

**AGREEMENT OF PURCHASE AND SALE**

**for**

**CITY PARKING UNIT AT UNIVERSITY STATION  
CITY OF HOLLYWOOD, FLORIDA**

**by and between**

**UNIVERSITY STATION I, LLC, a Florida limited liability company**

**as Seller**

**and**

**CITY OF HOLLYWOOD, FLORIDA, a Florida municipal corporation**

**as Buyer**

**Effective Date of this Agreement between Seller and Buyer: May 18, 2023**



9.1	Seller’s Representations and Warranties .....	6
9.2	Buyer’s Representations and Warranties .....	6
9.3	Survival .....	7
ARTICLE X Default and Remedies .....		7
10.1	Seller’s Remedies.....	7
10.2	Buyer’s Remedies .....	7
ARTICLE XI Miscellaneous .....		8
11.1	Parties Bound; Assignment.....	8
11.2	Headings .....	8
11.3	Invalidity and Waiver .....	8
11.4	Governing Law; Venue.....	8
11.5	TIME IS OF THE ESSENCE.....	8
11.6	Notices .....	8
11.7	Construction.....	9
11.8	Calculation of Time Periods .....	9
11.9	Execution in Counterparts.....	9
11.10	No Recordation .....	9
11.11	Further Assurances.....	9
11.12	Discharge of Obligations .....	10
11.13	No Third Party Beneficiary.....	10
11.14	Radon Gas.....	10
11.15	Attorneys’ Fees, Costs and Expenses .....	10
11.16	WAIVER OF JURY TRIAL.....	10
11.17	Entirety and Amendments.....	10

Schedule of Exhibits

- Exhibit A-1 - Legal Description of Real Property - City Fee Property
- Exhibit A-2 - Legal Description of Real Property - Parcel C Property
- Exhibit B - Leasehold Interest Deed
- Exhibit C - Vertical Subdivision Declaration
- Exhibit D - Development Agreement

## AGREEMENT OF PURCHASE AND SALE

*[City Parking Unit at University Station City Of Hollywood, Florida]*

This Agreement of Purchase and Sale ("Agreement") is made and entered into by and between Buyer and Seller.

### RECITALS

A. Seller and Buyer are parties to that certain Comprehensive Agreement, approved by the City Commission on May 3, 2023 ("Comprehensive Agreement"), which Comprehensive Agreement sets forth certain terms and conditions for the development of an urban, mixed use project to be known as "University Station" (the "Project"), which will be developed on certain real property owned by Buyer, legally described in the attached Exhibit "A-1" ("City Fee Property").

B. As described in the Comprehensive Agreement, the City has leased to Seller a portion of the City Fee Property, known as the "Polk Street Parking Lot", which has been replatted as Parcel C, with such land being legally described in the attached Exhibit "A-2" ("Parcel C Property") pursuant to that certain Amended and Restated Ground Lease, dated as of \_\_\_\_\_, 2023 ("Ground Lease"). As described in the Comprehensive Agreement, Seller shall construct the Parking Garage, as defined below, on the Parcel C Property.

C. In order to provide the orderly administration and operation of the Project, Seller shall encumber the Parcel C Property to a regime of vertical subdivision ("Vertical Subdivision"), which Vertical Subdivision shall be governed by that certain Vertical Subdivision Declaration For University Station Parking Garage ("Vertical Subdivision Declaration"), which Vertical Subdivision Declaration shall, among other matters, provide surveyed legal descriptions for the various components of the Project located on the Parcel C Property above the plane of the ground at the Parcel C Property, specifically including a parking structure ("Parking Garage").

D. Within the Parking Garage, certain parking spaces are to be designated as follows: (i) approximately 345 spaces ("Public Parking Spaces") and (ii) 20 spaces to be assigned to the Educational Space User (as defined in the Comprehensive Agreement) (the "Educational Parking Spaces") (collectively the Educational Parking Spaces and the Public Parking Spaces, totaling 365 parking spaces in the Parking Garage, being the "Public Parking Parcel"), which Public Parking Parcel will be specifically depicted in the Vertical Subdivision Declaration and be under the exclusive control (subject to the Vertical Subdivision Declaration) of Buyer.

E. Seller and Buyer are entering into this Agreement to set forth the terms and conditions for the sale of the Public Parking Parcel from Seller to Buyer.

**NOW, THEREFORE**, in consideration of the mutual terms, provisions, covenants and agreements set forth herein, as well as the sums to be paid by Buyer to Seller, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, Buyer and Seller agree as follows:

**ARTICLE I**  
**BASIC INFORMATION**

1.1 **Certain Basic Terms.** The following defined terms shall have the meanings set forth below:

1.1.1 **Seller:** UNIVERSITY STATION I, LLC, a Florida limited liability company.

1.1.2 **Buyer:** CITY OF HOLLYWOOD, FLORIDA, a Florida municipal corporation.

1.1.3 **Purchase Price:** \$8,439,000.

1.1.4 **Effective Date:** The Effective Date shall be the date on which this Agreement is executed by the latter to sign of Buyer or Seller, as indicated on the signature pages of this Agreement and as set forth the initial cover page of this Agreement.

1.1.5 **Closing Date:** The Closing Date shall be the date that is 60 days after the last to occur of: 1) Seller's receipt of a temporary or final Certificate of Occupancy for the Parking Garage; 2) achievement of any requirements of any mortgagee or equity provider of the Project as required in the construction financing closing documents; or 3) recording of the Vertical Subdivision Declaration in form pre-approved by the City and as attached as Exhibit "C".

1.2 **Closing Costs.** Closing costs shall be allocated and paid as follows:

<b>Cost</b>	<b>Responsible Party</b>
Search and exam fees for the preparation of the Title Insurance Commitment required to be delivered pursuant to <u>Section 5.1</u>	Seller
Premium for the Title Insurance Policy obtained by Buyer pursuant to <u>Section 5.1</u>	Buyer
Recording Fees for the Deed	Buyer
Documentary Stamp Tax on the Deed	Seller
All other closing costs, expenses, charges and fees	Buyer

1.3 **Notice Addresses.**

Seller:	c/o Housing Trust Group, LLC 3225 Aviation Avenue, 6 <sup>th</sup> Floor Coconut Grove, FL 33133 Attention: Matthew Rieger, President and CEO	Copy to:	Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. 150 West Flagler Street, Suite 220 Miami, FL 33131 Attention: Brian J. McDonough, Esq.
Buyer:	City of Hollywood Office of the City Manager 2600 Hollywood Boulevard Room 419 Hollywood, FL 33020 Attn: Raelin Storey	Copy to:	City of Hollywood Office of the City Attorney 2600 Hollywood Boulevard Room 407 Hollywood, FL 33020 Attn: Douglas R. Gonzales

**ARTICLE II**  
**PROPERTY**

2.1 **Description of The Property.** Subject to the terms and conditions of this Agreement, Seller agrees to sell to Buyer, and Buyer agrees to purchase from Seller, the Public Parking Parcel.

**ARTICLE III**  
**DISBURSEMENT OF PURCHASE PRICE**

3.1 **Purchase Price Installments.** The \$8,439,000 Purchase Price shall be paid by Buyer in two separate installment payments and shall be applied as follows:

3.1.1 **Initial Purchase Price Installment.** The initial installment payment of the Purchase Price in the amount of \$5,000,000 (“Initial Purchase Price Installment”) has been paid by Buyer to Seller concurrently with the Effective Date of this Agreement in immediately available funds and has been deposited with The Bank of New York Mellon Trust Company, N.A. (“Trustee”).

3.1.2 **Final Purchase Price Installment.** The final installment payment of the Purchase Price in the amount of \$3,439,000 (“Final Purchase Price Installment”) shall be paid by Buyer to Seller within five business days of Seller delivering notice to Buyer that the Parking Garage has reached a state of 50% completion, as certified by the architect for the Project (“50% Completion Notice”) and verified by the Buyer’s Building Official. Buyer shall wire transfer, in immediately available funds, the Final Purchase Price Installment to Trustee within five business days of Seller delivering the 50% Completion Notice to Buyer.

3.1.3 **Application of Initial Purchase Price Installment and Final Purchase Price Installment.** The Initial Purchase Price Installment and the Final Purchase Price Installments, once received by Trustee, shall be held and disbursed by Trustee for construction of the Public Parking Parcel on the Parcel C Property, along with additional funds being contributed as project equity by Seller and proceeds of construction loans obtained as project debt by Seller, in accordance with

the disbursement procedures that will be set forth in the construction loan documents governing the mortgage loans being obtained by Seller for construction of the Project. Buyer agrees and acknowledges that it shall have no further interest or claim to the Initial Purchase Price Installment or the Final Purchase Price Installment once paid and subsequently disbursed by Trustee to pay for construction of the Public Parking Parcel, nor shall Buyer have any security interest in the Ground Lease as security for either of the Initial Purchase Installment or the Final Purchase Price Installment.

**ARTICLE IV**  
**CONDITION OF THE PUBLIC PARKING PARCEL**

4.1 **Acceptance Conditions of the Public Parking Garage.** The Public Parking Parcel shall be delivered to Buyer in the condition specified on the plans and specifications approved by the Buyer’s Building Official, and the issuance of a temporary or final certificate of occupancy by the Building Official shall constitute representation of such acceptance. The Public Parking Parcel will be developed and constructed in substantial compliance with the terms and conditions of that certain Development Agreement by and between Seller, Buyer and Seller’s affiliate, University Station I Developer, LLC, a Florida limited liability company, a copy of which is attached as Exhibit “D”.

**ARTICLE V**  
**TITLE**

5.1 **Title Insurance Commitment.** Buyer shall obtain a current commitment for title insurance or preliminary title report (“Title Insurance Commitment”) issued by a title insurance company selected by Buyer and licensed to do business in the State of Florida (“Title Insurance Company”), in the amount of the Purchase Price for the issuance at closing of an ALTA Owner’s Policy of title insurance (10/17/21 Form with Florida modifications), naming Buyer as the proposed insured (“Title Insurance Policy”).

5.2 **Form of Deed.** Seller shall convey leasehold title to the Public Parking Parcel to Buyer by leasehold interest deed for the Public Parking Parcel, as described in the Vertical Subdivision Declaration and as a portion of the premises demised by the Ground Lease (“Deed”), subject to the Ground Lease, the Vertical Subdivision Declaration and such matters that affect title but to not render title unmarketable (collectively, the “Permitted Exceptions”), substantially in the form attached to this Agreement as Exhibit “B”.

**ARTICLE VI**  
**OPERATIONS AND RISK OF LOSS**

6.1 **Ongoing Operations.** From the Effective Date through Closing Seller shall diligently pursue completion of the Project.

**ARTICLE VII**  
**CLOSING**



7.1 **Closing**. The consummation of the transaction contemplated herein (“Closing”) shall occur on the Closing Date at the offices of Seller’s attorney (or such other location as may be mutually agreed upon by Seller and Buyer). Closing may also be accomplished by mail or hand delivery of documents pursuant to procedures agreed to among the parties prior to the Closing Date.

7.2 **Conditions to Parties’ Obligation to Close**. In addition to all other conditions set forth herein, the obligation of Seller, on the one hand, and Buyer, on the other hand, to consummate the contemplated transactions are conditioned upon the following:

7.2.1 **Representations and Warranties**. The other party’s representations and warranties contained herein shall be true and correct in all material respects as of the date of this Agreement and the Closing Date;

7.2.2 **Deliveries**. As of the Closing Date, the other party shall have tendered all deliveries to be made at Closing; and

7.2.3 **Vertical Subdivision Agreement**. Recording of the Vertical Subdivision Agreement.

7.2.4 **Requirements**. Achievement of any requirements of any mortgagee or equity provider of the Project as required on the construction financing closing documents.

7.2.5 **CO**. Receipt of the Final Certificate of Occupancy of the Parking Garage.

7.3 **Seller’s Deliveries**. As of or prior to the Closing Date, Seller shall deliver to Buyer the following:

7.3.1 **Deed**. The Deed;

7.3.2 **Owner’s and FIRPTA Affidavit**. An affidavit containing (i) such certifications as are reasonable and customary to delete the standard exceptions in the Title Insurance Commitment and (ii) the certifications required by Foreign Investment in Real Property Tax Act in a form reasonably acceptable to the Title Company (as defined below);

7.3.3 **Authority**. Evidence of the existence, organization and authority of Seller and of the authority of the persons executing documents on behalf of Seller reasonably satisfactory to the underwriter for; and

7.3.4 **Additional Documents**. Any additional documents that the title company issuing the Title Insurance Commitment and Title Insurance Policy (“Title Company”) may reasonably require for the proper consummation of the transaction contemplated by this Agreement (provided, however, no such additional document shall expand any obligation, covenant, representation or warranty of Seller or result in any new or additional obligation, covenant, representation or warranty of Seller under this Agreement beyond those expressly set forth in this Agreement).

7.4 **Buyer’s Deliveries**. As of or prior to the Closing Date, Buyer execute and deliver to Seller the following:

7.4.1 Additional Documents. Any additional documents that Seller or the Title Company may reasonably require for the proper consummation of the transaction contemplated by this Agreement (provided, however, no such additional document shall expand any obligation, covenant, representation or warranty of Buyer or result in any new or additional obligation, covenant, representation or warranty of Buyer under this Agreement beyond those expressly set forth in this Agreement);

7.5 Possession. Seller shall deliver possession of the Public Parking Parcel to Buyer at the Closing subject only to the Permitted Exceptions.

## **ARTICLE VIII PRORATIONS, DEPOSITS, NO BROKERS**

8.1 Prorations. There shall be no pro-ration of real estate taxes or other expenses of the Public Parking Parcel.

8.2 Closing Costs. Closing costs shall be allocated between Seller and Buyer in accordance with Section 1.2.

8.3 No Brokers. Seller and Buyer each represent and warrant to the other that no real estate brokerage commission is payable to any person or entity in connection with the transaction contemplated hereby, and each of Seller and Buyer agrees to and does indemnify and hold the other harmless against the payment of any commission to any other person or entity claiming by, through or under Seller or Buyer, as applicable. This indemnification shall extend to any and all claims, liabilities, costs and expenses (including reasonable attorneys' fees and litigation costs) arising as a result of such claims and shall survive the Closing.

## **ARTICLE IX REPRESENTATIONS AND WARRANTIES**

9.1 Seller's Representations and Warranties. Seller represents and warrants to Buyer that:

9.1.1 Organization and Authority. Seller has been duly organized, is validly existing, and is in good standing in the State of Florida. This Agreement has been, and all of the documents to be delivered by Seller at the Closing will be, authorized and executed and constitute, or will constitute, as appropriate, the valid and binding obligation of Seller, enforceable in accordance with their terms.

9.1.2 Conflicts and Pending Actions. To Seller's knowledge, Seller has complied with all applicable laws, ordinances, regulations, statutes, rules and restrictions affecting the Public Parking Parcel and the performance of this Agreement will not result in any breach of or constitute any default under any agreement to which Seller is a party or, to Seller's knowledge, that is binding on Seller which is in conflict with this Agreement. There is no action or proceeding pending or, to Seller's knowledge, threatened against Seller or relating to the Public Parking Parcel, which challenges or impairs Seller's ability to execute or perform its obligations under this Agreement.

9.2 Buyer's Representations and Warranties. Buyer represents and warrants to Seller that:

9.2.1 **Organization and Authority.** Buyer is a municipal corporation of the State of Florida. Buyer has the full right and authority and has obtained any and all consents required to enter into this Agreement and to consummate or cause to be consummated the transactions contemplated hereby. This Agreement has been, and all of the documents to be delivered by Buyer at the Closing will be, authorized and properly executed and constitute, or will constitute, as appropriate, the valid and binding obligation of Buyer, enforceable in accordance with their terms.

9.2.2 **Conflicts and Pending Action.** There is no agreement to which Buyer is a party or, to Buyer's knowledge is binding on Buyer, that is in conflict with this Agreement. There is no action or proceeding pending or, to Buyer's knowledge, threatened against Buyer which challenges or impairs Buyer's ability to execute or perform its obligations under this Agreement.

9.3 **Survival.** The representations and warranties set forth in this Article 9 shall not survive Closing.

## **ARTICLE X**

### **DEFAULT AND REMEDIES**

10.1 **Seller's Remedies.** If Buyer fails to perform its obligations pursuant to this Agreement, and specifically, without limitation, failure to timely fund any installment of the Purchase Price prior to Closing for any reason, or if prior to Closing any one or more of Buyer's representations or warranties are breached in any material respect, Seller shall be entitled to any and all remedies at law or equity, specifically including a cause of action for specific performance against Buyer, compelling payment of the Purchase Price by Buyer to Seller. Further, Buyer waives any and all defenses of sovereign immunity in any such action seeking enforcement of this Agreement or any other remedy for Buyer's breach or default under this Agreement. Buyer agrees and acknowledges that Seller has specifically relied on Buyer entering into this Agreement and agreeing to pay each installment of the Purchase Price on a timely basis in its economic and business plans for development of the Project. But for Buyer entering into this Agreement and agreeing to pay each installment of the Purchase Price on a timely basis, Seller would not have undertaken the development of the Project and Seller in detrimentally relying on Buyer's timely performance under this Agreement as a material inducement to undertaking the Project.

10.2 **Buyer's Remedies.** If Seller fails to perform or comply with any of the covenants, agreements, terms, representations or warranties set forth in this Agreement to be performed or complied with by Seller, Seller shall be in default hereunder and Buyer shall be entitled to enforce this Agreement against Seller by specific performance. The preceding shall be Buyer's sole remedy in the event of default by Seller. Buyer shall have a right to seek specific performance of Seller's obligations only if Buyer complies with the following preconditions ("Specific Performance Preconditions"):

(i) Buyer delivers written notice to Seller of Buyer's intent to file a cause of action for specific performance against Seller ("Suit Notice") on or before 30 days following the earlier of (x) Seller's receipt of written notice from Buyer that Seller has failed to perform as required under this Agreement ("Default Notice"), or (y) the scheduled Closing Date;

(ii) If Buyer has timely given a Suit Notice to Seller, Buyer files a lawsuit asserting a claim or cause of action for specific performance against Seller in the county

in which the Property is located within 90 days following the date on which Seller has delivered a Default Notice to Buyer or the scheduled Closing Date, as applicable; and

(iii) If Buyer fails to timely comply with any of the Specific Performance Preconditions set forth above, Buyer shall irrevocably waive and release Buyer's right of specific performance. Buyer acknowledges that the provisions of this Section 10.2 are a specific inducement to Seller entering into this Agreement with Buyer and, but for the inclusion of the Specific Performance Preconditions, Seller would not have otherwise entered into this Agreement and agreed to sell the Property to Buyer. Notwithstanding the foregoing, should Seller convey the Property or any portion of the Property to a third party in violation of the terms of this Agreement, thereby defeating Buyer's remedy of specific performance or if specific performance is otherwise unavailable as a remedy (not for reasons related to Buyer's actions), Buyer shall have all remedies available at law or in equity relating to such default by Seller.

