termination or are paid for by Developer within forty-five (45) days after the date of termination; and

(iv) To the extent required by Owner or District, Developer shall assign to Owner or District and Owner or District (as the case may be) shall assume Services Agreements, and in such case Owner shall indemnify Developer against any liability for obligations of Developer under the assumed Services Agreements accruing after the date of such assumption, except to the extent such liability results from Developer's malfeasance, willful misconduct, negligence or misrepresentation.

(d) In the event that this Agreement is terminated for any reason, all Construction Documents and Contract Documents shall become the property of Owner and District, or shall be assigned to Owner or District, as applicable, upon payment in full by Owner of all amounts due to Developer under or as a result of a breach of this Agreement *provided; however*, Owner may offset any amounts payable as Delay Damages to Owner against any amount to be paid to Developer under this subsection. Developer shall require a consistent provision in the Construction Contract and Architect's Contract.

Section 9.03. Owner Default Event. The occurrence of any one or more of the following events (whether such event shall be voluntary or involuntary or come about or be effected by

operation of law or pursuant to or in compliance with any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body) shall constitute an “Owner Default Event”:

(a) Owner shall fail or refuse to pay Development Costs (other than Development Cost Overruns) or to make any payment to Developer under Section 3.01 hereof in a manner and within the time required by this Agreement and such failure shall continue for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied shall have been given to Owner by Developer. In the case of any failure that, by its nature, cannot with due diligence be corrected, cured, or remedied within such thirty (30) day period, but that can be wholly corrected, cured, or remedied within a period of time not materially detrimental to the rights or interests of Developer, such failure shall not constitute an Owner Default Event if corrective action shall be instituted by Owner within the applicable period and diligently pursued until the failure shall have been corrected, cured, or remedied to the satisfaction of Developer (but in no event shall the cure period exceed one hundred twenty (120) days from the expiration of the initial thirty (30) day period);

(b) Owner shall fail to perform or cause to be performed any other covenant, condition, or provision on its part herein contained within the time period required by this Agreement and such failure shall continue for a period of thirty (30) days after written notice specifying such failure and requesting that it be corrected, cured, or remedied shall have been given to Owner by Developer. In the case of any failure that, by its nature, cannot with due diligence be corrected, cured, or remedied within such thirty (30) day period, but that can be wholly corrected, cured, or remedied within a period of time not materially detrimental to the rights or interests of Developer, it shall not constitute an Owner Default Event if corrective action shall be instituted by Owner within the applicable period and diligently pursued until the failure shall have been corrected, cured, or remedied to the satisfaction of Developer (but in no event shall the cure period exceed ninety (90) days from the expiration of the initial thirty (30) day period);

(c) Any representation or warranty made by Owner in any statement or certificate furnished to Developer in connection with this Agreement shall prove to have been inaccurate in any material respect as of the date of the issuance or making thereof and shall not have been corrected within thirty (30) days after written notice specifying such inaccuracy and requesting that it be corrected, cured, or remedied shall have been given to Owner by Developer. In the case of any such inaccuracy that, by its nature, cannot with due diligence be corrected, cured, or remedied within such thirty (30) day period, but that can be wholly corrected, cured, or remedied within a period of time not materially detrimental to the rights or interests of Developer, it shall not constitute an Owner Default Event if corrective action shall be instituted by Owner within the applicable period and diligently pursued until the inaccuracy shall have been corrected, cured, or remedied to the satisfaction of Developer (but in no event shall the cure period exceed one hundred twenty (120) days from the expiration of the initial thirty (30) day period);

(d) The occurrence of a default or an event of default under any Construction Loan Document, not resulting from a Developer Default Event, and the continuation thereof beyond any cure or grace period provided therein;

(e) Owner shall commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any Debtor Relief Law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, or shall consent to any such relief or to the appointment of, or taking possession by, any such official in an involuntary case or other proceeding commenced against it, or shall make a general assignment for the benefit of creditors, or shall fail generally to pay its debts as they become due, or shall take any corporate action to authorize any of the foregoing; or

(f) An involuntary case or other proceeding shall be commenced against Owner seeking liquidation, reorganization or other relief with respect to it or its debts under any Debtor Relief Law now or hereafter in effect or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property, and such involuntary case or other proceeding shall remain undismissed and unstayed for a period of sixty (60) days; or an order for relief shall be entered against Owner under the federal bankruptcy laws as now or hereafter in effect.

#### Section 9.04. Developer's Remedies.

(a) Upon the occurrence of an Owner Default Event for failure to pay Development Costs, Developer shall have the right, in addition to any other rights Developer may now or hereafter have at law or in equity or by statute, to terminate this Agreement and Owner covenants and agrees to pay to Developer amounts for which Developer is responsible, including, without limitation, work or materials currently in place or ordered, but not yet paid for by Owner (plus applicable fees thereon), any sums Developer is responsible to pay General Contractor under the Construction Contract or any other Consultants under any other Contract Documents, plus any remaining unpaid amount of the Development Fee that would have been earned had the Project been fully completed.