## **ARTICLE XI** **MISCELLANEOUS**

11.1 **Parties Bound; Assignment.** This Agreement and the terms, covenants, and conditions herein contained, shall inure to the benefit of and be binding upon the heirs, personal representatives, successors, and assigns of each of the parties. Due to the nature of the relationship between Seller and Buyer and the context of the Project, Buyer shall not be permitted to assign its interests under this Agreement to any third party. The foregoing notwithstanding, Seller shall be permitted to collaterally assign its interests as "Seller" hereunder to any first mortgage lender encumbering Seller's interests under the Ground Lease.

11.2 **Headings.** The article, section, subsection, paragraph and/or other headings of this Agreement are for convenience only and in no way limit or enlarge the scope or meaning of the language hereof.

11.3 **Invalidity and Waiver.** If any portion of this Agreement is held invalid or inoperative, then so far as is reasonable and possible, the remainder of this Agreement shall be deemed valid and operative, and, to the greatest extent legally possible, effect shall be given to the intent manifested by the portion held invalid or inoperative. The failure by either party to enforce against the other any term or provision of this Agreement shall not be deemed to be a waiver of such party's right to enforce against the other party the same or any other such term or provision in the future.

11.4 **Governing Law; Venue.** This Agreement shall, in all respects, be governed, construed, applied, and enforced in accordance with the law of the state of Florida. Venue for any actions arising out of or in any way connected with this Agreement shall be Broward County, Florida.

11.5 **TIME IS OF THE ESSENCE.** TIME IS OF THE ESSENCE IN THE PERFORMANCE OF THIS AGREEMENT.

11.6 **Notices.** All notices required or permitted hereunder shall be in writing and shall be served on the parties at the addresses set forth in Section 1.3. Any such notices shall, unless otherwise provided herein, be given or served (i) by depositing the same in the United States mail,

postage paid, certified and addressed to the party to be notified, with return receipt requested, (ii) by overnight delivery using a nationally recognized overnight courier, (iii) by personal delivery, or (iv) by email of a .pdf document containing such notice which must be received by the recipient not later than 5:00 pm Eastern Time. Notice deposited in the mail in the manner described above shall be effective on the third business day after such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified between the hours of 8:00 a.m. and 5:00 p.m. of any business day with delivery made after such hours to be deemed received the following business day. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until actual receipt of such notice. Copies of notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to give notice. Notices given by counsel to the Buyer shall be deemed given by Buyer and notices given by counsel to the Seller shall be deemed given by Seller. To the extent any leasehold mortgagee has provided written notice to Seller indicating contact information, copies of any and all notices under this Agreement shall be concurrently sent to such leasehold mortgagee. In the event that any such notice is a notice from Buyer of default or breach by Seller under this Agreement, then the holder of such leasehold mortgage shall have the right to effect a cure (to the extent reasonable and practicable) of the noticed default or breach, at such leasehold mortgagee's discretion.

11.7 **Construction.** The parties acknowledge that the parties and their counsel have reviewed this Agreement and agree that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party, shall not be employed in the interpretation of this Agreement of any exhibits or amendments hereto.

11.8 **Calculation of Time Periods.** Unless otherwise specified, in computing any period of time described herein (i) all references to "day" shall mean consecutive calendar (and not business) days and (ii) the day of the act or event after which the designated period of time begins to run is not to be included and the last day of the period so computed is to be included, unless such last day is a Saturday, Sunday or legal holiday for national banks in the location where the Property is located, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday, or legal holiday.

11.9 **Execution in Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, and all of such counterparts shall constitute one Agreement. To facilitate execution of this Agreement, the parties may execute and exchange by telephone facsimile counterparts or transmittal of .pdf files of the signature pages, provided that executed originals thereof are forwarded to the other party on the same day by any of the delivery methods set forth in Section 11.6 other than facsimile or e-mail of .pdf files.

11.10 **No Recordation.** There shall be no recordation of either this Agreement or any memorandum or any affidavit pertaining hereto, and any such recordation of this Agreement or memorandum or affidavit by Buyer shall constitute a default by Buyer, whereupon Seller shall have the remedies set forth in Section 10.1.

11.11 **Further Assurances.** In addition to the acts and deeds recited herein and contemplated to be performed, executed and/or delivered by either party at Closing, each party agrees to perform, execute and deliver, but without any obligation to incur any additional liability or expense, on or after the Closing any further deliveries and assurances as may be reasonably

necessary to consummate the transactions contemplated hereby or to further perfect the conveyance, transfer and assignment of the Property to Buyer.

11.12 **Discharge of Obligations.** The acceptance of the Deed by Buyer shall be deemed to be a full performance and discharge of every representation and warranty made by Seller and every agreement and obligation on the part of Seller to be performed pursuant to the provisions of this Agreement, except those which are specifically stated to survive Closing.

11.13 **No Third Party Beneficiary.** The provisions of this Agreement and of the documents to be executed and delivered at Closing are and will be for the benefit of Seller and Buyer only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Agreement or of the documents to be executed and delivered at Closing. The foregoing notwithstanding, any leasehold mortgagee holding a collateral assignment of this Agreement shall be entitled to enforce such collateral assignment according to the terms thereof.

11.14 **Radon Gas.** RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY PUBLIC HEALTH UNIT.

11.15 **Attorneys' Fees, Costs and Expenses.** In any action or proceeding arising out of this Agreement, the prevailing party in such action or proceeding, shall be entitled to recover from the other party the reasonable attorneys' fees, including one or more appeals, court costs, filing fees, publication costs and other expenses.

11.16 **WAIVER OF JURY TRIAL.** EACH OF SELLER AND BUYER WAIVE TRIAL BY JURY IN ANY ACTION ARISING OUT OF, OR IN ANYWAY CONNECTED WITH, THIS AGREEMENT.

11.17 **Entirety and Amendments.** This Agreement embodies the entire agreement between the parties and supersedes all prior agreements and understandings relating to the Public Parking Parcel. This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

[SIGNATURE PAGES AND EXHIBITS TO FOLLOW]

**SIGNATURE PAGE TO AGREEMENT OF  
PURCHASE AND SALE**

**BY AND BETWEEN**

**UNIVERSITY STATION I, LLC, a Florida limited liability company  
as Seller**

**and**

**CITY OF HOLLYWOOD, FLORIDA, a Florida municipal corporation  
as Buyer**

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year written below.

**SELLER:**

**UNIVERSITY STATION I, LLC, a Florida  
limited liability company**

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

  
Matthew Rieger, Manager

Date of Execution: \_\_\_\_\_

5/18/2023

**SIGNATURE PAGE TO AGREEMENT OF  
PURCHASE AND SALE**

**BY AND BETWEEN**

**UNIVERSITY STATION I, LLC, a Florida limited liability company  
as Seller**

**and**

**CITY OF HOLLYWOOD, FLORIDA, a Florida municipal corporation  
as Buyer**

ATTEST:

  
\_\_\_\_\_  
PATRICIA A. CERNY, MMC  
CITY CLERK

APPROVED AS TO FORM:

  
\_\_\_\_\_  
DOUGLAS R. GONZALES  
CITY ATTORNEYS

**BUYER:**

CITY OF HOLLYWOOD, FLORIDA, a  
municipal corporation organized an existing  
under the laws of the State of Florida

By:   
\_\_\_\_\_  
George R. Keller, Jr., CPPT  
City Manager

Date of Execution: 5/18/2023



**EXHIBIT A-1**

LEGAL DESCRIPTION OF REAL PROPERTY  
CITY FEE PROPERTY

Parcels A, B and C, UNIVERSITY STATION, according to the Plat thereof, recorded in Plat Book 183, Page 610, of the Public Records of Broward County, Florida

**EXHIBIT A-2**

LEGAL DESCRIPTION OF REAL PROPERTY  
PARCEL C PROPERTY

Parcel C, UNIVERSITY STATION, according to the Plat thereof, recorded in Plat Book 183, Page 610, of the Public Records of Broward County, Florida

**EXHIBIT B**

**LEASEHOLD INTEREST DEED**

Prepared by:  
Richard E. Deutch, Jr., Esq.  
Stearns Weaver Miller  
Weissler Alhadeff & Sitterson, P.A.  
150 W. Flagler Street, Suite 2200  
Miami, Florida 33130

### WARRANTY LEASEHOLD ESTATE DEED

THIS INDENTURE made this \_\_\_\_\_, 20\_\_\_\_ by and between

**UNIVERSITY STATION I, LLC, a Florida limited liability company,**  
whose address is: 3225 Aviation Avenue, 6<sup>th</sup> Floor, Coconut Grove, FL 33133 (“Grantor”), and

**CITY OF HOLLYWOOD, FLORIDA, a Florida municipal corporation,**  
whose address is: 2600 Hollywood Boulevard, Room 203, Hollywood, FL 33020 (“Grantee”):

(Wherever used herein the terms “grantor” and “grantee” include all the parties to this instrument and their successors and assigns.)

**WITNESSETH:** That the Grantor, for and in consideration of the sum of \$10.00 and other valuable consideration, receipt of which is acknowledged, by these presents does sell, convey and assign unto the Grantee all that certain Leasehold Estate in and to the following described real property situated in Broward County, Florida, viz:

SEE ATTACHED EXHIBIT “A”

Parcel ID Number: \_\_\_\_\_

**SUBJECT TO** covenants, restrictions, easements of record without reimposing same herein, and taxes for the current year and that certain Amended & Restated Ground Lease Agreement by and between Grantee, as Landlord and Grantor, as Tenant, as evidenced by that certain Memorandum of Lease, recorded in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Broward County, Florida.

**TO HAVE AND TO HOLD** the same throughout the remainder of the term thereof.

**AND** the Grantor covenants with said Grantee that it is the lawful owner of the Leasehold Estate; that it has good, right and lawful authority to sell and assign same; that it fully warrants the Leasehold title to the estate, subject to the terms thereof, and will defend the same against the lawful claims of all persons whomsoever; that said estate was created pursuant to that certain Vertical Subdivision Declaration For University Station Parking Garage, as further set forth in the below Exhibit A.

IN WITNESS WHEREOF, Grantor has caused these presents to be signed in its name by its proper officers, the day and year first above written.

[remainder of this page is intentionally left blank]

[signatures appear on the following page]

(SIGNATURE PAGE TO WARRANTY LEASEHOLD ESTATE DEED)

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

UNIVERSITY STATION I, LLC  
a Florida limited liability company

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

By: \_\_\_\_\_  
Matthew Rieger, Manager

STATE OF FLORIDA )

COUNTY OF MIAMI-DADE ) ss

**The Foregoing Instrument Was Acknowledged** before me by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by Matthew Rieger, as Manager of University Station I, LLC, a Florida limited liability company, on behalf of the companies, who  is personally known OR  Produced a valid driver's license as identification.

My commission expires:

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Printed Name of Notary Public

EXHIBIT "A"  
LEGAL DESCRIPTION

That                      certain                      parcel                      composed                      of

---

\_\_\_\_\_ in accordance with, and subject to the covenants, conditions, restrictions, easements, terms and other provisions of the VERTICAL SUBDIVISION DECLARATION FOR UNIVERSITY STATION PARKING GARAGE, as recorded in Official Records Book \_\_\_\_\_, Page \_\_\_\_\_, of the Public Records of Broward County, Florida.

**EXHIBIT C**

**VERTICAL SUBDIVISION DECLARATION**



**PREPARED BY AND RETURN TO:**

Christian F. O’Ryan, Esq.  
Stearns Weaver Miller Weissler  
Alhadeff & Sitterson, P.A.  
401 East Jackson Street, Suite 2100  
Tampa, Florida 33602

**VERTICAL SUBDIVISION DECLARATION  
FOR  
UNIVERSITY STATION PARKING GARAGE**

TABLE OF CONTENTS

1.	Definitions and Interpretation. ....	1
2.	Property Subject to this Declaration; Additions Thereto. ....	9
3.	General Rights and Easements in the Project. ....	10
4.	Additional Easement Rights and Easements. ....	14
5.	Alterations and Improvements. ....	16
6.	Maintenance of Parcels and Other Facilities. ....	17
7.	Certain Use Restrictions. ....	20
8.	Compliance and Enforcement. ....	23
9.	Mortgagee Protection. ....	23
10.	Insurance on Shared Facilities and Parcels. ....	24
11.	Reconstruction or Repair of Shared Facilities. ....	28
12.	Condemnation. ....	29
13.	Property Taxes. ....	30
14.	Provisions Regarding Shared Facilities Costs. ....	32
15.	General Provisions. ....	37
16.	Disclaimer of Liability. ....	40

**Exhibits:**

- Exhibit 1 – Legal Description of the Garage Property
- Exhibit 2 – Legal Description of Public Parking Parcel
- Exhibit 3 – Legal Description of Residential Parking Parcel
- Exhibit 4 – Graphic Depiction of Shared Facilities
- Exhibit 5 – Legal Description of Adjacent Residential Property

**VERTICAL SUBDIVISION DECLARATION  
FOR  
UNIVERSITY STATION PARKING GARAGE**

THIS VERTICAL SUBDIVISION DECLARATION FOR UNIVERSITY STATION PARKING GARAGE ("**Declaration**") is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by UNIVERSITY STATION I, LLC, a Florida limited liability company ("**Declarant**"), joined by the CITY OF HOLLYWOOD, FLORIDA, a Florida municipal corporation ("**City**").

RECITALS

- A. Pursuant to that certain Amended and Restated Ground Lease entered into as of \_\_\_\_\_ between the Declarant, as lessee, and the City, as lessor, as may be modified, amended, restated, extended and/or replaced ("**Ground Lease**"), Declarant holds a leasehold interest in that certain real property located in the City, Broward County, Florida, as legally described therein and of which a portion of the land subject to that Ground Lease is legally described on the attached **Exhibit 1** ("**Garage Property**"). The Garage Property does not include the Adjacent Residential Property (as defined herein).
- B. The Declarant and the City desire to subject the Garage Property to the covenants, conditions, restrictions, easements, charges and liens contained in this Declaration.
- C. This Declaration is a covenant running with the Garage Property, and each present and future Owner of interests therein and their heirs, successors and assigns are subject to this Declaration.

NOW, THEREFORE, in consideration of the premises and mutual covenants contained in this Declaration, the Declarant and the City declare that the Garage Property is to be held, transferred, sold, conveyed, used and occupied subject to the covenants, conditions, restrictions, easements, reservations, regulations, charges and liens hereinafter set forth.

1. Definitions and Interpretation.

1.1 Definitions. The following words when used in this Declaration shall have the following meanings unless prohibited by context:

"**Adjacent Residential Property**" means the parcels and property described as a portion of the "Leased Premises" pursuant to the Ground Lease which are adjacent to, but are not part of, the Garage Property described in the attached **Exhibit 1**. The "Adjacent Residential Property" is legally described on the attached **Exhibit 5**. The Adjacent Residential Property is initially expected to be used by the Declarant for the development of two multi-story buildings for residential and commercial uses.

"**Allocated Interests**" shall have the meaning given in Section 14.4.

"**Assessments**" means the various forms of payment to the Declarant (as defined herein) that are required to be made by Owners (as defined herein), as more particularly described in Section 14 of this Declaration.

"**City**" means the City of Hollywood, Broward County, Florida.

"**County**" means Broward County, Florida.

"**Declarant**" means UNIVERSITY STATION I, LLC, a Florida limited liability company, its successors and such of its assigns as to which the rights of Declarant are specifically assigned in writing (including, without limitation, any successor lessee under any replacement of the Ground

Lease). The Declarant is the current Shared Facilities Manager (as defined herein). The Declarant is the "Owner" of the Residential Parking Parcel. Upon Declarant's conveyance of its interest in the Residential Parking Parcel to any person or entity, all rights and status as "Declarant" and "Owner" of the Residential Parking Parcel under this Declaration shall automatically transfer to such grantee. Notwithstanding the foregoing, the Declarant may delegate a portion of its rights or duties to any other person or entity (including without limitation the Shared Facilities Manager or any of its agents or contractors), and in the event of any such delegation, the delegate shall not be deemed the Declarant, but may exercise and perform such rights and/or duties of Declarant as are specifically delegated to it, with all other Declarant rights and all undelegated non-exclusive Declarant obligations remaining with the Declarant, unless expressly provided to the contrary. Notwithstanding anything herein contained to the contrary, any and all releases, waivers and/or indemnifications of Declarant or the "Owner" of the Residential Parking Parcel set forth in, or arising from, this Declaration, shall be deemed to be releases, waivers and/or indemnifications, as applicable, of any and all parties holding the rights and/or status of Declarant and the Owner of the Residential Parking Parcel, and its affiliates, agents, members, managers, and their successors and assigns. Notwithstanding anything herein contained to the contrary, upon any assignment of Declarant's interest in the Ground Lease to successors and/or assigns, and/or any replacement ground lease entered into by the record title owner of the Land, which ground lease allows for the continuation of this Declaration, all rights and status as "Declarant" under this Declaration shall automatically transfer to such lessee under the Ground Lease, including any replacement thereof.

**"Declarant's Mortgagee"** collectively means THE BANK OF NEW YORK MELLON TRUST COMPANY, N.A., in its capacity as Fiscal Agent and assignee of Florida Housing Finance Corporation, and FLORIDA HOUSING FINANCE CORPORATION and its successor and assigns, and Broward County, City of Hollywood and/or any other any lender and/or mortgagee having a mortgage upon any portion of the Project at the time of the recordation of this Declaration, for as long as such lender holds a mortgage or mortgages on any Parcel or other portion of the Project, or any other lender holding a mortgage on Declarant's interest in the Residential Parking Parcel, and thereafter such mortgagee or mortgagees as Declarant shall, from time to time, designate by notice to each Owner as being "Declarant's Mortgagee." There may be more than one Declarant's Mortgagee at any time.

**"Declaration"** means this instrument and all exhibits attached hereto, as same may be amended from time to time.

**"Default Rate"** means the lesser of (i) 18% per annum, (ii) the maximum rate allowed by applicable Legal Requirements; or (iii) the greater of: (a) the then current BSBY published from time to time by Bloomberg Index Services Limited; or (b) such financial institution's (as the Declarant may designate) designated "prime rate" (or comparable) lending rate, plus 10% per annum.

**"Development Approvals"** means all governmental or quasi-governmental authorizations, approvals, orders, entitlements, variances, waivers, allocations, entitlements, variances, waivers, allocations, permits, licenses, and agreements; water, sewer, or other utility rights, capacity and connections (and/or their equivalents); impact fee credits; and/or other rights of any kind or nature relating to the development of the Project or any portion thereof.

**"Driveways"** means the surface of all vehicular drives, drive aisles, parking driveways, ramps, and other driving facilities used to provide vehicular ingress and egress throughout the Project, including all driveways used for vehicular access to parking spaces within the Project. Notwithstanding anything contained herein to the contrary, each Owner shall be responsible for the routine (non-structural) maintenance, cleaning, repair and upkeep of the surface of the Driveways in their Parcel, including without limitation aesthetic maintenance, pressure washing (as needed) and non-structural repair of any concrete or paved surfaces of the Driveways located within such Owner's Parcel.

**“Electric Vehicle Charging Station”** or **“EVCS”** means a station that is designed in compliance with applicable federal, state and local building codes and delivers electricity from a source outside an electric vehicle into one or more electric vehicles. An EVCS includes any related equipment needed to facilitate charging plug-in electric vehicles.

**“Facilities Records”** shall have the meaning given in Section 14.10.

**“Governmental Authority”** means the United States of America, the State of Florida, the County, the City, any political subdivision thereof and any agency, department, commission, board, bureau, official or instrumentality of any of the foregoing, or any quasi-governmental authority, now existing or hereafter created, and any successor to any of the foregoing, having jurisdiction over the Project or any portion thereof.

**“Insured Property”** shall have the meaning given in Section 10.3.

**“Legal Requirements”** means any law (including without limitation any laws relating to hazardous materials or substances), enactment, statute, code, ordinance, administrative order, charter, comprehensive plan, tariff, resolution, rule, regulation (including land development regulations), guideline, judgment, decree, writ, injunction, franchise, permit, certificate, license, authorization, or other direction, approval or requirement of any Governmental Authority, now existing or hereafter enacted, adopted, promulgated, entered, or issued.

**“Limited Shared Facility”** means any portion of the Project that qualifies as a part of the “Shared Facilities” as defined herein, but is intended for the exclusive use of only one Parcel and the Owner of such benefitted Parcel and its Permitted Users, to the exclusion of the other Owner and other Owner’s Permitted Users. Together, every Limited Shared Facility within the Project is collectively referred to as the **“Limited Shared Facilities.”** Unless otherwise provided specifically to the contrary, reference to the Shared Facilities shall include the Limited Shared Facilities. The “Limited Shared Facilities” initially include:

- i. any portion of the Shared Stairways located within the Residential Parking Parcel (which are designated for the exclusive use of the Owner of the Residential Parking Parcel and its Permitted Users).

**“Losses”** means all actions, injury, claims, loss, liability, damages, costs, and expenses of any kind or nature whatsoever, including reasonable attorneys’ fees and costs incurred in arbitration, at trial and on appeal or as a result of a bankruptcy.

**“Master Life Safety Systems”** means any and all of the following (as applicable and if actually constructed or installed within the Project): emergency lighting, emergency generators, fire suppression equipment, monitoring stations, audio and visual signals, safety systems, sprinklers or smoke detection systems, internet or other interconnected information, WiFi or other communications systems, and any housing areas of same. All such Master Life Safety Systems, together with all conduits, wiring, electrical connections and related systems, regardless of where located, shall be deemed part of the Shared Facilities. Without limiting the generality of the foregoing, when the context shall so allow, the Master Life Safety Systems shall also be deemed to include all means of emergency ingress and egress, which shall include all Shared Stairways (as defined herein). The Declarant is the sole judge any Master Life Safety Systems constructed in the Project, but the Declarant shall have the right, but not the obligation, to contract for the installation of additional Master Life Safety Systems for the Project. NOTWITHSTANDING ANY OTHER PROVISION IN THIS DECLARATION TO THE CONTRARY, THE DECLARANT NEITHER COMMITS TO, NOR SHALL BE OBLIGATED TO, CONSTRUCT ANY MASTER LIFE SAFETY SYSTEMS WITHIN THE PROJECT, EXCEPT AS MAY BE REQUIRED BY ANY GOVERNMENTAL AUTHORITY. THE DECLARANT SHALL NOT BE HELD LIABLE FOR ANY LOSS OR DAMAGE BY REASON OR FAILURE TO PROVIDE ADEQUATE MASTER LIFE SAFETY SYSTEMS OR INEFFECTIVENESS OF MASTER LIFE SAFETY SYSTEMS. EACH

OWNER AND ANY PERMITTED USER OR OTHER INDIVIDUAL ENTERING INTO OR USING ANY PORTION OF THE PROJECT ACKNOWLEDGES DECLARANT, ANY SHARED FACILITIES MANAGER, AND THEIR EMPLOYEES, AGENTS, MANAGERS, DIRECTORS, AND OFFICERS, ARE NOT INSURERS OF INDIVIDUALS, VEHICLES, OR ANY PERSONS OR PROPERTY LOCATED WITHIN THE PROJECT. THE DECLARANT, ANY SHARED FACILITIES MANAGER, AND THEIR EMPLOYEES, AGENTS, MANAGERS, DIRECTORS, AND OFFICERS, WILL NOT BE RESPONSIBLE OR LIABLE FOR LOSSES, INJURIES, OR DEATHS RESULTING FROM ANY USE OF THE PROJECT.

**“Master Metered Utility Usage Costs”** means the costs of all consumption charges, usage fees, and other charges for utilities and utility usage within the Project, including electrical utility consumption for lighting and power and including the utility usage costs for any Electrical Consuming Device (as defined herein). The Master Metered Utility Usage Costs shall be part of the Shared Facilities Costs (as defined herein), subject to Section 14.

**“Mechanical Room”** means any machinery and/or equipment room now or hereafter located within the Project, including but not limited to any electrical room or room designed specifically for housing equipment and designated as a “Mechanical Room” by the Declarant. This definition of “Mechanical Room” includes all equipment, components, machinery, mechanical systems, and related items located therein.

**“Mortgage”** shall have the meaning given to it in Section 9.1.1.

**“Owner”** or **“Parcel Owner”** means the record owner, whether one or more persons or entities, of the leasehold interest in a Parcel created by virtue of this Declaration, subject to the Ground Lease. In any instances in the Declaration where the Owner makes, waives, releases and/or agrees to indemnify any other party, such waivers, releases, agreements and indemnification shall be deemed to be made by both the Owner and such Owner’s applicable Permitted Users. For purposes of this Declaration, the Declarant shall be deemed the “Owner” of the Residential Parking Parcel.

**“Parcel”** means a portion of the Project that is designated as such in this Declaration or in an amendment to this Declaration. The Project is intended to include two Parcels, each as further described herein. This Declaration may be amended to modify, subdivide, or combine Parcels, Parcel boundaries, and their respective legal descriptions. Notwithstanding anything herein contained to the contrary, the name of each Parcel is assigned only for convenience of reference, and is not intended, nor shall it be deemed to limit or otherwise restrict the permitted uses thereof.

**“Permitted User”** means any person who uses or occupies any parking space within a Parcel, or any other portion of a Parcel with the permission of the Parcel Owner, including without limitation any Tenant (as defined herein), and such Parcel Owner’s guests, licensees, employees, customers, contractors, business invitees, and personal invitees. With respect to the Public Parking Parcel (as defined herein), the “Permitted Users” shall include any member of the public who utilizes any parking space within the Public Parking Parcel pursuant to the terms and conditions required by the Public Parking Parcel Owner (as defined herein), including without limitation the payment of any parking fees. The rights of Permitted Users are limited in scope by the terms and conditions of this Declaration and any conditions established by the Parcel Owner.

**“Project”** or **“Parking Garage”** means the Garage Property described in the attached **Exhibit 1** and all buildings and improvements constructed on the Garage Property.

**“Project Encumbrances”** means (i) the Ground Lease, (ii) any covenants, conditions, restrictions, easements, agreements, instruments, and other encumbrances that now or hereafter encumber the Garage Property, and (iii) the Development Approvals.

**“Project Plans”** means collectively, the attached **Exhibit 4**, together with the full size plans prepared by Corwil Architects that graphically depict the Shared Facilities, which plans are maintained by Declarant, as same may be revised, modified, supplemented and replaced from time to time (including any modifications to reflect material changes based on as-built plans).

**“Project Standard”** means the standard required to maintain and operate the Project in a condition and a quality level no less than that which existed at the time that the initial design and construction of the Parking Garage was completed (ordinary wear and tear excepted) and any exterior landscaping was installed within the Project.

**“Public Parking Facilities”** means such improvements and facilities within the Public Parking Parcel or other portions of the Project (if and as applicable) that are intended for the exclusive use or benefit of the Public Parking Parcel Owner and its Permitted Users, to the exclusion of others. The “Public Parking Facilities” include the following as and to the extent same exist from time to time, and as modified, altered or replaced from time to time:

- i. any public parking meters, “pay to park” meters or related signage (including any “pay by phone” signage) that are associated with the use of the Public Parking Parcel;
- ii. any access control systems, or other security features within the Public Parking Parcel and/or that are exclusively associated with the use of the Public Parking Parcel;
- iii. all Driveways within the Public Parking Parcel (notwithstanding the easements expressly granted over such Driveways in Section 4.3 below);
- iv. any “public parking” signage, directional signage, towing signage, handicap parking signage, signage identifying the Public Parking Parcel or other related signage installed within the Public Parking Parcel and/or any other signage within the Project that is exclusively associated with the use of the Public Parking Parcel;
- v. any elevator lobbies within the Public Parking Parcel that are not depicted as “Shared Facilities” on the Project Plans (if any);
- vi. any EVCS or any other Electric Consuming Devices installed within the Public Parking Parcel;
- vii. any and all lighting (including light bulbs, fixtures and related lighting systems and facilities) located within the Public Parking Parcel (including without limitation lighting in the elevator lobbies or any portion of the Shared Stairways within the Public Parking Parcel) but excluding any conduits, pipes, ducts, transformers, cables, and other apparatus used in the delivery of the electrical services or lighting to any other Parcel or the Project as a whole;
- viii. any and all and all trash bins, trash collection and/or disposal systems exclusively serving the Public Parking Parcel (including without limitation any trash bins located in the elevator lobbies within the Public Parking Parcel); and
- ix. any bicycle storage areas and/or bike racks within the Public Parking Parcel.

In the event of any doubt as to whether any portion of the Project is part of the Public Parking Facilities, a written determination by the Declarant notifying all Owners shall be dispositive and binding on all Parcel Owners absent manifest error or any Owner’s written objection within 10 business days of notice receipt. No portion of the Public Parking Facilities shall be Shared Facilities.

**“Public Parking Parcel”** means the Parcel that is legally described and/or depicted on the attached **Exhibit 2**. The Public Parking Parcel is intended to consist of 365 parking spaces and related facilities serving or facilitating parking within the parking spaces. Portions of the Shared Facilities will be located within the Public Parking Parcel.

**“Public Parking Parcel Owner”** means the Owner, from time to time, of the Public Parking Parcel.

**“Public Records”** shall mean the official records and/or public records of Broward County, Florida.

**“Residential Parking Facilities”** means such improvements and facilities within the Residential Parking Parcel or other portions of the Project (if and as applicable) that are intended for the exclusive use or benefit of the Residential Parking Parcel Owner and its Permitted Users, to the exclusion of others. The “Residential Parking Facilities” include the following, as and to the extent same exist from time to time, and as modified, altered or replaced from time to time:

- i. any access control systems, robotic-arm guard gate(s) within the Residential Parking Parcel and/or that are exclusively associated with the use of the Residential Parking Parcel;
- ii. all Driveways located within the Residential Parking Parcel;
- iii. any and all elevator lobbies within the Residential Parking Parcel that are not depicted as “Shared Facilities” on the Project Plans;
- iv. any signage identifying the Residential Parking Parcel, directional signage, towing signage, handicap parking signage or other related signage installed within the Residential Parking Parcel and/or any other signage within the Project that is exclusively associated with the use of the Residential Parking Parcel;
- v. any EVCS or any other Electric Consuming Devices installed within the Residential Parking Parcel ;
- vi. any and all lighting (including light bulbs, fixtures and related lighting systems and facilities) located within the Residential Parking Parcel (including without limitation lighting in the elevator lobbies or any portion of the Shared Stairways within the Residential Parking Parcel) but excluding any conduits, pipes, ducts, transformers, cables, and other apparatus used in the delivery of the electrical services or lighting to any other Parcel or the Project as a whole;
- vii. any and all and all trash bins, trash collection and/or disposal systems exclusively serving the Residential Parking Parcel (including without limitation any trash bins located in the elevator lobbies within the Residential Parking Parcel); and
- viii. any bicycle storage areas and/or bike racks within the Residential Parking Parcel.

In the event of any doubt as to whether any portion of the Project is part of the Residential Parking Facilities, a written determination by the Declarant notifying all Owners shall be dispositive and binding on all Parcel Owners absent manifest error or any Owner’s written objection within 10 business days of notice receipt. No portion of the Residential Parking Facilities shall be Shared Facilities.

**“Residential Parking Parcel”** means the Parcel that is legally described and/or depicted on the attached **Exhibit 3**. The Residential Parking Parcel is intended to consist of 270 parking

spaces and related facilities serving or facilitating parking within the parking spaces. Portions of the Shared Facilities will be located within the Residential Parking Parcel.

**“Residential Parking Parcel Owner”** means the Owner, from time to time, of the Residential Parking Parcel.

**“Shared Facilities”** means the shared components of the Project, whether by purpose, nature, intent or function, that afford benefits or impose burdens on all Parcels. Those shared components shall be identified as the “Shared Facilities,” which include, without limitation, the Garage Property and the following areas and/or facilities or improvements, as modified, supplemented or replaced from time to time, and as otherwise depicted as such on the Project Plans:

- i. all Shared Stairways;
- ii. all elevator lobbies depicted as “Shared Facilities” on the Project Plans, and all elevator shafts, elevator cabs, elevator cables and/or systems, and/or equipment used in the operation of the elevators within the Parking Garage;
- iii. any exterior common foyers, sidewalks, pedestrian paths, corridors and walkways depicted as “Shared Facilities” on the Project Plans;
- iv. any entry feature or roadway connection from the right-of-way to the building at any vehicular or pedestrian entrance to the Parking Garage (as distinguished from any entry feature or access control facility for any particular Parcel);
- v. any landscaping and streetscaping around and/or serving any exterior portion of the Parking Garage, including without limitation exterior plantings, trees, planters, public water sources, sculptures, irrigation systems, water conservation installations, benches or public seating;
- vi. any exterior lighting for the Parking Garage, including any lighting installations and lighting equipment serving adjacent streets and alleyways (if any);
- vii. any exterior façade and entranceway “eyebrow” signage, but expressly excluding any signage installed by the Public Parking Parcel Owner or Residential Parking Parcel Owner for the exclusive benefit of their respective Parcel;
- viii. all structural components of the Parking Garage, including without limitation any and all foundations, pilings, slabs, concrete blocks, load-bearing blocks and walls and structural columns, post tension cables and/or rods contained in any improvements, exterior walls and painting, cantilever structures, and all finishes and/or facades attached or affixed to the Parking Garage. **NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED HEREIN, POST TENSION CABLES AND/OR RODS CONTAINED WITHIN THE PROJECT SHALL BE CONSIDERED A PART OF THE SHARED FACILITIES. POST TENSION CABLES AND/OR RODS MAY NOT BE DISTURBED OR ALTERED WITHOUT THE PRIOR WRITTEN CONSENT OF THE DECLARANT;**
- ix. any Master Life Safety Systems;
- x. the SMS (as defined herein)
- xi. utility, mechanical, electrical, telecommunications, fire, plumbing and other systems located on the Garage Property and serving any Parcel (unless otherwise identified as part of the Public Parking Facilities or Residential Parking Facilities),



including without limitation all wires, conduits, pipes, ducts, transformers, and/or the delivery of the utility, mechanical, electrical and/or other services, and any Mechanical Rooms in which any of the foregoing are located;

- xii. all Mechanical Rooms, including without limitation, any electrical rooms;
- xiii. any and all ventilating systems, fans and/or air conditioning systems within the Project; and
- xiv. any management, security, or other similar areas and offices, wherever located within the Project, used by personnel providing services to the Shared Facilities or more than one Parcel.

All Shared Facilities shall be subject to such regulation and restrictions as may be imposed from time to time by the Declarant in accordance with the provisions of this Declaration. The Shared Facilities include all of the airspace located outside the exterior of the Parking Garage (except for the airspace immediately above the Residential Parking Parcel to allow vehicles to park on the top floor parking spaces within the Parking Garage). The Shared Facilities as initially anticipated are graphically depicted on the attached **Exhibit 4** and described in the Project Plans, as same may be amended and/or supplemented from time to time. Given the integrated nature and design of the improvements comprising the Parking Garage as a unified project, and notwithstanding the legal descriptions or graphic depictions contained in any exhibits, or the legal descriptions or graphic depictions of any Parcels added hereto or redrawn by any amendment to this Declaration, there is a necessity to share and/or unify responsibility for certain components of the Project.