(b) For any Owner Default Event (other than failure to pay Development Costs), Developer shall be entitled to pursue any other remedies at law or in equity other than termination of this Agreement with the understanding that neither the occurrence of an Owner Default (other than Owner's failure or refusal to pay Development Costs or the Development Fee after the expiration of any applicable cure or grace period) nor the pendency of a Claim constitute grounds for the suspension of performance by Developer, in whole or in part unless Developer is excused from performance in writing by Lender and District.

(c) In order to entitle Developer to exercise any remedy reserved to it in this Section, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 9.05. Force Majeure Event. No Party shall be in default under this Agreement to the extent that such Party's performance is delayed or otherwise made impossible or impracticable by a Force Majeure Event. Developer shall not be required to incur any cost or expense as a result

of a Force Majeure Event, and time frames required for performance hereunder shall be extended in accordance with Section 4.03 hereof during the pendency of any Force Majeure Event. Developer shall advise Owner and District of any Force Majeure Event promptly after receiving notice thereof. In the event that Developer shall fail to advise Owner or District of such Force Majeure Event within thirty (30) days after receiving notice thereof, its rights to claim such event shall be deemed waived.

ARTICLE X  
MISCELLANEOUS

Section 10.01. Entire Agreement. This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof, supersedes all prior negotiations, representations, understandings and agreements of, by or among the Parties, express or implied, oral or written which are fully merged herein. The express terms of this Agreement control and supersede any course of performance and/or customary practice inconsistent with any such terms. Any agreement hereafter made shall be ineffective to change, modify, discharge or effect an abandonment of this Agreement unless such agreement is in writing and signed by the Party against whom enforcement of such change, modification, discharge or abandonment is sought.

Section 10.02. Assignment. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective successors and permitted assigns. This Agreement shall be deemed personal to Developer, Owner, and District and, as such, may not be assigned by any Party without the prior written approval of the other Parties, which approval may be withheld in such Parties' absolute and sole discretion; *provided, however*, that this Agreement may be collaterally assigned by Owner as security financing on the Project. Developer shall continue to perform its obligations under this Agreement following any such assignment, *provided* Developer continues to receive its Development Fee and funding for the Project continues. Notwithstanding the forgoing, Developer may also assign this Agreement, without the approval of the other Parties, to an Affiliate of Developer.

Section 10.03. Notices. All notices required or permitted to be given under this Sublease shall be in writing and shall be deemed given and received: (i) one Business Day after deposit prepaid with a reputable overnight courier; (ii) upon personal delivery during regular business hours of the recipient; (iii) upon transmission via email during regular business hours of recipient, with a confirmation copy mailed by first class mail, postage prepaid, addressed to the other Parties' address; or (iv) by mail, postage prepaid, to the address of the Parties listed below by depositing the same with the United States Postal Service, to be effective three (3) days after mailing:

(a) If to Owner at:           Healthy Community Education Partners, Inc.  
  ATTN: Vicki Lake  
  111 E. Main Street, Ste. 201  
  Jackson, TN 38301  
  Email: vicki.lake@wth.org

with copy to:                 Spragins, Barnett & Cobb, PLC

ATTN: Nicholas B. Latimer  
312 East Lafayette Street  
Jackson, TN 38301  
Email: nbl@spraginslaw.com;

(b) if to District at: Jackson-Madison County School System  
ATTN: Superintendent  
310 North Parkway  
Jackson, TN 38305  
Email: trwashington@jmcss.org

with copy to: Rainey, Kizer, Reviere & Bell, P. L. C.  
ATTN: Dale Thomas  
209 East Main Street  
Jackson, TN 38301  
Email: dthomas@raineykizer.com; and

(c) if to Developer at: Healthy Community, LLC  
ATTN: Pete Evans  
65 Union Avenue, 12th Floor  
Memphis, TN 38103  
Email: pevans@henryturley.com

&

ATTN: Lance Henderson  
65 Union Avenue, 12th Floor  
Memphis, TN 38103  
Email: lhenderson@henryturley.com

with copy to: Martin, Tate, Morrow & Marston, P.C.  
ATTN: Clayton C. Purdom  
6410 Poplar Avenue, Suite 1000  
Memphis, TN 38119  
Email: cpurdom@martintate.com

The Party to receive notices and the place notices are to be sent for any Party may be changed by notice given pursuant to the provisions of this Section.

Section 10.04. No Waiver. Neither the failure nor any delay on the part of any Party to this Agreement to exercise any right, remedy, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege preclude any other or further exercise of the same or of any other right, remedy, power or privilege, nor shall any waiver of any right, remedy, power or privilege operate as a waiver with respect to

any other such occurrence. No waiver shall be effective unless it is in writing and is signed by the Parties asserting such waiver.

Section 10.05. Time. The Parties acknowledge and agree that time is of the essence in the performance of this Agreement.

Section 10.06. Limited Third-Party Beneficiary Rights. This Agreement is made solely and specifically between and for the benefit of the Parties, and their respective successors and permitted assigns, subject to the express provisions hereof relating to successors and assigns, and, except as expressly set forth below, no other Person shall have any rights, interests or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary or otherwise.

Section 10.07. Non-Exclusive Remedies. Except as otherwise provided herein, no remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, and each and every such remedy shall be cumulative and shall be in addition to every such remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. It is expressly agreed that the remedy at law for breach by any of the Parties for its obligations hereunder is inadequate in view of the complexities and uncertainties in measuring the actual damages that would be sustained by reason of any Party's failure to comply fully with each of such obligations. Accordingly, the obligations of each Party are expressly made enforceable by specific performance, except as otherwise specifically provided herein.