Although the Shared Facilities generally serve all Parcels, the Shared Facilities may include certain areas and/or facilities that serve one Parcel exclusively. This may be the case due to a variety of reasons, including, *inter alia*, the significance of the area and/or facility in question due to the integrated nature of the Project from a safety or aesthetic perspective and/or economic or other efficiencies that may be achieved by including such areas in the Shared Facilities.

**“Shared Facilities Costs”** shall have the meaning given in Section 0.

**“Shared Facilities Manager”** means any person or entity designated in writing by the Declarant from time to time to manage the maintenance, repair and/or operation of the Shared Facilities and to perform the administrative responsibilities of the Declarant under this Declaration with respect to the Shared Facilities. In the event there is no written designation by Declarant of a third party as “Shared Facilities Manager,” all references to “Shared Facilities Manager” shall then mean and refer to the Declarant. Notwithstanding anything herein contained to the contrary, Declarant may not assign and delegate to the Shared Facilities Manager any disposition rights or obligations hereunder, including without limitation the right to impose extraordinary capital improvement contributions. Nevertheless, Declarant can delegate manager rights and responsibilities to Shared Facilities Manager, such as the right to levy and collect Assessments, maintenance of the Shared Facilities, or any other maintenance rights or obligations in connection with the responsibilities of Declarant. Any such delegation or assignment to Shared Facilities Manager may be made on an exclusive or nonexclusive basis, subject to any separate agreement between Declarant and such Shared Facilities Manager. Further, notwithstanding anything herein contained to the contrary, any and all releases, waivers and/or indemnifications of Shared Facilities Manager set forth in or arising from this Declaration, shall be deemed to be releases, waivers and/or indemnifications, as applicable, of Shared Facilities Manager and Declarant and its or their successors and assigns. Any such designation, appointment, assignment, or delegation of a Shared Facilities Manager as described in this definition shall in each case be subject to the prior written consent of Declarant’s Mortgagee.

**“Shared Stairways”** mean any stairwell, flight of steps, fire corridors, elevators, and/or escalators within the Project, and any and all electrical fixtures and lighting (including light bulbs,

fixtures and related lighting systems and facilities) located within or exclusively serving such stairwells, steps, fire corridors, elevators and/or escalators within the Project.

**“Stormwater Management System”** or **“SMS”** means a system which is designed and constructed or implemented to control discharges which are necessitated by rainfall events, such system incorporating a network of catch basins and conveying surface/stormwater into the aquifer through an exfiltration trench prior to discharging the excess runoff through a drainage well.

**“Tax”** or **“Taxes”** means all taxes and other governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against the Project, a Parcel, or any part thereof or any interest therein, including without limitation all general and special real estate taxes and assessments or taxes assessed specifically in whole or in part in substitution of such real estate taxes or assessments, by virtue of being situated within a business improvement district, or any taxes levied or a charge upon the rents, revenues or receipts therefrom that may be secured by a lien on the interest of an Owner therein, and all ad valorem taxes and non-ad valorem assessments lawfully assessed upon the Project or any Parcel.

**“Tax Value Percentage Share”** shall have the meaning given in Section 13.2.2.

**“Taxed Land”** shall have the meaning given in Section 13.2.

**“Tenant”** means any person who is legally entitled to the use and enjoyment of all or any portion of a Parcel by virtue of a lease, rental or tenancy agreement, exchange arrangement, concession agreement, or similar entitlement with or from any Parcel Owner. Tenant is included in the definition of Permitted User.

1.2 **Interpretation.** The provisions of this Declaration shall be interpreted by Declarant, absent any Owner’s written objection within 10 business days of receipt of notice of such interpretation. Any such interpretation of Declarant that is rendered in good faith shall be final, binding and conclusive. Notwithstanding any Legal Requirement to the contrary, the provisions of this Declaration shall be liberally construed so as to effectuate the purposes herein expressed with respect to the efficient operation of the Project; the preservation of the values of the Parcels and the Parking Garage; the protection of the Owners’ rights, benefits, and privileges; and the protection of Declarant’s rights, benefits, and privileges. As provided elsewhere in this Declaration, the Declarant’s duties and obligations under this Declaration shall be subject in all events to receipt of funds necessary to perform same (through Assessments or as otherwise provided herein), and neither the Declarant nor any Shared Facilities Manager (as applicable) shall have any personal obligation to fund any sums needed to perform such duties and obligations.

1.3 **Ground Lease.** By execution of its joinder to this Declaration, the City agrees that, notwithstanding anything contained herein to the contrary, in the event of termination of the Ground Lease, the Project shall remain subject to the Declaration. As further detailed in Section 15.1, the covenants and restrictions of this Declaration shall run with and bind the Land for the term of the Ground Lease and any renewals, replacements, extensions and/or modifications thereof (including any assignment of the Ground Lease to successors and/or assigns, and/or any replacement ground lease entered into by the record title owner of the Land, which ground lease allows for the continuation of this Declaration), after which time said covenants shall be automatically extended as provided in Section 15.1.

## 2. Property Subject to this Declaration; Additions.

2.1 **Legal Description.** The initial real property that is made subject to this Declaration is legally described on the attached **Exhibit 1**, all of which real property (and all improvements) is referred to collectively as the **“Garage Property”**, and together with improvements thereon referred to as the **“Project.”**

2.2 **Declarant’s Right to Modify Shared Facilities.**

2.2.1 Generally. Subject to Section 2.3 below, Declarant shall have the right (but not the obligation), by an amendment to this Declaration executed by Declarant (and joined in by Declarant's Mortgagee), to eliminate or supplement the Shared Facilities by removing or adding additional facilities or to designate any portions of the Parking Garage as Shared Facilities subject to the approval of the Owners. Notwithstanding the designation of the Shared Facilities, Declarant shall have the right, from time to time, to expand, alter, relocate, and/or eliminate the Shared Facilities, or any portion thereof, with the consent or approval of any Owner and Declarant's Mortgagee, which shall not be unreasonably conditioned, delayed, or denied.

2.2.2 Designation of Limited Shared Facilities. Without limiting the generality of the foregoing or the provisions of Section 2.4, but subject to the limitations of Section 2.3 below, Declarant may, from time to time, designate portions of the Shared Facilities as Limited Shared Facilities. Any such designation shall be made by an amendment to this Declaration executed only by Declarant, with the written consent or joinder of the Owners or mortgagees (except for the consent of Declarant's Mortgagee). The amendment to this Declaration shall designate the portion of the Shared Facilities to be designated as Limited Shared Facilities and the Parcels entitled to use of the designated Limited Shared Facilities.

2.3 Limitations on Amendments and Modifications. Notwithstanding the provisions of this Section 2, Declarant shall not remove, alter, relocate, re-designate, or subdivide any portion of the Project or the Shared Facilities to the extent that same will result in the denial to any Owner of legal pedestrian and/or vehicular access (direct or by easement) to and from the Owner's Parcel or shall result in the termination of any utility and/or mechanical, electrical and/or other systems located in and/or comprising the Shared Facilities and serving said Owner's Parcel, or shall compromise the structural integrity of the Parking Garage or otherwise impair the easements of support granted herein without otherwise providing reasonably equivalent substitutions for same. Furthermore, no removal, alteration, relocation, re-designation, subdivision, or supplement shall eliminate or affect, in a material manner, the number of usable parking spaces within a Parcel, without the consent or joinder of the Owner of the applicable Parcel and its mortgagee(s). The foregoing shall not, however, preclude the temporary cessation of services as reasonably necessary to effect repairs to any Shared Facilities.

2.4 Designation of Shared Facilities. Without limiting the generality of Section 1.2 above, in the event that Declarant determines, in its reasonable judgment, that a particular portion of the Project is or is not part of the Shared Facilities, such determination shall be provided in writing to all Owners. In the event of any doubt, conflict or dispute as to whether any portion of the Project is or is not part of the Shared Facilities under this Declaration, Declarant may, with the consent of any Owners and Declarant's Mortgagee, record in the Public Records, an amendment to this Declaration resolving such issue, and such amendment to this Declaration shall be dispositive and binding on all Owners absent manifest error.

2.5 Legal Description of Parcels. The legal descriptions and graphic depictions of the Parcels in this Declaration may be adjusted and/or modified, from time to time, whether to conform to any changes necessitated pursuant to the Project Encumbrances, to comport to the as-built structures, and/or to otherwise correct manifest errors. Notwithstanding anything contained herein to the contrary, the legal descriptions and graphic depictions of the affected Parcels shall be modified by an amendment to this Declaration executed by Declarant and the Owner(s) of the affected Parcels (if other than Declarant), and its or their mortgagees (without the consent of any unaffected Owners or mortgagees). All Owners, by acceptance of a deed (including any leasehold deed) or other conveyance of their Parcels, shall be deemed to have automatically consented to any such modification of the legal descriptions and graphic depictions for the purposes provided herein, and shall evidence such consent in writing if requested to do so by Declarant or the Owner of the affected Parcel at any time.

### 3. General Rights and Easements in the Project.

3.1 Rights and Easements in Shared Facilities. Subject to, and in accordance with, all of the other provisions of this Declaration, and except for the Limited Shared Facilities as herein specified, each Owner (including such Owner's Permitted Users), shall have limited rights to use, benefit from, and enjoy

the Shared Facilities (as same may exist from time to time) for their intended purposes, as reasonably determined by Declarant, in common with the other Owner (and its Permitted User), but in such manner as may be reasonably regulated by Declarant. As to any Limited Shared Facilities, the Owner entitled to use such Limited Shared Facility (and such Owner's Permitted Users) shall have limited rights to use, benefit from, and enjoy the applicable Limited Shared Facilities (as same may exist from time to time) for their intended purposes, but in such manner as may be reasonably regulated by Declarant. A non-exclusive easement is reserved (and declared and created) over, under and upon such portions of the Shared Facilities as may be designated, in writing, from time to time by Declarant for the use, benefit and enjoyment of any Shared Facilities that may be constructed thereon from time to time in favor of all Parcel Owners, including their Permitted Users.

3.2 City Grant of Easements. By execution of its joinder to this Declaration, the City agrees that, notwithstanding anything contained herein to the contrary, any easement granted pursuant to this Declaration shall be deemed granted, reserved and conveyed from the City as record title owner of the Garage Property. In the event of a termination of the Ground Lease prior to the expiration date, the Project shall remain subject to the Declaration, including all easements granted, reserved or conveyed herein. By execution of its joinder to this Declaration, the City agrees all references in this Declaration to any easement reserved by and/or to the Declarant shall be deemed easements approved, granted, reserved, joined, and conveyed by the City as record title owner of the Garage Property. Notwithstanding anything contained herein to the contrary, the intended creation of any easement provided for in this Declaration (including without limitation any easement provided for in Section 3 or Section 4 of this Declaration) shall be deemed granted and created by the City as record title owner of the Garage Property. Further notwithstanding anything contained herein to the contrary, should the intended creation of any easement provided for in this Declaration (including without limitation any easement provided for in Section 3 or Section 4 of this Declaration) fail by reason of the fact that the City is not the "Declarant" at the time of creation of such easements pursuant to this Declaration, or by reason of "merger" or similar reasons, the City, by execution of its joinder to this Declaration, agrees to execute any instrument as may hereafter be required or deemed necessary for the purpose of later creating such easement as it was intended to have been created herein. Any deed (including any leasehold deed) or similar instrument for conveyance of any portion of the Project or any interest therein shall be deemed to have included a specific grant or reservation of all such easements benefitting such portion of the Project for the purpose of allowing the original party to whom, or the original party to which, the easement was originally intended to have been granted the benefit of such easement. Formal language of grant or reservation from the City with respect to such easements, as appropriate, is incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

3.3 No Failure of Easements. Notwithstanding anything contained herein to the contrary, should the intended creation of any easement provided for in this Declaration (including without limitation any easement provided for in Section 3 or Section 4 of this Declaration) fail by reason of "merger" or reason of the fact that at the time of creation there may be no express grantee in being having the capacity to take and hold such easement or no separate ownership of the dominant and servient estates, then any such grant of easement deemed not to have been so created shall nevertheless be considered as having been granted directly to the Declarant and its affiliates, designees, agents and assigns, and/or the Shared Facilities Manager, as applicable, as agent for such intended grantee(s), or to be a "springing easement" for the purpose of allowing the original party to whom, or the original party to which, the easement was originally intended to have been granted the benefit of such easement. Any deed (including any leasehold deed) or similar instrument for conveyance of any portion of the Project or any interest therein shall be deemed to have included a specific grant or reservation of all such easements benefitting such portion of the Project for the purpose of allowing the original party to whom, or the original party to which, the easement was originally intended to have been granted the benefit of such easement. Formal language of grant or reservation with respect to such easements, as appropriate, is incorporated in the easement provisions hereof to the extent not so recited in some or all of such provisions.

3.4 Rights of Declarant. The rights of use and enjoyment and other easement rights with respect to the Shared Facilities granted herein are made subject to the following:

3.4.1 The right of Declarant to levy Assessments against each Parcel for the purpose of maintaining, operating, repairing, insuring, replacing, and/or altering the Shared Facilities and any facilities located thereon, as more particularly provided in this Declaration, including without limitation Section 14 below.

3.4.2 The right of Declarant to adopt at any time and from time to time and enforce rules and regulations governing the use of the Shared Facilities, as more particularly provided in Section 3.6 below. Any rule and/or regulation so adopted by Declarant shall apply until rescinded or modified as if originally set forth at length in this Declaration.

3.4.3 The right of Declarant and its designated assigns to engage third parties (such as contractors, suppliers, consultants, and other vendors) to perform and carry out the obligations under this Declaration (or in furtherance thereof) and/or any ongoing obligations under the Project Encumbrances, the cost of which shall be included in Shared Facilities Costs.

3.4.4 The right of Declarant and its designated assigns to have and use, general and specific easements over, under and through the Shared Facilities as necessary or desirable to exercise its rights or perform their obligations under this Declaration.

3.4.5 Any rights of any third party beneficiaries under the Project Encumbrances (if and as applicable).

3.4.6 The right to exclude individuals (including Permitted Users) from use of the Shared Facilities based upon misconduct of such individuals such as criminal activity, vandalism, loitering, soliciting, violating rules and regulations, loud or violent behavior, or lewd or lascivious conduct.

WITH RESPECT TO THE USE OF THE SHARED FACILITIES AND THE PROJECT GENERALLY, ALL PERSONS ARE REFERRED TO SECTION 16 BELOW, WHICH SHALL AT ALL TIMES APPLY THERETO.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, DECLARANT SHALL HAVE THE RIGHT TO DELEGATE ANY OF ITS RIGHTS AND OBLIGATIONS HEREUNDER TO SHARED FACILITIES MANAGER AND/OR ANY PARTY EMPLOYED OR ENGAGED BY SHARED FACILITIES MANAGER.

The easements granted herein shall be both "in gross" and personal to Declarant and its affiliates and agents, and also appurtenant to the Residential Parking Parcel and the Adjacent Residential Property, and the easements shall also run in favor of the contractors, subcontractors, suppliers, agents, employees and designees of Declarant.

3.5 Easements Appurtenant. The rights and easements provided in this Section 3 shall be appurtenant to and shall pass with the title to each Parcel benefitted thereby (and with title to the Adjacent Residential Property, which shall be deemed additional benefitted property with respect to any easements benefitting the Declarant and/or the Residential Parking Parcel), but shall not be deemed to grant or convey any ownership interest in the Parcel subject to such easement.

3.6 Rules and Regulations. Without limiting the generality of Section 3.4 above, Declarant shall have the right to establish, from time to time, reasonable rules and regulations regarding the easements granted herein and/or the use of the Shared Facilities and/or reasonable regulations governing use of a Parcel, including without limitation rules and regulations (i) governing exclusive use rights to a Parcel with respect to particular Limited Shared Facilities, (ii) regarding the access and usage of certain "non-standard" vehicles or other methods of transportation, and (iii) granting the right to temporarily close or reasonably restrict use of Shared Facilities, as Declarant may reasonably determine, for maintenance purposes, due to an emergency situation or event of *force majeure*, for security reasons or for any other purpose expressly permitted under this Declaration or otherwise. Such rules and regulations may be adopted and modified

by Declarant in its reasonable discretion (so long as such rules and regulations are not inconsistent with this Declaration) and need not be recorded in the in the Public Records. Written notice of any such rules and regulations adopted or otherwise modified by Declarant shall be sent to each Owner within 15 days after adoption of same, and a copy of all such rules and regulations applicable to the Project shall be available to each Owner for inspection upon written request to Declarant.

3.7 Signs and Installation of Signage. Declarant shall have the exclusive right to regulate and approve the placement, installation, alteration, and replacement of any signage (including without limitation monument signs, murals, digital displays, and other signage) within the Project, all as Declarant may deem necessary, desirable, or acceptable, from time to time, without requiring approval from any Owner (but subject to any separate agreement between such the City and Declarant, if any). All such signage shall be subject to and comply with all applicable Legal Requirements, the Project Standard, and any signage criteria for the Project as may be adopted from time to time Declarant. Any consideration paid or received for such signage located within a Parcel shall be the sole property of the applicable Parcel Owner. No Owner shall place or install any signage within another Owner's Parcel without the prior written consent of such other Owner. Once signage has been approved by the Declarant, the Owner installing such signage shall have the right and obligation to access, maintain, repair, and replace such signage at the installing Owner's sole cost and expense; subject, however, to any conditions of such approval. Notwithstanding the foregoing, the Declarant shall have the right to install as part of the Shared Facilities directional signage as part of the Project-wide directional signage system and other identification signage within any portion of the Project (including within an individual Parcel).

3.8 Utilities; Master Metered Utility Usage Costs. The Shared Facilities include all property and installations within the Project required for the furnishing of utilities within the Project. Wires, pipes, conduits and other utility lines or installations constituting a part of the overall systems designed for the Project and that are not removable without jeopardizing the overall utility system serving the Project shall be deemed part of the Shared Facilities. Each Owner shall be deemed to have an easement through the Project for conduits, pipes, ducts, plumbing, wiring and other facilities for the furnishing of utilities and other services to such Owner's Parcel and the Shared Facilities. Use of utilities within the Project, as well as use of any utility easements affecting the Project, shall be in accordance with the applicable provisions of this Declaration and said easement instruments, as applicable. Due to the integrated nature of the Project, it is anticipated that certain devices or facilities installed as part of the Public Parking Facilities or the Residential Parking Facilities (e.g., any EVCS, electric parking meters, gates, access control systems, security, and/or security monitoring systems) may use electricity or other utilities in a manner that cannot be (or cannot feasibly or in any commercially reasonable manner be) separately metered or isolated to the electricity actually consumed by such device (such device or facility referred to herein as an "**Electric Consuming Device**"). Without limiting the generality of the provisions of this Declaration, any Owner that wishes to install any Electric Consuming Device within the Project must first seek and receive prior written approval from the Declarant which shall not be unreasonably denied. All costs of operation, maintenance, repair, and replacement of the Electric Consuming Device, other than utility consumption charges (subject to the terms hereof) shall be exclusively borne by the applicable Owner installing such Electric Consuming Device. ALL COSTS ASSOCIATED WITH ELECTRIC UTILITY CONSUMPTION USAGE FOR THE PROJECT AND ALL ELECTRIC CONSUMING DEVICES SHALL BE MASTER METERED UTILITY USAGE COSTS AND SHALL BE PART OF THE SHARED FACILITIES COSTS. OWNERS WILL NOT RECEIVE AN ITEMIZED BILL FOR ELECTRICAL USAGE FEES AND THERE WILL BE NO METHOD FOR PRORATING THE COSTS OF SUCH UTILITY USAGE TO INDIVIDUAL PARCELS. EACH OWNER ACKNOWLEDGES THAT ELECTRIC CONSUMING DEVICES WILL CONSUME ELECTRICITY FOR THE BENEFIT OF THE RESPECTIVE PARCEL; HOWEVER, ALL ELECTRICITY AND UTILITY EXPENSES FOR THE ENTIRE PROJECT, INCLUDING ALL ELECTRICITY AND UTILITY EXPENSES FOR ELECTRIC CONSUMING DEVICES WITHIN THE PROJECT CONSUMING ELECTRICITY FOR THE BENEFIT OF A PARTICULAR PARCEL, SHALL BE DEEMED PART OF THE SHARED FACILITIES COSTS AND EACH OWNER SHALL PAY ITS RESPECTIVE ALLOCATED SHARE OF SUCH COSTS IN ACCORDANCE WITH SECTION 14 BELOW. Notwithstanding the foregoing, and as further detailed in Section 14 below, to the extent that utility consumption charges for any Electric Consuming Device can be monitored or sub-metered on an individual per-device basis, said charges shall be assessed to the Owner utilizing same for the costs of such utility consumption measured and paid for in direct relation to the

consumption identified. Such charges may be enforced and shall be collectible by the Declarant in the same manner as other Shared Facilities Costs.

#### 4. Additional Easement Rights and Easements.

4.1 Encroachment. If (a) any portion of a Parcel (or any facilities or improvements constructed thereon) encroaches upon another Parcel; or (b) any encroachment shall hereafter occur as the result of (i) construction of any improvement; (ii) settling or shifting of any improvement; (iii) any alteration or repair to any improvement after damage by fire or other casualty or any taking by condemnation or eminent domain proceedings of all or any portion of any improvement or portion of any Parcel, then, in any such event, a perpetual easement is hereby granted and shall exist for such encroachment and for the maintenance of the same so long as the structure or improvement causing said encroachment shall stand.

4.2 Easements of Support. Whenever any infrastructure (including any supporting structure) on or within a Parcel adjoins any infrastructure included in the other Parcel, and/or in the event that any infrastructure is constructed so as to transverse Parcel lines and/or to be connected in any manner to any infrastructure on the other Parcel, then there shall be (and there is declared and created) a perpetual easement of support for such infrastructure(s), such that all such infrastructure shall have and be subject to an easement of support and necessity.

4.3 Easements for Pedestrian and Vehicular Traffic in Public Parking Parcel. In addition to the general easements for use of the Shared Facilities granted and reserved herein, but subject to the exclusive use of Limited Shared Facilities, there shall be, and Declarant reserves and grants to the Owner of the Residential Parking Parcel and for its Permitted Users, and for the benefit of the Adjacent Residential Property, a non-exclusive easement appurtenant to the Residential Parking Parcel and Adjacent Residential Property, for (a) pedestrian traffic over, through and across sidewalks, paths, walks, foyers, ramps, elevators, Shared Stairways, and other portions of the Shared Facilities within the Public Parking Parcel, and (b) vehicular traffic, including ingress and egress, over all Driveways within the Public Parking Parcel.

4.4 Project Encumbrances. The easements, rights, restrictions and provisions set forth in the Project Encumbrances and any other easements or instruments affecting the Project (or any portion thereof) recorded in the Public Records, burden and/or benefit (as applicable) the Project or portion thereof therein described, subject to the terms and conditions thereof. The Declarant and each other Owner (for itself and its Permitted Users) understands and agrees, by acceptance of a deed (including any leasehold deed) or otherwise acquiring such Owner's interest in a Parcel, that the rights in and to such Parcel and Shared Facilities are junior and subordinate to the rights therein granted under the Project Encumbrances. Any and all payments that are the responsibility of the Declarant under the Project Encumbrances pursuant to the terms thereof or this Declaration shall be part of the Assessments charged to Owners and shall be treated as Shared Facilities Costs.

4.5 Utility Easements. Each Owner shall be deemed to have an easement through the Project for conduits, pipes, ducts, plumbing, wiring and other facilities for the furnishing of utilities and other services to such Owner's Parcel. Easements are reserved under, through, and over the Project as may be required from time to time for utilities and other services in order to serve the Parcels. Without limitation of the foregoing, easements are created over, under, across, and through each Parcel for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility and other services to the Project, provided that such easements do not interfere with the use of designated parking spaces within the Parcels. An Owner shall do nothing within or outside such Owner's Parcel that interferes with or impairs, or may interfere with or impair, the provision of such utilities or other services or the use of these easements. Easements are reserved unto the Declarant and to the respective utility providers under, through, across and over the Project as may be required from time to time for the construction, use, maintenance and operation of all utilities (whether public or private), communications and security systems, and other services that may serve the Project, with the power to relocate any such existing easements in any portion of the Project; provided, however, these easements shall not permanently interfere with the use of designated parking spaces within the Parcels. Additional easements for the installation and maintenance of utilities may be

reserved over portions of the Project, as and to the extent shown on recorded plats and/or any recorded instruments covering the Project and/or as provided herein. The portion of the Project encumbered by an easement and all improvements in such portion shall be maintained continuously by the applicable Owner responsible therefore, except for installations for which a public authority or utility company is responsible. The appropriate electric utility company or other utility provider, Declarant and their respective successors, assigns and designees, as applicable, shall have a perpetual easement for the installation and maintenance of drains, and electric and telecommunications lines, cables and conduits, under and through the utility easements as shown on such plats and other recorded instruments.

4.6 Public Easements; Emergency Easements. Fire, police, health and sanitation and other public service personnel and vehicles shall have a permanent and perpetual easement for ingress and egress over and across the Project in the performance of their respective duties. Additionally, easements are reserved in favor of all Owners (and their Permitted Users) for emergency ingress and egress over, through and across all Shared Stairways.

4.7 Additional Easements for Declarant and Shared Facilities Manager. Declarant and Declarant's affiliates and any Shared Facilities Manager and their designees and agents, shall have and are granted perpetual easements over, under and through the Project (including all Parcels) for the operation, repair, replacement, maintenance, alteration and relocation of the Shared Facilities, and/or the performance of any rights and/or obligations of Declarant herein described. The foregoing reservation and grant shall be deemed to include all easements and rights of access in and to the Shared Facilities and/or any other portion of the Parcels necessary or desirable to enable Declarant to exercise its rights and perform its obligations hereunder or pursuant to any separate agreement between Declarant and Shared Facilities Manager. The easements granted herein shall be both "in gross" and personal to Declarant and its affiliates and agents and to Shared Facilities Manager, and also appurtenant to the Residential Parking Parcel, and the easements shall also run in favor of the contractors, subcontractors, suppliers, agents, employees and designees of Declarant and Shared Facilities Manager. The easements reserved and granted to Declarant (and its affiliates, agents, contractors, subcontractors, suppliers, employees and designees) and the Residential Parking Parcel under this Section shall be in addition to the rights and easements reserved and/or granted to such parties and/or the Residential Parking Parcel under any other provision of this Declaration.

4.8 Residential Parking Parcel Signage Easement. The Residential Parking Parcel Owner shall have a non-exclusive easement for the installation and maintenance of directional signs within the Public Parking Parcel ("**Residential Directional Signs**") indicating the location and floors within the Project where the Residential Parking Parcel and/or the Adjacent Residential Property (or any portion thereof) is located. Such Residential Directional Signs within the Public Parking Parcel shall be maintained by the Residential Parking Parcel Owner at its expense. The Residential Directional Signs will be installed in commercially reasonable locations determined by the Residential Parking Parcel Owner, as approved by the Public Parking Parcel Owner (which such approval shall not be unreasonably withheld, conditioned or delayed).

4.9 Additional Declarant's Activities. Declarant and its affiliates (and its and their designees, including agents, employees, contractors, subcontractors and suppliers) shall have the right from time to time to enter upon the Project for the purpose of the installation, construction, reconstruction, repair, replacement, operation, expansion, and/or alteration of any improvements or facilities on or comprising a part of the Shared Facilities or elsewhere on the Project that Declarant and its affiliates or designees elect to effect, and to use, without charge, the Shared Facilities and other portions of the Project for sales, leasing, displays, and signs or for any other purpose during the period of construction, leasing, and sale of any portion thereof or of other portions of adjacent or nearby property. Without limiting the generality of the foregoing, Declarant and its affiliates (and its and their designees) shall have the specific right to erect, maintain, repair and replace, from time to time, one or more signs upon any portion of the Project (excluding the parking spaces within the Public Parking Parcel) for the purposes of advertising the sale or lease of any property owned by Declarant or its affiliates (including without limitation the sale or leasing of any portion of the Adjacent Residential Property, as applicable). Appropriate exclusive and non-exclusive easements of access and use are expressly reserved unto Declarant and its affiliates, and its and their successors,



assigns and designees, including employees and agents, for all of the foregoing purposes, including construction, sales and leasing activities contemplated herein.

5. Alterations and Improvements.

5.1 Alterations. Owners may make such alterations within each of their Parcels or any other portion of the Project only to the extent consistent with this Declaration. Notwithstanding anything herein to the contrary, no addition, alteration or improvement shall be permitted to the extent same is not permitted pursuant to the terms of any Project Encumbrances or Legal Requirements. The initial construction of the Parking Garage by the Declarant, or any alterations made by Declarant to the Shared Facilities, shall not be subject to this Section 5.

5.2 Approval Required. Without the prior written consent of Declarant, which consent may be granted or withheld in the reasonable discretion of Declarant, no alteration, addition or improvement shall be made by an Owner that would:

5.2.1 involve a structural alteration or affect the Shared Facilities;

5.2.2 prevent or interfere with access to or use of any Parcel or any Shared Facilities, except for temporary interruptions to the extent reasonable and approved by Declarant (which approval shall not be unreasonably withheld, conditioned or delayed);

5.2.3 would be likely to increase by more than ten percent (10%) any line item of the Shared Facilities Costs over the then existing line item for such Shared Facilities Costs, or any increase in the Shared Facilities Costs of more than five percent (5%) in the aggregate over the Shared Facilities Costs for the preceding calendar year; or

5.2.4 have a material adverse effect on (i) the operation, use, occupancy, maintenance, or condition of any other Parcel, (ii) the access to or use of any Shared Facilities by any Owner (excluding reasonable temporary interruptions to such access or use), or (iii) the overall costs and expenses incurred by any other Owner in operating, maintaining or repairing improvements within its Parcel.

5.3 Alterations in Public Parking Parcel. Any alterations within the Public Parking Parcel (which for purposes hereof shall include repainting, installation of signage, installation of lighting, installation of gates, or other improvements and repair work), irrespective of whether the consent or approval of Declarant is required, shall be performed in compliance with the following provisions:

5.3.1 All alterations shall be consistent with the Development Approvals and the Project Standard.

5.3.2 All alterations shall be performed (i) with reasonable diligence and dispatch, (ii) in a good and workmanlike manner, (iii) in accordance with the Project Standard and all applicable Project Encumbrances and Legal Requirements, (iv) pursuant to good, generally prevailing management practices and procedures which, to the extent reasonably feasible, will avoid or minimize any unreasonable resulting disturbances or interferences with the use, operation and occupancy of or access to and from any other Parcel, and (v) by licensed contractors and/or service providers that have (unless otherwise agreed in advance and approved in writing by Declarant) policies of insurance covering such risks, in such amounts and otherwise in such forms as may be required by Declarant from time to time, including without limitation liability insurance, worker's compensation insurance (as required by Legal Requirements), commercial general liability insurance per ISO form CG 00 01, including but not limited to products/completed operations and contractual liability coverage, automobile liability insurance and excess liability (umbrella) insurance. Each such policy of insurance shall include the Declarant and any Shared Facilities Manager (as applicable) and their respective designees, as an additional insured, and shall be primary and noncontributory for any and all Losses arising out of or in connection with the

contractor's and/or service provider's work (excluding claims under liability policies arising out of the acts or omissions of the additional insured). Such insurance shall also meet the insurance requirements of Section 10.9 below.

5.3.3 At all times during the performance of any alteration (including during any removal, installation, construction, inspection, maintenance, repair, and/or replacement of any equipment, facilities, or other improvements), the Owner of the Public Parking Parcel shall coordinate and stage all work with Declarant to minimize, as much as reasonably possible, impact and disruption on the Residential Parking Parcel and the Shared Facilities, including without limitation vehicular and pedestrian access and traffic. In addition to the foregoing, Declarant shall have the right to require a security deposit or other collateral to protect against damage to the Project that may be caused during such work, and may also establish procedures and standards for the inspection and final approval of any completed work.

5.3.4 Except for work conducted by Declarant that is part of the Shared Facilities Costs, the Owner of the Public Parking Parcel and the Owner of the Residential Parking Parcel shall be solely responsible for all costs incurred in connection with any alteration of their respective Parcels, such as an increase in costs of trash and debris removal due to the work. All costs associated with any alteration shall be promptly and fully paid for by the Owner performing same. Without limiting the foregoing, the Parcel Owners shall not permit any liens to attach to any portion of the Project as a result of their work.

5.3.5 The Owner of the Public Parking Parcel shall be solely liable for any and all costs and expenses and any Losses incurred, caused or occasioned by its acts or omissions, the acts or omissions of its Permitted Users, as well as the acts or omissions of its contractors, service providers, agents and representatives who cause any damage to any portion of the Project, and shall indemnify and hold Declarant and its and their respective directors, officers, employees, contractors, agents and affiliates, harmless from and against any and all Losses in any way whatsoever connected with the alteration contemplated herein.

5.4 Installation of Electric Consuming Device. Without limiting the generality of the provisions of this Declaration, any Owner wishing to install an Electric Consuming Device in its Parcel must seek and receive prior written approval from the Declarant which shall not be unreasonably denied.

5.5 Development Approvals. No Owner shall pursue or seek approval for a variance or waiver from the specific requirements or effect of any of the provisions, guidelines, conditions, requirements or restrictions contained in the Development Approvals without first having obtained the prior written approval of Declarant, which may be granted or withheld in the sole and absolute discretion of Declarant.

## 6. Maintenance of Parcels and Other Facilities.

6.1 Maintenance of Shared Facilities. Subject to the other provisions hereof, the Declarant shall at all times maintain the Shared Facilities in good repair and manage, operate, and insure the Shared Facilities, and shall replace same as often as necessary, and to the extent not otherwise provided for, utility facilities, landscaping, improvements, and other structures situated on or comprising the Shared Facilities (if any), with all such work to be done as ordered by Declarant. The aforesaid maintenance shall include maintaining the structural components of the improvements included in Shared Facilities, including without limitation, project-wide maintenance, repair, replacement, sealing, and waterproofing concrete surfaces, provided that if repair or replacement of such improvements is due to damage caused by a particular Owner or its Permitted Users, the cost thereof shall be paid solely by such Owner. All work pursuant to this Section 6, and all costs and expenses incurred by Declarant (or any applicable Shared Facilities Manager) pursuant to this Section 6, or any other provision of this Declaration with respect to the Shared Facilities or otherwise, and whether or not so stated in any particular provision hereof, shall be paid for by Declarant through Assessments (either general or special) imposed in accordance with Section 14. The Declarant shall have the power to incur, by way of contract or otherwise, expenses general to all or applicable portions of the Project, or appropriate portions thereof, and Declarant shall then have the power to allocate portions of

such expenses among the Parcels, based on such formula as provided in this Declaration or any amendment hereto. No Owner may waive or otherwise escape liability for Assessments by non-use (whether voluntary or involuntary) of the Shared Facilities or abandonment of the right to use the Shared Facilities.

6.2 Exterior Maintenance. Without limiting the generality of Section 6.1, Declarant shall maintain all exterior surfaces and roofs, facias and soffits of the structures and other improvements that are part of Shared Facilities, in a neat, orderly and attractive manner. Declarant shall clean, repaint or repair, seal, and waterproof, as deemed appropriate in Declarant's sole discretion, the exterior portions of the Project and Shared Facilities as often as is necessary or appropriate to comply with the maintenance requirements set forth herein.