Section 10.08. Additional Acts. In connection with this Agreement and the transactions contemplated hereby, the Parties each agree to execute and deliver such additional documents and instruments and take all such necessary action and perform such additional acts as may be necessary or appropriate to effectuate, carry out and perform all of the terms, provisions and conditions of this Agreement.

Section 10.09. Severability. The provisions of this Agreement are independent of and separable from each other, and no provisions shall be affected or rendered invalid or unenforceable by virtue of the fact that for any reason any other provision may be invalid or unenforceable in whole or in part.

Section 10.10. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any Party whose signature appears thereon, and all of which shall together constitute one and the same instrument. This Agreement shall be binding when one or more counterparts hereof, individually or taken together, shall bear the signatures of all of the Parties reflected on this Agreement as the signatories.

Section 10.11. Captions. The captions in this Agreement are inserted for convenience of reference, they form no part of this Agreement and shall not affect its interpretation.

Section 10.12. Waiver of Jury Trial. THE PARTIES WAIVE ANY RIGHT TO A TRIAL BY JURY FOR ANY LITIGATION ARISING WITH RESPECT TO THIS AGREEMENT OR THE SUBJECT MATTER OF THIS AGREEMENT.

Section 10.13. Waiver of Special Damages. Notwithstanding anything in this Agreement that may be to the contrary, all Claims, demands, losses and damages assertible by any of the Parties against the other in any suit or cause of action arising out of or relating to this Agreement are limited to direct, proximately caused damages, and exclude all special, consequential or indirect damages including, without limitation, business loss or interruption and lost profit.

Section 10.14. Relationship Between Parties. The relationship of the Parties shall be limited to the development and construction of the Project as described herein. Nothing herein shall be deemed to create a partnership or joint venture between or among the Parties, or to authorize any Party to act as general agent (as opposed to any specific agency relationship created by this Agreement) for any other Party.

Section 10.15. Authorized Representatives. Any consent, approval, authorization or other action required or permitted to be given or taken under this Agreement by Developer, Owner or District, as the case may be, shall be given or taken only by Developer Representative, Owner Representative, or District Representative, respectively. Any Party may from time to time designate other or replacement authorized representatives to the other Parties. The written statements and representations of Developer Representative, Owner Representative, or District Representative shall be binding upon the Party for whom such person is an authorized representative, and the other Parties shall have no obligation or duty whatsoever to inquire into the authority of any such representative to take any action which he or she proposes to take.

Section 10.16. Governing Law. This Agreement shall be governed, construed, performed and enforced in accordance with the laws of the State, exclusive of its choice of law principles.

Section 10.17. Change in Law. If it is the reasonable opinion of counsel of any Party, that, due to new or existing Applicable Law, that any activity contemplated by this Agreement shall not comply, or is not reasonably likely to be found by a court with applicable authority to comply with Applicable Law, then the Parties shall negotiate in good faith to attempt to alter their legal relationship to comply with Applicable Law while preserving the material terms of this Agreement.

Section 10.18. Attorney's Fees. In any lawsuit or injunctive proceeding between the Parties concerning any part of this Agreement or the rights and duties of any Party, the Party prevailing in the matter (as determined by the court) shall be entitled to recover its reasonable attorneys' fees, expert costs, and court costs, to the extent permitted by Applicable Law, including, without limitation, reasonable attorney's fees and costs related to any post-judgment collection or enforcement proceedings.

Section 10.19. Venue. Venue for any litigation between the Parties that relates to or arises out of this Agreement or its breach shall be exclusively in a trial court in the County or in the

Federal District Court that includes within it the County, with the Parties expressly waiving any rights to begin, defend, or remove any such litigation in any other forum or venue.

Section 10.20. Amendment. This Agreement may not be modified, amended or terminated in whole or in part in any manner other than by an agreement in writing duly signed by the Parties.

Section 10.21. Exhibits Incorporated. All of the Exhibits attached to this Agreement are a part of this Agreement and are incorporated herein by reference as fully as if copied herein verbatim.

*[The remainder of this page is intentionally left blank.]*

**DEVELOPMENT AGREEMENT**

(Madison Academic)

IN WITNESS WHEREOF, Developer, Owner, and District have caused this Agreement to be signed in their names by their duly authorized representatives and delivered as their act and deed, intending to be legally bound by its terms and provisions.