6.3 Owner Maintenance of Parcels. The Owner of the Public Parking Parcel shall be solely responsible for maintenance, cleaning, repair and replacement of all Public Parking Facilities. The Owner of the Residential Parking Parcel shall be solely responsible for maintenance, cleaning, repair and replacement of all Residential Parking Facilities. Each Owner shall, at such Owner's cost and expense, maintain all portions of such Parcel, other than any Shared Facilities and other portions of the Project designated to be maintained by Declarant or Shared Facilities Manager under this Declaration, in a neat, orderly and attractive manner consistent with the Project Standard and the other requirements of this Declaration. With respect to the maintenance of unique or other particular features of a Parcel, the following provisions shall apply:

6.3.1 As to any painted parking spaces, striping or parking-related paint or signage in a Parcel, including without limitation painting or signage for parking space delineation or handicap parking space designation, the Owner of such Parcel shall be responsible for the general cleaning, maintenance, repainting, repair and upkeep of same.

6.3.2 As to any gates, access control facilities, security facilities, parking meters EVCS, or similar improvements within a Parcel, the Owner of such Parcel shall be responsible for the general cleaning, maintenance, repair, replacement and upkeep of same.

6.3.3 Subject to Section 6.4, as to any lighting (including light bulbs, fixtures and related lighting systems and facilities) located within a Parcel (including without limitation lighting in the elevator lobbies or any portion of the Shared Stairways within the Residential Parking Parcel), the Owner of such Parcel shall be responsible for the general cleaning, maintenance, repair, replacement, and upkeep of same (including without limitation routine replacement of any non-functioning light bulbs). Each Owner agrees to comply with the lighting criteria and requirements adopted by Declarant from time-to-time with respect to lighting serving any Parcel, which criteria and requirements are designed or intended to preserve a consistent and uniform appearance relative to lighting at the Project (provided that no Owner shall be required to replace lighting previously installed by such Owner in compliance with the terms of this Declaration and/or any approvals by the Declarant in order to comply with the foregoing covenant).

6.3.4 As to the Driveways, notwithstanding anything contained to the contrary elsewhere in this Declaration, the applicable Owner of the Parcel containing such Driveways shall be responsible for the routine (non-structural) maintenance, cleaning, repair and upkeep of the surface of the Driveways in their Parcel, including without limitation aesthetic maintenance and non-structural repair of any concrete or paved surfaces of the Driveways located within such Owner's Parcel as necessary to maintain same in good working order and in accordance with the Project Standard and other requirements of this Declaration.

6.4 Exterior Project Lighting. The Declarant (or Shared Facilities Manager, if and as applicable) shall be responsible (as part of the Shared Facilities Costs) for the operation, maintenance, repair, and replacement of any exterior project lighting and all exterior lighting fixtures, installations and equipment that are part of an exterior lighting scheme applicable to the Project as a whole. In the event of doubt as to whether any particular exterior lighting serves or is part of the Shared Facilities, or is part of an exterior

lighting scheme applicable the Project as a whole (or if any such lighting is deemed part of the facilities maintained by the Parcel Owner pursuant to Section 6.3.3), the decision of Declarant in such regard shall be final and conclusive and binding on all Owners absent manifest error. No Owner shall, without first obtaining the prior written consent of the Declarant, make any change or modification to any project lighting fixtures, installations and equipment serving any other Parcel or being part of the Shared Facilities (except as otherwise provided in Section 6.3.3) and/or which are part of a lighting scheme applicable to more than one Parcel, or any change and/or modification which may affect the Project lighting scheme. Notwithstanding the foregoing, in the event an Owner requests Declarant to maintain, repair or replace any lighting fixtures, installations or equipment that would not otherwise fall under Declarant's responsibilities, then Declarant may (in its sole discretion) do so as long as all costs and expenses are paid by the requesting Owner. Charges for electricity used by street or exterior project lighting billed to the Declarant or Shared Facilities Manager (if applicable) shall be part of the Shared Facilities Costs.

6.5 Landscaping. Declarant shall maintain and irrigate, and replace when necessary, any trees, shrubbery, grass and other landscaping within the Garage Property and located around any exterior portion of the Project (which shall be deemed part of the Shared Facilities) in a neat, orderly and attractive manner.

6.6 Maintenance of Limited Shared Facilities. Notwithstanding the exclusive use rights associated with any Limited Shared Facilities, all systems, equipment and other facilities located within or comprising the Limited Shared Facilities shall be maintained, repaired and replaced by the Declarant as part of the Shared Facilities. The costs of such maintenance, repair or replacement of Limited Shared Facilities shall be part of the Shared Facilities Costs.

6.7 Maintenance Generally. Notwithstanding anything contained herein to the contrary, the following general provisions shall govern with respect to maintenance obligations under this Declaration:

6.7.1 All maintenance obligations must be undertaken by the party responsible therefor in such a manner and as frequently as necessary to assure (at a minimum) that the portions being maintained are consistent with the general appearance of the Project as initially constructed and otherwise improved (taking into account, however, normal weathering and fading of exterior finishes, but not to the point of unsightliness), and otherwise in accordance with the Project Standard and in compliance with all Legal Requirements and the terms and conditions of the Project Encumbrances (where applicable).

6.7.2 With respect to the maintenance obligations of the Owners of Parcels set forth in this Declaration, and to assure that the maintenance is performed to the Project Standard (or such higher standard as may be required), each Owner agrees to perform all such maintenance and repairs in a timely, safe and appropriate manner.

6.8 Right of Entry and Remedies. In addition to such other remedies as may be available under this Declaration, in the event that an Owner fails to maintain its Parcel as required hereby, the Declarant and Shared Facilities Manager (as applicable) shall have the right to enter upon the Parcel in question and perform such duties; provided, however, that other than in the event of an emergency (in which case no notice is required, though notice shall be provided within a reasonable time following an emergency), such entry shall be during reasonable hours and only after five days' prior written notice (or such longer time as may reasonably be required to effect such repair to the extent that said curative activity cannot reasonably be completed within such five day period). The Owner having failed to perform its maintenance duties shall be liable to Declarant for the costs of performing such remedial work and shall be subject to pay a surcharge of not more than (25% of the cost of the applicable remedial work, all such sums being payable upon demand and to be secured by the lien provided for in Section 14. Without limiting the generality of the foregoing, Declarant shall have all of the same rights to bring an action at law against the Owner having failed to perform its maintenance duties, to record a claim of lien against such Owner's Parcel, to foreclose such lien, and/or to exercise any and all other remedies under this Declaration or applicable law, as are available to Declarant with respect to a Parcel Owner's failure to pay any Assessments under Section 14. No bids need be obtained for any of the work performed pursuant to this Section and the person(s) or

company performing such work may be selected by Declarant in its sole discretion. There is hereby created an easement in favor of Declarant and its applicable designees and agents and the Shared Facilities Manager (as applicable) over all of the Project for the purpose of performance of the work herein described, provided that the notice requirements of this Section are complied with.

7. Certain Use Restrictions.

7.1 Applicability. The use restrictions and provisions set forth in this Section 7 shall be applicable to all of the Project, but shall not be applicable to the Declarant or Shared Facilities Manager, or their agents or designees, to the extent such restrictions impede or prevent Declarant or Shared Facilities Manager from exercising their rights or complying with their obligations and duties otherwise set forth in this Declaration.

7.2 Uses of Parcels and the Project. All Parcels and other portions of the Project shall be used for the general purposes for which they are designed and intended (i.e., as a parking garage) and at all times used, operated, and maintained in accordance with the applicable Legal Requirements, and any conditions and restrictions applicable to same (including without limitation any contained in the Development Approvals, Project Encumbrances, or a deed or lease with the Declarant or the City, as same may be amended from time to time). Notwithstanding anything herein contained to the contrary, the name of the Parcel is assigned only for convenience of reference, and is not intended, nor shall it be deemed to limit or otherwise restrict, the permitted uses thereof.

7.3 Skateboards, Scooters and Roller Skates Prohibited. No person may ride or use any skateboard, roller skates, rollerblades, scooters, hover-boards, or other similarly wheeled devices within the Project.

7.4 Parking and Vehicle Restrictions.

7.4.1 Parking within the Project shall be restricted to the parking areas within each Parcel designated for such purpose (if any). Except only as may be expressly permitted by Declarant, no person shall park, store, or keep on any portion of the Project any limousine, trailer, large commercial type vehicle (for example, dump truck, motor home, trailer, cement mixer truck, oil or gas truck, delivery truck), nor may any person keep any other vehicle in the Parking Garage that is deemed to be a nuisance by Declarant. The foregoing restriction on "large commercial type vehicles" shall not be deemed to include law enforcement vehicles, utility vehicles (e.g., Broncos, Blazers, Explorers, Navigators, etc.), or clean "non-working" vehicles such as standard pick-up trucks, vans, or cars if they are used for normal transportation. No scooters, all-terrain vehicles, golf carts, or mini motorcycles are permitted at any time within the Project; provided, however, the foregoing shall not apply to any maintenance golf carts or utility vehicles used by the City or Declarant or any Shared Facilities Manager or their subcontractors, suppliers, designees, or agents. Motorcycles may be used and parked within the Project; provided, however, such motorcycles shall not generate an unreasonable or excessive level of noise as determined by Declarant in its sole discretion. All vehicles will be subject to height, width and length restrictions and other rules and regulations now or hereafter adopted by Declarant.

7.4.2 Except only as may be expressly permitted by Declarant, no person shall conduct major repairs (except in an emergency) or major restorations of any motor vehicle, boat, trailer, or other vehicle upon any portion of the Project. No vehicles shall be stored on blocks. No trailer, camper, motor home or recreation vehicle shall be used as a residence, either temporarily or permanently, within the Project.

7.4.3 Subject to applicable laws and ordinances, and subject to the terms of this Section, any vehicle parked in violation of these or other restrictions contained herein or in other rules and regulations now or hereafter adopted by Declarant may be towed by Declarant or its agents or designees, at the sole expense of the owner of such vehicle. Each Owner (on behalf of itself and its Permitted Users) irrevocably grants Declarant and its designated towing service(s) the

right to enter any portion of the Project and tow vehicles in violation of this Declaration. Neither the Declarant nor the towing company shall be liable to the owner or lessee of such vehicle for trespass, conversion or otherwise, nor guilty of any criminal act by reason of such towing or removal. For purposes of this paragraph, "vehicle" shall also mean motorcycles, campers, mobile homes, trailers, etc. By ownership, lease, or use of any portion of the Project, each Owner (on behalf of itself and its Permitted Users) provides to the Declarant the irrevocable right to tow or remove vehicles parked within the Project that are in violation of this Declaration or in other rules and regulations now or hereafter adopted by Declarant. IN NO EVENT SHALL THE DECLARANT OR ANY OF ITS AGENTS, EMPLOYEES OR DESIGNEES OR THE SHARED FACILITIES MANAGER BE RESPONSIBLE, OBLIGATED OR LIABLE FOR TOWING VEHICLES PARKED WITHIN THE PROJECT.

7.4.4 The restrictions in this Section shall not apply to maintenance or construction vehicles utilized in connection with maintenance, improvement, installation or repair of the Shared Facilities or by the Declarant or Shared Facilities Manager or their subcontractors, suppliers, designees, or agents.

7.5 Nuisances. Nothing shall be done or maintained on a Parcel that may be or may likely become a nuisance to the other Parcel or Owner (or its Permitted Users), and no activity will be conducted or permitted on any part of the Project that is clearly incompatible or inimical to the operation of the Parking Garage in accordance with the Project Standard. Included among such activities that are incompatible or inimical are the following activities or other similar activities that produce or are accompanied by the following characteristics, which list is not intended to be all inclusive:

7.5.1 skateboarding, roller blading, or scooter riding within any portion of the Project, and any use of a bicycle on any ramps or other portions of the Project other than temporary bike usage to the extent necessary to utilize any bike racks located within the Project (if any);

7.5.2 any use or activity that is prohibited pursuant to the Ground Lease, Legal Requirements, Development Approvals and other applicable Project Encumbrances;

7.5.3 any obnoxious noise except customary noise emanating from typical operation of a parking garage of the same size and Project Standard as the Project;

7.5.4 vehicle service or vehicle repairs including without limitation oil changes, any body and fender repair work, car washes, or the displaying, renting, leasing, or sale of any automobile, truck, boat, trailer or other motor vehicle; provided, however, the foregoing shall not prohibit temporary emergency repairs to vehicles as required for their operation (e.g., changing a flat tire or jumpstart for a car battery);

7.5.5 any grilling or cooking of any food;

7.5.6 any obnoxious odor except customary odors emanating from standard vehicles;

7.5.7 any fire hazard, explosion or other damaging or dangerous hazard, including the storage, display, or sale of explosives or fireworks;

7.5.8 any dumping of garbage or refuse, other than in enclosed receptacles intended for such purpose; and

7.5.9 handing out flyers or solicitation of any kind.

In the event of a dispute or question as to what may be or become a nuisance or otherwise a violation hereof, such dispute or question shall be submitted to Declarant, who shall in good faith consult with the City regarding such decision, and then Declarant shall render a decision in writing, which decision shall be dispositive of such dispute or question.

Notwithstanding anything herein contained to the contrary, each Owner (and its Permitted Users), by acceptance of any interest in or use of any portion of the Project, shall be deemed to understand and agree that the Project is located in an active urban environment that will likely attract a broad and diverse base from among the public. It is confirmed generally that any and all activities typical of such an urban environment or in any way related to any and all such operations, including any associated noise, traffic congestion and/or other inconveniences, shall not be deemed a nuisance. There are a number of existing buildings and potential building sites that are contemplated within and/or nearby to the Project. As such, Owners and their Permitted Users may be affected by such construction in proximity to the Project, including but not limited to traffic, construction disturbance from other buildings or building sites, and vibration and/or noise from neighboring property. It is confirmed that any and all activities in any way related to such operations and activities shall not be deemed a nuisance. By acquiring any interest in a Parcel, each Owner, for such Owner and its Permitted Users, and its and their successors and/or assigns, agrees (i) that none of the foregoing disruptions or operations during the day or at night shall be deemed a nuisance, (ii) not to object to any of the foregoing disruptions or operations or any other operations, and (iii) to release Declarant from any and all claims for damages, liabilities and/or losses suffered as a result of the existence of the operations from the Parcels and the inconveniences and disruption resulting therefrom.

7.6 Master Life Safety Systems. No Owner shall make any additions, alterations, or improvements to the Master Life Safety Systems, and/or to any other portion of the Project that may impair the Master Life Safety Systems or access to the Master Life Safety Systems, without first receiving the prior written approval of Declarant. In that regard, no lock, chain or other device or combination thereof shall be installed or maintained at any time on or in connection with any door on which panic hardware or fire exit hardware is required. Stairwell identification and emergency signage shall not be altered or removed by any Owner or its Permitted Users whatsoever, without the prior written approval of Declarant. No barrier, including but not limited to personalty, shall impede the free movement of ingress and egress to and from all emergency ingress and egress passageways.

7.7 Signs. Except as otherwise expressly provided herein, and subject to the terms of Section 3.7, no sign, poster, display, billboard or other advertising device of any kind shall be displayed to the public view without the prior written consent of Declarant, and the prior written consent of the City to the extent such sign is visible from outside of the Project or visible from within the Public Parking Parcel.

7.8 Trash. No trash, rubbish, garbage or other waste material shall be kept or permitted on any portion of the Project, except in those areas expressly designed for same or as otherwise approved by Declarant, and no odor shall be permitted to arise therefrom so as to render same unsanitary, unsightly, offensive, or detrimental to any other property in the vicinity thereof or to its occupants. Trash receptacles within a Parcel shall be kept and maintained by the applicable Owner of such Parcel in a neat, clean and sanitary condition, and shall be emptied as often as necessary to prevent same from becoming unsightly and/or emitting unpleasant odors.

7.9 Variances. Declarant shall have the right and power to grant variances from the provisions of this Section 7 and from any rules and regulations established for the Project for good cause shown, as determined in the reasonable discretion of Declarant.

7.10 Declarant Exemption. In order that the development of the Project and nearby property owned by Declarant may be undertaken and completed, no Owner, nor any agent or Permitted User of any Owner shall do anything to interfere with Declarant's activities. Without limiting the generality of the foregoing, nothing in this Declaration shall be understood or construed to:

7.10.1 Prevent Declarant, its successors or assigns, from determining in its sole discretion the nature of any type of structures and improvements to be initially constructed as part of the Project; or

7.10.2 Prevent Declarant, its successors or assigns or its or their contractors or subcontractors, from maintaining signs, banners or other advertisements on any property owned or controlled by any of them as may be necessary in connection with the operation of any Parcel(s)

owned by Declarant (its successors or assigns) or the operation of the Project or any other property owned by Declarant (including without limitation the Adjacent Residential Property, as applicable), or otherwise from taking such other actions deemed appropriate by Declarant; or

7.10.3 Prevent Declarant, its successors or assigns, or its or their contractors or subcontractors, from doing on any property owned by them whatever they determine to be necessary or advisable in connection with the completion of the development thereof.

In general, Declarant shall be exempt from all restrictions set forth in this Declaration to the extent such restrictions interfere in any matter with Declarant's plans for construction, development, use, sale or other disposition of the Project or any nearby property owned by Declarant.

## 8. Compliance and Enforcement.

8.1 Compliance by Owners and Permitted Users. Every Owner and its Permitted Users shall comply with the restrictions and covenants set forth herein and any and all rules and regulations that from time to time may be adopted by Declarant with respect to the Project.

8.2 Enforcement. Failure of an Owner or its Permitted Users to comply with such restrictions, covenants or rules and regulations shall be grounds for immediate action, which may include without limitation an action to recover sums due for damages, an action for specific performance or seeking injunctive relief, or any combination thereof. Following any breach or violation by a Permitted User, Declarant shall have the right to suspend such Permitted User's rights of use of the Shared Facilities (including suspension of such Permitted User's access to the Parking Garage, as reasonably determined by Declarant). The offending Owner (whether such offense be caused by the Owner or its Permitted User) shall be responsible for all costs of enforcement including attorneys' fees and court costs (and including fees incurred in bankruptcy or probate proceedings, if applicable, and through any appeals).

8.3 Fines. In addition to all other remedies, and to the maximum extent lawful, in the sole discretion of the Declarant, a fine may be imposed upon an Owner for failure of an Owner, or its respective Permitted Users, to comply with any covenant, restriction, rule, or regulation applicable to the Project, if such failure continues for a period in excess of five business days after giving notice thereof to such Owner. In such event, the Declarant may impose a fine, relating back to the initial date of the breach, in the amount of \$250.00/day from the initial occurrence of the breach for the first breach and \$500.00/day from the initial occurrence of the subsequent breach for each subsequent breach. Fines shall be paid not later than five days after notice of the imposition or assessment of the penalties. Fines shall be treated as an Assessment subject to the provisions for the collection of Assessments, and the lien securing same, as set forth herein. All monies received from fines shall be allocated as directed by the Declarant. The foregoing fines shall not be construed to be exclusive, and shall exist in addition to all other rights and remedies to which the Declarant may be otherwise entitled under this Declaration, at law or in equity.

8.4 Remedies Cumulative. The rights and remedies set forth in this Section 8 are in addition to any and all rights and remedies available at law, in equity, and/or permitted under any other provision of this Declaration, all of which are intended to be, and shall be, cumulative.

## 9. Mortgagee Protection.

9.1 Mortgagee Protection. The following provisions are added hereto (and to the extent these added provisions conflict with any other provisions of the Declaration, these added provisions shall control):

9.1.1 Declarant shall be required to make available to the Owners and the holder of any mortgage on any Parcel (a "**Mortgage**"), and to insurers and guarantors of any such Mortgage, for inspection, upon written request, during normal business hours or under other reasonable circumstances, a current copy of this Declaration (with all amendments and/or supplements thereto).



9.1.2 Any holder or insurer of a Mortgage on a Parcel shall be entitled, upon written request to Declarant, to receive notice from Declarant of (i) an alleged material default by the Owner of such Parcel in the performance of such Owner's obligations under this Declaration, including without limitation the failure to pay Assessments on such mortgaged Parcel, which default is not cured within 60 days after Declarant has actual knowledge of such default, (ii) any condemnation or casualty loss affecting a substantial portion of the Shared Facilities, and (iii) the occurrence of a lapse, cancellation or substantial modification of any insurance policy or fidelity bond maintained by Declarant with respect to the Shared Facilities, if any.

9.1.3 Any holder, insurer or guarantor of a Mortgage on a Parcel shall have the right (but not the obligation) to pay Assessments and/or other charges that are delinquent and have resulted or may result in a lien against any portion of such Parcel and receive reimbursement from its mortgagor.

9.1.4 Subject to the terms of the applicable Mortgage and related documents (and to the extent permitted by Legal Requirements), any holder, insurer, or guarantor of a Mortgage on a Parcel that is subject to real estate taxes shall have the right (but not the obligation) to pay the portion of Taxes and/or other Tax-related costs allocated to such Parcel and/or the other Taxes that are delinquent and have resulted or may result in a lien against such Parcel and, in any such case, receive reimbursement from its mortgagor and/or the Owner of any Parcel included within the taxed property (as applicable) to the extent any of such parties fail to pay same as and when required herein.

9.1.5 Subject to the terms of the applicable Mortgage and related documents (and to the extent permitted by Legal Requirements), any holder, insurer or guarantor of a Mortgage shall have the right (but not the obligation) to procure the insurance required of the Owner for such Parcel under this Declaration and to perform such Owner's maintenance and other obligations hereunder, and to receive reimbursement of costs incurred in connection therewith.

9.1.6 Any holder, insurer or guarantor of a Mortgage shall be entitled, upon written request, to estoppel certificates as contemplated by Section 14.11.

## 10. Insurance on Shared Facilities and Parcels.

10.1 Insurance. Insurance obtained pursuant to the requirements of this Section 10 shall be governed by the provisions set forth in this Section.

### 10.2 Purchase, Custody and Payment.

10.2.1 Purchase. All insurance policies required to be obtained by Declarant hereunder with respect to the Shared Facilities shall be issued by an insurance company authorized to do business in Florida or by surplus lines carriers offering policies for properties in Florida, and shall be rated in the latest edition of *Best's Insurance Guide* (or its successor, and if such guide becomes unavailable, then a comparable rating guide selected by Declarant) not less than A-:VIII (or its reasonable equivalent). Said policies must otherwise satisfy the requirements of the Mortgage held by Declarant's Mortgagee on the date hereof.

10.2.2 Named Insured. The named insured under the property insurance policies to be maintained by Declarant shall be Declarant individually (or such designee as may be designated by Declarant). The Owners and the holders of any Mortgage (if required by the holder thereof) shall be deemed additional insureds with respect to all liability policies maintained by Declarant. Notwithstanding anything to the contrary contained herein, Declarant's Mortgagee shall be included an additional insured on all liability policies and a loss payee on all property insurance policies maintained by Declarant hereunder. The foregoing shall not, however, preclude the inclusion by Declarant of others as additional insureds where required by written contract.

10.2.3 Custody of Policies and Payment of Proceeds. All policies obtained by Declarant pursuant to this Section 10 shall provide that payments for losses made by the insurer shall be paid to Declarant and Declarant's Mortgagee (if required by Declarant's Mortgagee), as their interests may appear, in accordance with the terms and conditions of the applicable Mortgage and related documents.

10.2.4 Copies to Mortgagees. Upon written request of the holder of any Mortgage, the policy holder shall request the insurer furnish one copy of each insurance policy, or a certificate evidencing such policy, and all endorsements thereto, to the requesting holder of such Mortgage.

10.2.5 Personal Property and Liability. Declarant shall not be responsible to any Owner to obtain insurance coverage for any personal property installed by or on behalf of such Owner within the Project, nor insurance for any Owner's personal liability and expenses, nor for any other risks not otherwise required to be insured in accordance herewith.

10.3 Coverage for Shared Facilities. Declarant shall maintain insurance covering the following:

10.3.1 Property. The Shared Facilities, together with all fixtures, improvements, building service equipment, supplies and personal property, constituting the Shared Facilities (collectively the "**Insured Property**"), shall be insured for the full replacement value thereof to the extent commercially practicable and available at commercially reasonable rates, subject to industry standard exclusions and excluding foundation and excavation costs; provided, however, that windstorm and flood and other insurance for extraordinary hazards shall be subject to customary sublimits that are less than full replacement value as may be determined from time to time by the Declarant. The Insured Property shall not include, and shall specifically exclude, any portions of the Project that are not part of the Shared Facilities, and all installations (including without limitation, signage EVCS, parking meters, access control facilities and/or parking stops), furnishings, floor coverings and other personal property owned, supplied or installed by Parcel Owners or their Permitted Users, and all electrical fixtures, appliances and equipment to the extent not part of the Shared Facilities. Such policies may contain reasonable deductible provisions as determined by Declarant. Such coverage shall afford protection against loss or damage by fire and other hazards covered by an "all-risk" policy form, and such other risks as from time to time are customarily covered with respect to buildings and improvements similar to the Insured Property in construction, location, and use, including but not limited to vandalism and malicious mischief, subject in all cases to industry standard exclusions.

10.3.2 Liability. Commercial general liability with limits of \$5,000,000 per occurrence and \$5,000,000 in the aggregate and automobile liability insurance with limits of \$1,000,000 per accident covering loss or damage resulting from any legal liability related to the Insured Property, with such coverage as shall be required by the Declarant.

10.3.3 Worker's Compensation. Worker's Compensation and other mandatory insurance, when applicable, to the extent applicable to the maintenance, operation, repair or replacement of the Shared Facilities.

10.3.4 Other Insurance. Such other or greater insurance as is required by the Mortgage held by Declarant's Mortgagee, as well as such other insurance as the Declarant shall determine from time to time to be desirable in connection with the Shared Facilities.

When appropriate and obtainable, each of the foregoing policies shall waive the insurer's right to: (i) as to property insurance policies, subrogation against Declarant and against the Owners individually and as a group, (ii) to pay only a fraction of any loss in the event of coinsurance or if other insurance carriers have issued coverage upon the same risk (and the amount of the insurer's liability under such policies shall not be reduced by the existence of any other insurance), and (iii) avoid liability for a loss that is caused by an act of the Declarant or one or more Owners (or any of its or their respective employees, contractors and/or agents) or as a result of contractual undertakings. Additionally, each policy shall provide that the

insurance provided shall not be prejudiced by any act or omissions of individual Owners that are not under the control of the Declarant.

10.4 Additional Provisions. All policies of insurance for the Shared Facilities shall provide that such policies may not be canceled or non-renewed without at least 30 days' prior written notice pursuant to the insurance policy terms to all of the express named insureds, including their respective mortgagees and additional insureds, if any, provided that only ten (10) days' prior written notice shall be required for cancellation due to nonpayment of premium. Prior to obtaining any policy of property insurance or any renewal thereof, the Declarant may (and, not less than once every 36 months, shall) obtain an appraisal from a fire insurance company, or other competent appraiser, of the full insurable replacement value of the applicable Insured Property (exclusive of foundations and excavation costs), without deduction for depreciation, and recommendations from its insurance consultant as to limits/sublimits for such coverage, for the purpose of determining the amount of insurance to be effected pursuant to this Section 10.

10.5 Premiums. Premiums upon insurance policies purchased by the Declarant for the Shared Facilities and Insured Property pursuant to this Section 10 shall be allocated among the Owners as part of the Assessments under this Declaration. Such premiums shall be allocated among and assessed against the Owners in accordance with the proportionate shares set forth in Section 14. Without limiting the terms of this Declaration, Shared Facilities Costs may include, from time to time and at any time, such amounts deemed necessary by Declarant to provide Declarant with sufficient funds to pay insurance premiums at least 30 days before the date the same are due.

10.6 Share of Proceeds. All property insurance policies obtained by or on behalf of the Declarant for the Insured Property pursuant to this Section 10 shall be for the benefit of the Declarant, the Owners, and the holders of any Mortgage, as their respective interests may appear. The duty of the Declarant shall be to receive such proceeds as are paid and to hold the same for the purposes elsewhere stated herein, and for the benefit of the Owners and the holders of any Mortgage on the subject Parcel(s) (or any leasehold interest therein).

10.7 Distribution of Proceeds. Proceeds of property insurance policies required to be maintained by the Declarant pursuant to this Section 10 shall be distributed to or for the benefit of the beneficial Owners thereof in the following manner:

10.7.1 Reconstruction or Repair. If the damaged property for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as elsewhere provided herein. Any proceeds remaining after defraying such costs shall be distributed to the Owners, with remittances to Parcel Owners and their mortgagees being payable jointly to them, subject to the terms and conditions of the applicable Mortgage and related documents. Such proceeds shall be allocated in the same manner as the proceeds are allocated in Section 10.7.2.

10.7.2 Failure to Reconstruct or Repair. If it is determined in the manner elsewhere provided that the damaged property for which the proceeds are paid shall not be reconstructed or repaired, the remaining proceeds shall be allocated among the Owners in proportion to the amount of loss suffered by the Parcels; provided, however, that if the damage suffered affects fewer than all Owners, the percentage shares shall be pro rata allocated over only those Owners suffering damage from the applicable policies and proceeds in proportion to the amount of loss suffered by each affected Parcel Owner (the "**Loss Allocation**"), and distributed first to the holders of any Mortgage on an insured Parcel in amounts sufficient to pay off their Mortgages, as their interests may appear, and the balance, if any, to the applicable Owner(s).

10.8 Declarant as Agent. The Declarant is hereby appointed as the exclusive agent and attorney-in-fact for each Owner and for each holder of a Mortgage or other lien upon a Parcel and for each owner of any other interest in the Project, subject to the terms and conditions of any Mortgage and any other related documents held by Declarant's Mortgagee, to manage and coordinate the adjustment and settlement of all claims arising under property insurance policies purchased by the Declarant and the

execution and delivery of releases upon the payment of claims, in each case in conjunction with Declarant's insurance and other consultants.

10.9 Parking Parcel Owners' Personal Coverage. Except with respect to insurance carried by the Declarant for Shared Facilities located within the respective Parcels, the insurance required to be purchased by the Declarant pursuant to this Section 10 shall not cover claims against an Owner due to occurrences occurring within its Parcel, or beneficial Limited Shared Facilities or other areas for which it is responsible (including without limitation any Limited Shared Facilities for which it is responsible), nor casualty or theft loss to the contents of or improvements to an Owner's Parcel. It shall be the obligation of the individual Owner of such Parcel, if such Owner so desires, to purchase and pay for insurance as to all such and other risks not covered by insurance required to be carried hereunder; provided, however, that each Owner shall, at a minimum, obtain and maintain, or cause to be obtained and maintained, at such Owner's sole expense, the following insurance coverage:

10.9.1 Property. Property insurance for fire and other hazards on an "all-risk" basis for the replacement value of any improvements owned by it, on industry standard forms affording customary coverage, subject to industry standard exclusions, customary deductibles and customary limits/sublimits, typically maintained by owners and required by mortgagees of similar improvements in similar properties in the geographical region.

10.9.2 Liability. Commercial general liability insurance written on an "occurrence basis" (rather than a "claims basis") under which policy each Owner, the Declarant and Shared Facilities Manager (if any) shall be included as an additional insured on a primary and noncontributory basis, on industry standard forms affording customary coverage, subject to industry standard exclusions, customary deductibles and customary limits/sublimits, typically maintained by owners and required by mortgagees of similar properties in the geographical region, but in an amount of \$1,000,000 for each occurrence of injury or property damage and \$3,000,000 in the aggregate.

10.9.3 Garagekeepers Liability. Garage Liability Insurance with liability coverage for bodily injury and property damage arising out of Owner's garage operations including coverage for liability with respect to damage to vehicles or automotive equipment while in Owner's care, custody or control, each with limits of \$1,000,000 per loss. Garagekeepers' insurance shall include but not be limited to coverage for perils of collision, fire, explosion, theft of a vehicle, its parts and contents, riot, civil commotion, vandalism, malicious mischief, and damage to a vehicle in tow.

10.9.4 Umbrella/Excess Liability. Umbrella or excess following form of insurance policy meeting the requirements of, but providing coverage in excess of, the any required underlying commercial general liability, automobile liability and employer's liability policy with a limit of \$10,000,000 per occurrence and in the aggregate.

10.9.5 Worker's Compensation. Worker's Compensation and other mandatory insurance, when applicable, covering all persons employed by such Owner in connection with any work done on or about the Project (or any part thereof) in such amounts and to the extent required by Legal Requirements.

The amounts and types of insurance required herein shall be adjusted from time to time as necessary to comply with the foregoing requirements and/or the requirements of Declarant's Mortgagee. All insurance required of or maintained by an Owner under this Section shall be procured from companies eligible to do business in the State of Florida and shall be rated in the latest edition of *Best's Insurance Guide* (or its successor, and if such guide becomes unavailable, then a comparable rating guide selected by Declarant) not less than A-:VIII or equivalent. The insurance coverage required of each Owner pursuant to this Section may be provided through the coverage of (x) subject to the consent and agreement of the Declarant, a master policy carried by the Declarant as and to the extent contemplated under Section 10.4, and/or (y) a blanket policy carried by it with a per location aggregate limit satisfying these requirements, provided that the coverage afforded shall not be reduced by reason of the use of such blanket policy and provided that the requirements set forth herein are otherwise satisfied. In addition, all Owners may mutually

agree to maintain a single policy or policies for their respective Parcels and interests (rather than separate and independent policies), provided that the requirements set forth herein are otherwise satisfied. Each Owner shall furnish to Declarant, upon the recordation of this Declaration and thereafter prior to the expiration of each policy, certificates of insurance (and, if requested, copies of policies), evidencing that the insurance required hereunder is in effect. The amount of insurance required hereunder shall not be construed to be a limitation of liability on the part of any Owner or its respective Permitted Users.

10.10 No Declarant Liability. Notwithstanding anything contained to the contrary herein, while Declarant shall use reasonable efforts to maintain copies of the insurance certificates and/or policies received by it, Declarant shall have no obligation to request and/or maintain same, nor shall Declarant have any obligation to take any affirmative action in the event that an Owner fails to maintain adequate insurance or any insurance specifically required hereunder, including without limitation binding policies on behalf of such Owner or taking any other ordinary or extraordinary measures. Each Owner, by acceptance of a deed (including any leasehold deed) or other conveyance or use of a Parcel, holds Declarant harmless and agrees to indemnify Declarant from and against any and all claims made by any other Owner and its Permitted Users on account of any property damage, personal injury and/or any other Losses of any kind or nature, including without limitation any and all costs and expenses associated with such claims, including inconvenience, relocation and/or moving expenses, lost time, business opportunities or profits, and attorneys' fees and other legal and associated expenses (through and including all appellate proceedings), arising out of, related to, caused by, associated with or resulting from the failure of such Owner to maintain adequate insurance or the insurance coverages required to be maintained by an Owner pursuant to this Section 10.9. Each Owner waives any and all claims and rights of action it may have against Declarant and its respective directors, officers, employees, contractors, agents or affiliates, with respect to any Losses arising out of any damage to its Parcel covered by property insurance required under this Section 10, whether or not such insurance was actually in effect, and whether or not such damage was caused by the negligence or other act or omission of Declarant, the other Parcel Owners or their respective directors, officers, employees, contractors, agents or affiliates.

10.11 Benefit of Mortgagees. Certain provisions in this Section 10 are for the benefit of mortgagees of Parcels and may be enforced by such mortgagees.

## 11. Reconstruction or Repair of Shared Facilities.

11.1 Application of Provisions. The procedures stated in this Section 11 apply to damage to or destruction of the Insured Property and do not apply to the repair or restoration of any other improvements within the Parcel. Notwithstanding anything contained herein to the contrary, Declarant shall not be responsible to Owners to repair or restore any portion of the Project other than the Insured Property. Each Owner shall be solely responsible for repairing or replacing any other improvements within its Parcel and any personal property installed by or on behalf of such Owner. Each Owner may determine in its discretion whether to rebuild the improvements within its Parcel, but such Owner shall complete those repairs that the Declarant deems reasonably necessary to avoid further damage to the Insured Property or improvements that are a part of or serve any other Parcel, or substantial diminution in value of such other Parcel(s), and to protect the Owners from liability from the condition of any of the improvements on the Project. Any reconstruction or repair by the Owner following a fire or other casualty of any kind or nature shall be subject to and performed in accordance with the requirements of Section 5.