**DEVELOPER:**

HEALTHY COMMUNITY LLC, a Tennessee limited liability company

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**OWNER:**

HEALTHY COMMUNITY EDUCATION PARTNERS, INC., nonprofit public benefit corporation of the State of Tennessee

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**DISTRICT:**

JACKSON-MADISON COUNTY SCHOOL SYSTEM, a governmental entity and political subdivision of the state of Tennessee

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## DEVELOPMENT AGREEMENT

(Madison Academic)

### EXHIBIT "A"

#### Description of the Land

The following described property lying in the City of Jackson, Madison County, Tennessee and being a portion of the property as shown on Tax Map 77L, Group D, Parcel 1.00 in the Assessor's Office of Madison County, Tennessee, and described in Deed Book 711 Page 1156 in the Register's Office of Madison County, Tennessee and being more particularly described as follows:

**BEGINNING** at a half inch rebar found in the east margin of Lambuth Blvd., being 30 feet from center and at the northeast corner of The City of Jackson property as described in Deed Book 700 Page 386 in the Register's Office of Madison County, Tennessee having Tennessee State Plane Coordinates of N 481098.69 E 1128483.71; Runs thence with north line of The City of Jackson property, North 86 degrees 43 minutes 45 seconds West a distance of 190.50 feet to a crows foot painted on the concrete; Runs thence with the west lines of the City of Jackson, William Harry Moore Trust (Deed Book 750 Page 671), Juxtified LLC (Deed Book 749 Page 13), Chris Strong (Deed Book 747 Page 1625), South 03 degrees 20 minutes 08 seconds West a distance of 252.92 feet to an iron pin found in Chris Strong's north line as described in Deed Book 752 Page 729; Runs thence with the north lines of Chris Strong, Linda S. Laney Living Trust (Deed Book 709 Page 102), Lee Bishop (Deed Book 703 Page 1700, North 84 degrees 04 minutes 28 seconds West a distance of 150.41 feet to a 1 inch iron pipe found at William Matlock's northeast corner as described in Deed Book 701 Page 1031; Runs thence with the north lines of Matlock and then Joan Wilson Trust (Deed Book 733 Page 166), North 86 degrees 35 minutes 55 seconds West a distance of 94.82 feet to a fence post; Runs thence with an interior line of the Wilson tract, South 03 degrees 47 minutes 19 seconds West a distance of 4.92 feet to a 5/8 inch iron rod found; Runs thence North 87 degrees 44 minutes 41 seconds West a distance of 25.00 feet to a 5/8 inch iron rod found at Juxtified LLC's north east corner as described in Deed Book 748 Page 1582; Runs thence with Juxtified LLC's north line, North 85 degrees 06 minutes 29 seconds West a distance of 89.47 feet to a half inch rebar set, with identification cap stamped Surveying Services (typical of all iron pins set); Runs thence with a new division line as of this survey as follows, North 03 degrees 33 minutes 08 seconds East a distance of 373.80 feet to a PK Nail set; Runs thence North 86 degrees 08 minutes 24 seconds east a distance of 32.25 feet to an iron pin set; Runs thence South 86 degrees 44 minutes 30 seconds East a distance of 130.56 feet to an iron pin set; Runs thence North 03 degrees 16 minutes 15 seconds East a distance of 6.00 feet to an iron pin set; Runs thence South 86 degrees 44 minutes 30 seconds East a distance of 201.38 feet to an iron pin set; Runs thence North 03 degrees 20 minutes 08 seconds East a distance of 188.18 feet to an iron pin set in the south margin of Maple Street (20 feet from the centerline); Runs thence with the south margin of Maple Street, South 86 degrees 44 minutes 11 seconds East a distance of 184.69 feet to the intersection of the west margin of Lambuth Blvd.; Runs thence with the west margin of Lambuth Blvd., South 03 degrees 20 minutes 08 seconds West a distance of 323.50 feet to the **Point of Beginning** containing **4.53 acres** as surveyed by Surveying Services, Inc., 41 Heritage Square, Jackson, Tennessee 38305 (731-664-0807).

**INCLUDED** with this property is a **10 foot Drainage Easement** lying 5 feet on either side of the following described centerline; Beginning in the south margin of Maple Street (20 feet from the centerline) and being, as measured along the south margin of Maple Street, 398.61 feet west of the west margin of Lambuth Blvd (30 feet from the centerline); Runs thence with an existing pipe, South 3 degrees 19 minutes 20 seconds West 162.67 feet to an existing Inlet; Runs thence with an existing pipe, South 11 degrees 24 minutes 45 seconds West 31.85 feet to the north line of the above 4.53 acre tract.

TOGETHER WITH, the non-exclusive right to utilize the roadways constructed on Grantor's adjacent land (the "Access Roads") for access from the Property to North Fairgrounds Street. The Access Roads are currently described in Exhibit A-1 attached hereto, but may be relocated at Grantor's option so long as at least two 30' wide roads are provided to allow for access from the Property across Grantor's adjacent Land to North Fairgrounds Street. In such event, the Parties shall record an amendment to this Deed recognizing the new location.

BEGINNING at a stake in the west margin of Lambuth Boulevard (formerly Long Street) and in the south margin of Strock Street, runs thence West with the south margin of Strock Street one hundred ninety (190) feet to a stake on a ten foot alley; thence South fifty (50) feet to a stake in the northwest corner of Lot No. 3 of the Strock Addition to the City of Jackson; thence East one hundred ninety (190) feet to the west margin of Lambuth Boulevard; thence North with the west margin of Lambuth Boulevard fifty (50) feet to the beginning. BEING Lot 4 of said Strock Addition to the City of Jackson, appearing of record in Plat Book 1, at Page 29, in the Register's Office of Madison County, Tennessee.

BEING the same property conveyed to Jackson Community Redevelopment Agency (Jackson CRA), a public instrumentality created by the City of Jackson by Quitclaim Deed of record in Deed Book 704, Page 1472, in the Register's Office of Madison County, Tennessee.

**DEVELOPMENT AGREEMENT**  
(Madison Academic)

**EXHIBIT "B"**

Development Budget

**Healthy Community, LLC**  
**Jackson Schools Project 1/29/2020**

<b>Madison Academic</b>
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<u>Item</u>	<u>Cost</u>
Square Footage	58,800
Land	
Construction Cost Costs	12,599,875
Architecture & Engineering	669,854
Legal, Accounting & Consulting	53,094
Closing Fees & Expenses	50,746
Construction Oversight Fee	125,999
Development Fee	279,973
<b>Total Project Cost</b>	<b>13,779,541</b>

**DEVELOPMENT AGREEMENT**  
(JCM)

**EXHIBIT "C"**

**DEVELOPER'S INSURANCE**

A. The insurance coverage required under this Agreement shall be written by reputable insurance companies that are financially sound and solvent and legally qualified to issue such insurance in the State. Any insurance company selected by Developer shall be rated in A.M. Best's Insurance Guide or any successor thereto (or if there be none, an organization having a similar national reputation) and shall have a general policyholder rating of "A" (or comparable rating for a rating by an organization other than A.M. Best) and a financial rating of a least "X" (or comparable rating for a rating by an organization other than A.M. Best). Developer shall provide and maintain in force the following minimum insurance coverage, which shall be limited to Developer's activities with respect to the Project and shall not cover Developer's non-Project related activities:

1. Worker's Compensation (statutory amount);
2. Employer's Liability (\$1,000,000 per accident or disease);
3. Commercial General Liability (1993 ISO Occurrence Form or equivalent) (occurrence basis):

Bodily injury (including death) and property damage arising from premises and operations liability, products and completed operations liability (three years), personal injury and advertising liability, contractual liability, fire legal liability, blasting and explosion, collapse of structures, and underground damage liability;

per occurrence: \$1,000,000;

general aggregate: \$2,000,000.

4. Commercial Umbrella Excess Liability (occurrence basis):

per occurrence: \$3,000,000;

aggregate: \$3,000,000.

5. Professional Liability (claims-made basis):

per occurrence: \$1,000,000;

aggregate: \$2,000,000.

B. The Commercial General Liability and Commercial Umbrella Excess Liability policies shall include contractual liability coverage for liabilities assumed by Developer under this Agreement, subject to standard policy stipulations, and shall include endorsements naming Owner as an additional insured. The cost of all insurance required under this Agreement is agreed to be included in the Fixed Price.

C. Owner shall be furnished a Certificate(s) of Insurance with respect to said insurance upon execution of this Agreement. Each policy referred to herein shall provide that it will not be canceled, modified, or amended or its limits reduced or allowed to lapse without renewal, except after not less than thirty (30) days' prior written notice to Owner.

D. Developer shall bear all costs of all deductibles and shall be held responsible for any and all damages as may result from the failure of Developer to exercise its responsibilities as defined under this Agreement.

E. The Professional Liability Insurance shall provide coverage for Developer for acts or omissions of it and its Consultants and representatives who may be engaged in performing Services or other activities under or in connection with this Agreement.

F. Developer shall not violate or knowingly permit any violation of any conditions or terms of the policies of insurance required of Developer under this Agreement. In the event Developer neglects, refuses, or fails to provide or maintain any of the insurance required hereunder or if such insurance is canceled, ceases, or expires for any reason, Owner shall have the right, but not the duty, to procure or maintain the same. In the event Owner does procure or maintain such insurance, Owner shall have, in addition to any and all other available remedies, the right to recover from Developer (including the right of set-off against sums otherwise due Developer) all of the costs associated with procuring or maintaining such insurance.

G. Owner or District may require Developer at any time, and from time to time, during the Term, to obtain and maintain in force additional insurance with coverage or limits in addition to those above-described; *provided, however*, the additional premium cost of any such additional insurance required by Owner shall be borne by Owner, and Developer shall arrange to have such costs billed separately and directly to Owner by the insuring carrier(s).

H. Owner may purchase and maintain such other insurance as it may deem appropriate. No purchase of any such insurance by Owner shall in any way be deemed to alter or amend the rights or responsibilities of Owner or Developer under this Agreement.

I. The Parties agree that Owner and District will be held harmless by Developer for any loss or damage to sheds, tools, equipment, property, and materials of Developer, Consultants, and their respective agents and employees, it being understood that Developer may, at its own expense, carry any insurance which may be required to provide the necessary protection against such loss or damage.

J. Developer shall purchase and maintain or cause to be purchased and maintained builder's risk property insurance upon the Project for the full cost of replacement (or the Fixed Price, whichever is greater) at the time of loss and written on a 1991 Causes of Loss - Special

Form, or its equivalent. This insurance shall include as insureds Owner, Developer, and District, as their interest may appear, and shall insure against loss from the periods of Fire and Extended Coverage, including flood and earthquake, and the value of related soft costs as confirmed by Owner's insurance administrator. The builder's risk policy shall be made payable to Owner.

K. The Parties acknowledge that all of the foregoing provisions requiring Developer to carry insurance shall not be construed as in any manner waiving or restricting the liability of Developer as to any obligations imposed under this Agreement.

**DEVELOPMENT AGREEMENT**  
(Madison Academic)

EXHIBIT "D"

Project Schedule

[attached]

**DEVELOPMENT AGREEMENT**

(Madison Academic)

EXHIBIT "E"

Development Team

Pete Evans  
Henry Turley Company  
Email: [pevans@henryturley.com](mailto:pevans@henryturley.com)  
Phone : (901) 674-1335

Lance Henderson  
Henry Turley Company  
Email: [lhenderson@henryturley.com](mailto:lhenderson@henryturley.com)  
Phone: (901) 255-2125

Chris W. Alexander  
Healthy Community, LLC  
Email: [chris@healthycommunityllc.com](mailto:chris@healthycommunityllc.com)  
Phone: (731) 554-2079

Hal Crocker  
Healthy Community, LLC  
Email: [hal@crockerconstruction.com](mailto:hal@crockerconstruction.com)  
Phone: (731) 554-2079

**DEVELOPMENT AGREEMENT**  
(Madison Academic)

**EXHIBIT "F"**

Madison Academic School Project Responsibility Matrix

[attached]

**DEVELOPMENT AGREEMENT**  
(Madison Academic)

**EXHIBIT "G"**

Performance Bond and Payment Bond

[to be attached]

Exhibit E

Madison High School Project Responsibility Matrix and Clarifications		Legend					
		JMCSS=Jackson Madison County School System	ARCH= Architects	HCP= Healthy Community Education Partners	CM=Construction Manager	CE=Civil Engineer	JMCSSLVSUB= JMCSS Low Voltage Sub CM Note 2
		CMSC= Construction Manager Sub-Contractor	EE= Electrical Engineer	EC= Electrical Contractor			
		CRA=Jackson Community Redevelopment Agency	ME=Mechanical Engineer				
							Date 2/06/2020
Line	Description	Design Responsibility	Budgeting	Material Provided By	Installation By	Funding Source	Notes
1	General						
2	Permits	-	CM	CM	-	HCP DEV	
3	Builders Risk Insurance	-	CM	CMSC	CMSC	HCP DEV	
4	Temporary Rest Rooms	-	CM	CMSC	CMSC	HCP DEV	
5	Utilities	-	CM	CMSC	CMSC	HCP DEV	
6	Site Mowing	-	CM	CM	CM	HCP DEV	
7	Temporary Signage	CM/ARCH/JMCSS/CRA	CM	CMSC	CMSC	HCP DEV	
8							
9							
10	Site Work						
11	Demolition	ARCH/CE	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
12	Grading	ARCH/CE	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
13	Storm Drain Piping	ARCH/CE	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
14	Erosion Control/Reporting	ARCH/CE	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
15	Temporary Fencing	ARCH/CE	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
16	Fencing	ARCH/CE	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
17	Site Concrete Curb & Gutter	ARCH/CE	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
18	Concrete Sidewalks	ARCH/CE	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
19	Asphalt Paving/Stripping	ARCH/CE	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
20	Site Furniture	ARCH/CE	ARCH/JMCSS	CM/CMSC	CM/CMSC	HCP DEV	
21	Flag Pole	ARCH/CE	CM/CMSC	CM	CM	HCP DEV	
22	Monument Sign	ARCH/JMCSS	ARCH/JMCSS	CM/CMSC	CM/CMSC	JMCSS	1
23	Wall Signage	ARCH/JMCSS	Allowance	CM/CMSC	CM/CMSC	HCP DEV	
24	Digital Sign power/communication conduit	ARCH/CE/EE/JMCSS	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
25	Digital Sign	JMCSS	JMCSS	CM/CMSC	CM/CMSC	JMCSS	1
26	Landscaping	ARCH/CE	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
27	Irrigation System	ARCH/CE	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
28	Irrigation Meter	ARCH/CE	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
29	Termite Treatment	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
30							
31	Concrete	ARCH/SE	CM/CMSC	CMSC	CMSC	HCP DEV	
32							
33	Masonry	ARCH/SE	CM/CMSC	CMSC	CMSC	HCP DEV	
34							
35	Metals	ARCH/SE	CM/CMSC	CMSC	CMSC	HCP DEV	
36							
37	Carpentry	ARCH/SE	CM/CMSC	CMSC	CMSC	HCP DEV	
38	Blocking	ARCH/SE	CM	CM	CM	HCP DEV	
39	Cabinetry	ARCH/SE	CM/CMSC	CMSC	CMSC	HCP DEV	
40							
41	Moisture Protection						
42	Roof	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
43	Fluid Applied Barrier	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
44	Insulation	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
45	Joint Sealants	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
46							
47	Doors/Windows						
48	Doors/Hardware	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
49	Storefront	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
50	Colling Doors	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
51							
52	Finishes						
53	Drywall	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
54	Paint	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
55	Floor Covering	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
56	Tile	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
57	Acoustical Ceilings	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
58	Sprayed Ceilings	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
59	Decorative Acoustical Panels	ARCH	CM/CMSC	JMCSS	JMCSS	JMCSS	
60							
61	Specialties						
62	Fire Extinguishers/Cabinets	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	

Exhibit E

Madison High School Project Responsibility Matrix and Clarifications		Legend					Date 2/06/2020
		JMCSS=Jackson Madison County School System	ARCH= Architects	HCP= Healthy Community Education Partners	CM=Construction Manager	CE=Civil Engineer	
		CMSC= Construction Manager Sub-Contractor	EE= Electrical Engineer	EC= Electrical Contractor			
		CRA=Jackson Community Redevelopment Agency	ME=Mechanical Engineer				
Line	Description	Design Responsibility	Budgeting	Material Provided By	Installation By	Funding Source	Notes
63	ADA RR Partitions & Signage	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
64	Door/Room ADA Signage	ARCH/JMCSS	CMSC	CMSC	JMCSS	HCP DEV	
65							
66	Elevator	ARCH	CM/CMSC	CMSC	CMSC	HCP DEV	
67							
68	Furniture/Fixtures						
69	Furniture/Lab Cabinets/Counters	ARCH	ARCH	JMCSS	JMCSS	JMCSS	
70	Class Room Storage Casework	ARCH	CM	CMSC	CMSC	JMCSS	
71	Window Blinds	ARCH	CM	JMCSS	JMCSS	JMCSS	
72	Defibrillator & Cabinets	ARCH	CM	JMCSS	CM	JMCSS	
73	Smart Boards	JMCSS	JMCSS	JMCSS	JMCSS	JMCSS	
74	Kitchen Equipment	JMCSS	CM/JMCSS	JMCSS	HCP DEV	JMCSS	3
75	HVAC						
76	HVAC Roof Curbs	ME	CM/CMSC	CMSC	CMSC	HCP DEV	
77	Mechanical Units	ME	CM/CMSC	CMSC	CMSC	HCP DEV	
78	Duct Work	ME	CM/CMSC	CMSC	CMSC	HCP DEV	
79	Lab Exhaust	ME	CM/CMSC	CMSC	CMSC	HCP DEV	
80	Gas Piping	ME	CM/CMSC	CMSC	CMSC	HCP DEV	
81	Temporary Heat/Cooling	CM/CMSC	CM/CMSC	CM/CMSC	CM/CMSC	HCP DEV	
82							
83	Plumbing						
84	Building Meter	ME	CM/CMSC	CMSC	CMSC	HCP DEV	
85	Landscaping Meter	ME	CM/CMSC	CMSC	CMSC	HCP DEV	
86	Underground Service	ME	CM/CMSC	CMSC	CMSC	HCP DEV	
87	Building Plumbing	ME	CM/CMSC	CMSC	CMSC	HCP DEV	
88	Plumbing Fixtures	ME	CM/CMSC	CMSC	CMSC	HCP DEV	
89	Temp Hose Bibbs for Construction						
90							
91	Fire Sprinklers						
92	Sprinkler System	ME/CMSC	CM/CMSC	CMSC	CMSC	HCP DEV	
93							
94							
95	Electrical						
96	Electrical Service	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
97	Electrical Distribution	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
98	Lighting Fixtures	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
99	HVAC Power	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
100	Parking Lot Lights/Poles	ARCH/CE/EE	CM/CMSC	CMSC	CMSC	HCP DEV	
101	Temp Service	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
102	Power Distribution for Construction	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
103							
104							
105	Low Voltage - Fire Alarm System						2
106	Fire Alarm Control Panel	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
107	HVAC Smoke Detectors	EE/ME	CM/CMSC	CMSC MEC	CMSC MEC/EL	HCP DEV	
108	Smoke/Heat Detectors	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
109	Early Smoke Detection Hardware	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
110	Water Flow Detectors	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
111	Horns, Strobes, Horn/Strobe Combinations	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
112	Control Modules	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
113	Monitor Modules	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
114	Conduit Systems for Fire Alarm System	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
115	120 VAC Power Circuits for Fire Alarm Control Panel	EE	CM/CMSC	CMSC	CMSC	HCP DEV	
116							
117							
118	Low Voltage - Data and Communications Cabling					JMCSS	2
119	Fiber Risers	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
120	Fiber Riser Pathways	EE	CM	EC	EC	HCP DEV	
121	Multi-Pair Copper Risers	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
122	Copper Riser Pathways	EE	CM	EC	EC	HCP DEV	
123	Fiber Patch Panels	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
124	Fiber Patch Cords	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	

Exhibit E

Madison High School Project Responsibility Matrix and Clarifications		Legend					Date 2/06/2020	
		JMCSS=Jackson Madison County School System	ARCH= Architects	HCP= Healthy Community Education Partners	CM=Construction Manager	CE=Civil Engineer		
		CMSC= Construction Manager Sub-Contractor	EE= Electrical Engineer	EC= Electrical Contractor				
		CRA=Jackson Community Redevelopment Agency	ME=Mechanical Engineer					
Line	Description	Design Responsibility	Budgeting	Material Provided By	Installation By	Funding Source	Notes	
125	Multi-Pair Copper Punch Down Panels	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
126	Category 6/6a Horizontal Cabling	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
127	Category 6/6a RJ 45 Jacks and Wall Plates	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
128	Category 6/6a Wall Boxes/Stub Up Conduit	EE	CM	EC	EC	HCP DEV		
129	Category 6/6a Floor Boxes and Conduit	EE	CM	EC	EC	HCP DEV		
130	Category 6/6a Patch Panels	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
131	Category 6/6a Patch Cords	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
132	Ladder Rack Inside Data/Comm Rooms	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
133	Patch Panel/Equipment Racks	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
134	Power Distribution Units for Racks	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
135	Cable Management Components for Racks	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
136	Fire Stop Appliances	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
137	Cable Tray	EE	CM/CMSC	EC	EC	HCP DEV		
138	Bonding/Grounding System	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
139								
140								
141	Low Voltage - Security System					JMCSS	2	
142	Indoor Fixed IP Cameras	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
143	Indoor PTZ IP Cameras	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
144	Outdoor Fixed IP Cameras	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
145	Outdoor PTZ IP Cameras	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
146	Category 6 Cabling from IDF to Camera	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
147	Fiber from IDF to Camera where Applicable	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
148	120 VAC Power to PTZ Cameras where Applicable	JMCSSLVSUB	CM	EC	EC	HCP DEV		
149	Category 6 and/or Fiber Patch Panels	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
150	Software Licenses for Cameras and/or Access	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
151	Fiber Patch Cords	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
152	Category 6 Patch Cords	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
153	Card Readers	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
154	Access Control Controllers	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
155	120 VAC Power to Access Control Controllers	JMCSSLVSUB	CM	EC	EC	HCP DEV		
156	Egress Devices (Infrared, Push Button, Etc.)	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
157	Locking Hardware	ARCH	CM	Door/Hardware	Door/Hardware	JMCSS		
158	Door Hold-Open Devices	ARCH	CM	Door/Hardware	Door/Hardware	JMCSS		
159	Conduit from Cable Tray to Inaccessible Locales	EE	CM	EC	EC	HCP DEV		
160	Wall and/or Ceiling Boxes for Cameras/Readers	EE	CM	EC	EC	HCP DEV		
161	Alarm Panels	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
162	Alarm Device-Motion Detectors	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
163	Alarm Device-Glass Break Detectors	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
164	Alarm Device-Magnetic Door Position Switches	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
165	Alarm Device-Panic Buttons	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
166	Rough-In/Conduit for Alarm Devices	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
167	120 VAC Power to Alarm Panels	EE	CM	EC	EC	HCP DEV		
168	Security Monitors	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
169	Bonding/Grounding System	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
170								
171								
172	Low Voltage - Local Area Network (Wired and Wireless)					JMCSS	2	
173	Core Network Switches (if applicable)	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
174	Edge Switches	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
175	Fiber Modules	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
176	Wireless Controller	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
177	Wireless Access Points	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
178	Rack Mounted UPS	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
179								
180								
181	Low Voltage - VoIP Telephony System					JMCSS	2	
182	Call Manager Appliance	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
183	VoIP Handsets	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
184	VoIP 802.11 Phones	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
185	Conference Room Phones	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSSLVSUB	JMCSS		
186								

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	CMSC= Construction Manager Sub-Contractor	EE= Electrical Engineer	EC= Electrical Contractor
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Date 2/06/2020

Line	Description	Design Responsibility	Budgeting	Material Provided By	Installation By	Funding Source	Notes
187							
188	Low Voltage - Copper Wire Telephony System						2
189	2 wired lines for Sprinkler Monitoring	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
190							
191	Low Voltage - Audio Visual System					JMCSS	2
192	Display Kiosks	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
193	Wall and/or Floor Boxes for Display Kiosks	JMCSSLVSub	CM	EC	EC	HCP DEV	
194	Conduit from Boxes to Accessible Space	JMCSSLVSub	CM	EC	EC	HCP DEV	
195	Digital Signage Displays	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
196	Multi-Use/Conference Room Displays	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
197	Wall Boxes for Displays	JMCSSLVSub	CM	EC	EC	HCP DEV	
198	Conduit from Boxes to Accessible Space	JMCSSLVSub	CM	EC	EC	HCP DEV	
199	Conference Room Projectors/Monitors	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
200	Video Conferencing Systems	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
201	Conference Room Control Panels	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
202	Presentation Lecterns	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
203	Multi-Media Connection Plates	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
204	Wall and/or Floor Boxes for Multi-Media Plates	JMCSSLVSub	CM	EC	EC	HCP DEV	
205	Conduit from Boxes to Accessible Space	JMCSSLVSub	CM	EC	EC	HCP DEV	
206	Overhead Paging (Intercom)	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
207	Video Conferencing Equipment	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSSLVSub	JMCSS	
208							

Notes:

- The contract includes an allowance for building signage. The priorities for these funds will be wall signage (including address) then any amount remaining will be applied to the monument sign.
- JMCSS is considering a program to contract with one company to manage the installation and management of all Low Voltage Systems in JMCSS facilities system wide. This being the case the only low voltage systems/equipment included in this contract is the Fire Alarm (required for certificate approval) and cable trays/conduits/pathways for LV Cables
- JMCSS has access to funds provided by the USDA to fund the Kitchen Equipment. Said equipment is not included in this contract.
- Light fixtures Type B are to be replaced with Type A fixtures.
- In room 128 the hard ceiling will be replaced with a 2x2 acoustical ceiling as requested by JMCSS. The lighting fixtures in this room (H1, H2, and H3) will be changed to a high bay version of Type A fixture.