11.2 Determination to Reconstruct or Repair. In the event of damage to or destruction of the Insured Property as a result of fire or other casualty, the Declarant shall determine whether or not to repair and/or restore the Insured Property, and if a determination is made to effect restoration, the Declarant shall disburse the proceeds of all property insurance policies required to be maintained by or payable to it under Section 10 to the contractors engaged in such repair and restoration in appropriate progress payments. Notwithstanding the foregoing, in the event insurance proceeds are "sufficient" to repair or restore any Insured Property damaged or destroyed, the Declarant shall be required to effect such repair or restoration. For purposes of the preceding sentence, such proceeds shall be deemed "sufficient" if either (i) the insurance proceeds available under any applicable policies are in the total amount needed to effect such repairs or restoration, or (ii) if the total amount needed to effect the repairs or restoration is more than the

insurance proceeds available under any applicable policies, and an Owner elects to contribute the deficit in the repair funds for the use of the Declarant to effect the repair or restoration.

Subject to the preceding paragraph, in the event the Declarant determines not to effect restoration to the Shared Facilities, the net proceeds of insurance resulting from such damage or destruction shall be divided among all the Owners benefited by the insurance maintained by the Declarant as set forth in Section 10.7.2; provided, however, that no payment shall be made to any Owner until all Mortgages and liens on the Owner's Parcel have first been paid off, from the Owner's share of such fund, in the order of priority of such Mortgages and liens.

11.3 Plans and Specifications. Any reconstruction or repair must be made substantially in accordance with the Project Plans for the original improvements and then applicable building, zoning and other codes; or if not, then in accordance with the plans and specifications approved by the Declarant.

11.4 Assessments. If the proceeds of the insurance are not sufficient to defray the estimated costs of reconstruction and repair to be effected by the Declarant, or if at any time during reconstruction and repair, or upon completion of reconstruction and repair, the funds for the payment of the costs of reconstruction and repair are insufficient, Assessments shall be made against the Owners (which shall be deemed to be Assessments made in accordance with, and secured by the lien rights contained in Section 14) in sufficient amounts to provide funds for the payment of such costs. Except as otherwise provided herein, such Assessments on account of damage to the Insured Property shall be in proportion to all of the Owners' respective Loss Allocation.

11.5 Reconstruction or Repair by Owners. Notwithstanding anything herein to the contrary, Declarant may delegate responsibility for repair and/or reconstruction of portions of the Insured Property to the applicable Parcel Owner responsible therefor (e.g., the Shared Facilities located within a Parcel), in which event Declarant shall disburse the proceeds of the property insurance policies covering such Insured Property to each such Parcel Owner, its contractors engaged in such repair and restoration and/or both jointly, as may be determined by Declarant, to the extent proceeds are available for such purpose. In the event that more than one Parcel Owner is responsible for repair or restoration of the Insured Property following damage or destruction, all such Owners shall cooperate with each other and with Declarant, and work in good faith, for the common goal of constructing and completing all such repairs and restoration on a timely basis and in accordance with the Project Standard. Any reconstruction or repair by any Parcel Owner following a fire or other casualty of any kind or nature (including without limitation the reconstruction or repair of the Insured Property owned or controlled by it pursuant to this Section, or otherwise) shall be subject to and performed in accordance with the requirements of Section 5.

11.6 Benefit of Mortgagees. Certain provisions in this Section 11 are for the benefit of mortgagees of Parcels and may be enforced by any of them.

## 12. Condemnation.

12.1 Effect of Taking. The taking of portions of the Shared Facilities by the exercise of the power of eminent domain shall be deemed to be a casualty, and, subject to the terms of this Declaration, the awards for that taking shall be deemed to be proceeds from insurance on account of the casualty. Even though the awards may be payable to another Owner, such other Owner shall deposit the awards with the Declarant; and in the event of failure to do so, in the discretion of Declarant, a lienable charge shall be made against a defaulting Owner in the amount of such Owner's award, or the amount of that award shall be set off against the sums made payable to that Owner.

12.2 Determination Whether to Reconstruct. The effect of the taking shall be addressed in the manner provided for determining whether damaged property will be reconstructed and repaired after casualty. For this purpose, the taking by eminent domain also shall be deemed to be a casualty and the provisions of Section 11 shall apply as though fully set forth herein (including without limitation the provisions thereof relating to disbursements of excess proceeds and Assessments for deficits in proceeds),

provided that any decision to reconstruct or repair shall be to restore the affected improvements to the nearest whole architectural structure taking into consideration the nature and extent of the condemnation.

13. Property Taxes.

13.1 Separate Assessment. In case of separate assessments for each Parcel, the Owner of the Public Parking Parcel shall cooperate with Declarant in efforts to have the County Property Appraiser consider the use and easement rights in the Residential Parking Parcel an appurtenance of the Adjacent Residential Property (i.e., associated parking for the occupants, users and tenants within the Adjacent Residential Property) and therefore not issue a separate Tax assessment to the Residential Parking Parcel and to also consider the Public Parking Parcel a City public facility for purpose of property taxes. If such efforts are unsuccessful, each Owner shall pay its Tax bill for such Owner's Parcel. Since the Project will ultimately consist of a single building containing two separate "parcels" that are vertically located over a portion of the Garage Property, the County Tax Collector's distribution of the value of the Garage Property shall be allocated to the Parcels and Parcel Owners in the same proportion of their Allocated Interests, unless a different method of valuing the Garage Property is required by Legal Requirements (in which case, such method shall be followed). To the extent that separate Tax folios are created for each of the Parcels and to the extent any Parcel is assessed property taxes, each Owner shall be solely responsible for payment of the Tax bill issued with respect to its Parcel. If the Tax folio number for any Parcel erroneously includes portions of another Parcel, the Owners of such Parcels shall work cooperatively and in good faith to correct such error with the County Property Appraiser.

13.2 No Separate Assessment. In the event that separate Tax folios are not established for each of the Parcels, but rather one tax assessment for the entire Garage Property or Parking Garage (such taxed Garage Property or Parking Garage herein referred to as the "**Taxed Land**"), then the Owners of both Parcels shall work cooperatively and in good faith to have County Tax Collector consider the Taxed Land as not subject to property Tax for the reasons explained in Section 13.1. If such efforts are not successful, the Tax values of each Parcel shall be determined in accordance with the following:

13.2.1 Within 15 business days of any Parcel Owner's receipt of the real estate Tax bill for the Taxed Land, such Owner shall endeavor to give notice to the other Parcel Owner, together with a copy of the Tax bill. While each Owner shall endeavor to provide such notice to the other Parcel Owner, the failure to do so shall not be a default hereunder since each Parcel Owner has the ability to obtain a copy of the applicable Tax bill through the County Property Appraiser's office. Under no circumstances shall the Declarant be obligated to determine whether any Tax bill is inclusive of the entire Taxed Land; it being agreed that the obligations of Declarant under this Section 13.2 shall arise if, and only if, the Owner of the Public Parking Parcel provides Declarant with a copy of the Tax bill that includes more than such Parcel. Following receipt of such Tax bill, Declarant shall engage a Florida licensed and MAI certified real estate appraiser or qualified tax consultant (herein, the "**tax consultant**") having at least 10 years' experience in real estate Tax protest work in the County to appraise the Taxed Land as hereinafter provided.

13.2.2 The tax consultant shall be engaged by Declarant to value each of the Parcels included in the Taxed Land using the criteria that the County Property Appraiser is eligible to use under the Florida Statutes in determining ad valorem Tax values (and, if more than one method of valuation is available, the tax consultant shall select the method to be applied, in its reasonable discretion), and shall allocate the value of the Taxed Land, as disclosed in the applicable Tax bill, among the individual Parcels. The tax consultant shall be directed to deliver a report to Declarant indicating the allocation of value among the Parcels and calculating (and setting forth) the percentage that each such valuation bears to the total value of the Taxed Land, as disclosed in the Tax bill (each such percentage being the "**Tax Value Percentage Share**"), together with an invoice showing the tax consultant's fees and expenses. The land value associated with the Taxed Land shall be allocated based on the value of each Parcel relative to the value of all Taxed Land, as determined by the tax consultant. Each Owner of a Parcel shall, within 10 business days following Declarant's notice of such determination by the tax consultant, (i) remit to the County Tax Collector its portion of the Tax bill based on the Tax Value Percentage Share multiplied by the total Taxes

then due for the Taxed Land under the Tax bill, (ii) provide to Declarant and the other Owner (if other than Declarant) evidence of such payment, and (iii) pay to Declarant its portion of the tax consultant's fee and expenses based on the Tax Value Percentage Share multiplied by the total tax consultant's fees and expenses. Declarant shall, going forward, assess the Parcel Owners for their Tax Value Percentage Share of next year's property taxes based on the prior year's assessment of the Taxed Land. Declarant shall not have any liability for any failure of the Owners to receive the benefit of discounts associated with the early payment of real estate Taxes or penalties, interest or other charges that may accrue on Taxes for the Taxed Land due to the foregoing valuation process or otherwise, all of which shall be shared among the Parcel Owners based on the same allocation as the Tax Value Percentage Share provided herein; provided, however, that any loss of discounts, penalties, interest or other charges resulting from any Parcel Owner's failure to pay or perform its obligations when required hereunder shall be borne solely by such defaulting Parcel Owner.

13.2.3 Notwithstanding the foregoing, the Parcel Owners (or any of them) shall have the right to request a "split" or "cutout" of its respective Parcel from the Taxed Land pursuant to Section 197.373, Florida Statutes (or any successor or other provision), as amended, or any rules promulgated with respect to same, and to obtain a separate Tax value and assessment for such Parcel. Any Parcel Owner so requesting a split or cutout of its Parcel shall provide a copy of such request to Declarant and the other Owner (if other than Declarant) simultaneously with the delivery of same to the County Tax Collector. If any Owner is successful in obtaining from the County Tax Collector and/or Property Appraiser the amount of the assessment on its Parcel, such Owner shall notify the Declarant and the Parcel Owner (if other than Declarant). The determination by the County Property Appraiser shall be conclusive with respect to the Tax value and assessment for the Taxed Land and/or Parcel in question absent manifest error (notwithstanding any different determination or valuation by a tax consultant), and the Parcel Owners shall be entitled to pay Taxes for their respective Parcel based on such determination.

13.3 Reference to Taxes in Other Documents. For purposes of this Declaration and any documents or instruments, such as the Ground Lease or any other leases, referring to the allocation of Taxes (or any component thereof) pursuant to this Declaration, Taxes allocated to a portion of the Project shall mean those Taxes assessed and payable with respect to each Parcel as if each such Parcel are or were separately assessed and taxed, and if at any time there are no separate assessments, Taxes shall be allocated pursuant to the allocations and in the manner set forth in Section 13.2.

13.4 Failure to Pay Taxes. If an Owner fails to pay any portion of the Taxes or any other charge levied against that Owner's Parcel prior to the date such Taxes become delinquent, which such Owner is obligated to pay pursuant to this Section 13, and if such unpaid Taxes are a lien or encumbrance on any portion of the Project not owned by the delinquent Owner, and any lawful authority would thereafter have the right to sell Tax certificate(s) or issue Tax warrants or deed(s) or otherwise foreclose against such portion of the Project, or to impair or extinguish any easement benefitting any Owner by reason of such nonpayment, then any affected Owner shall (a) have the right (but not the obligation), upon the expiration of 10 days after notice of non-payment to the defaulting Owner (or such shorter period of time, but not less than three days, if such Taxes have become delinquent), to pay such Taxes, or share thereof, together with any interest and penalties thereon, whereupon the Owner obligated to make such payment shall, upon demand, reimburse such affected Owner who made such payment for the amount thereof, and/or (b) to pursue any and all rights and remedies available at law or in equity against the delinquent Owner failing to make such payment. Interest shall accrue on the amount of any such reimbursement obligation not paid within 10 days after demand at the Default Rate.

13.5 Taxes Against Shared Facilities. It is intended that any and all Taxes against the Shared Facilities shall be or have been assessed against and payable as part of the Taxes of the Parcels.



14. Provisions Regarding Shared Facilities Costs.

14.1 Maintenance Expenses. Declarant shall maintain in good repair, and shall repair and replace as often as reasonably necessary, the Shared Facilities as provided in other provisions of this Declaration, all such work to be done as determined and ordered by Declarant. Each Owner shall be deemed to have agreed that the level of service and quality of maintenance and repair shall be commensurate with the Project Standard as reasonably determined by Declarant. All work by Declarant pursuant to this Section and pursuant to Section 6 related to the foregoing and/or with respect to the Shared Facilities shall be paid for through Assessments (either general or special) imposed in accordance herewith. In the event an Owner requests Declarant to maintain, repair or replace any portion of that Owner's Parcel or other improvements that would not otherwise fall under Declarant's responsibilities, then Declarant may do so as long as all costs and expenses are paid by the applicable Owner. Likewise, any repair or other work to the Shared Facilities necessitated by the misuse, negligence, or other action or inaction of an Owner or its Permitted Users shall be paid for by the Owner causing the damage (or the applicable Owner of the Parcel by which the Permitted User caused such damage). No Owner may waive or otherwise escape liability for Assessments by non-use (whether voluntary or involuntary) of the Shared Facilities or abandonment of the right to use same. Notwithstanding anything herein contained to the contrary, Declarant shall be excused and relieved from any and all maintenance, repair, and/or replacement obligations under this Section to the extent that the funds necessary to perform same are not available through the Assessments imposed and actually collected. Declarant shall have no obligation to fund and/or advance any deficit or shortfall in funds needed by Declarant in order to properly perform the maintenance, repair and/or replacement obligations described herein.

14.2 Shared Facilities Costs. Each Owner shall be deemed to covenant and agree to pay to Declarant all Assessments and charges for the operation and insurance of, and for payment of expenses (and real estate and personal property Taxes) allocated or assessed to or through or otherwise incurred by the Declarant, of and/or for the ownership, maintenance, management, operation, and insurance of, and provision of services to, the Shared Facilities, the establishment of reasonable reserves for the replacement of same, all Master Metered Utility Usage Costs, the establishment of a fund to pay certain expenses of Shared Facilities Manager or Declarant, capital improvement Assessments, special Assessments and all other charges and Assessments hereinafter referred to or imposed by Declarant in connection with the repair, replacement, improvement, maintenance, management, operation, and insurance of, provision of services to, and Taxes on (as applicable), the Shared Facilities (collectively, the "**Shared Facilities Costs**"). The Shared Facilities Costs shall also be deemed to include any and all costs and expenses relating to or incurred by Declarant or Shared Facilities Manager under the Project Encumbrances, any and all costs and expenses (including without limitation reasonable attorneys' fees in all legal proceedings commenced by or against Declarant) incurred by Declarant in connection with the performance of its obligations under this Declaration. Without limiting the generality of the foregoing, Shared Facilities Costs may include the following:

14.2.1 to the extent the Declarant enters into any management agreement for the Project, the costs associated with same;

14.2.2 to the extent the Declarant enters into any security monitoring agreement (including without limitation any agreement for security officer personnel and/or security camera installation and monitoring) for the Project, the costs associated with same;

14.2.3 to the extent the Declarant enters into any trash disposal or custodial agreement for the Project, the costs associated with same;

14.2.4 costs resulting from damage to the Project or any portion thereof that are necessary to satisfy any deductible and/or to effect necessary repairs in excess of insurance proceeds received as a result of such damage; and/or

14.2.5 any Taxes assessed against the Project not covered by the Parcel Owners as per Section 13 (if any).

Except in the event of an emergency, prior to the Declarant entering into any agreement related to Shared Facilities which payment under such agreement would incur more than \$5,000 of Shared Facilities Costs in the aggregate in any calendar year, the Declarant shall first provide a copy of such agreement and an estimate of such Shared Facilities Costs to be incurred under such agreement to the Owners.

14.3 Assessments Payable to Declarant. Each Owner shall pay Assessments to Declarant in accordance with the allocations set forth in Section 14.4. Each Assessment, including any capital improvement Assessment and/or special Assessment, together with such interest thereon and costs of collection thereof (including any costs of any collection agency) and costs of protecting the lien, shall be a charge on each Parcel, and shall be a continuing lien upon each Parcel and upon all improvements thereon, from time to time existing as herein provided. Each such Assessment, together with such interest thereon and costs of collection thereof as hereinafter provided, shall also be the personal obligation of all persons who own any deed interest in the Parcel (including any title interest acquired by "leasehold deed") at the time when the Assessment fell due and all subsequent Owners thereof until paid, except as provided in Section 14.8 Reference to Assessments shall be understood to include reference to any and all of said charges, whether or not specifically mentioned.

14.4 Allocated Interests. Except as otherwise provided to the contrary herein, Shared Facilities Costs allocable to the Shared Facilities shall be allocated among the Parcels as follows, subject to reasonable adjustments by Declarant as hereinafter provided (such allocation to the Parcels is referred to as the "**Allocated Interests**"):

<u>Parcel</u>	<u>Share of Shared Facilities Costs</u>
Public Parking Parcel	57.48%
Residential Parking Parcel	42.52%
TOTAL	100.00%

Notwithstanding the foregoing or the allocations set forth above, to the extent that utility consumption charges for any Electric Consuming Device installed by or on behalf of an Owner can be reasonably monitored or sub-metered on an individual per-device basis, or can reasonably be allocated to the particular Parcel based upon actual consumption as determined by Declarant's engineer or consultant, then in such event said charges shall be assessed to the Owner utilizing same for the costs of such utility consumption measured and paid for in direct relation to the consumption identified (rather than assessed as Shared Facilities Costs by the percentage allocations described above). Such charges may be enforced and shall be collectible by the Declarant in the same manner as other Shared Facilities Costs.

Notwithstanding the foregoing or the allocations set forth above, (a) premiums for insurance policies purchased by Declarant pursuant to this Declaration shall be allocated among the Parcels as provided in Section 10, and (b) if, under any other provision of this Declaration, any other costs are allocated to the Parcel Owners (or any one or more of them) on a basis other than the manner set forth in this Section, then such costs shall be allocated by Declarant to such Parcel Owners as so provided in such other provisions. All such charges, premiums, Taxes and other costs nevertheless are and shall remain Assessments (irrespective of how same are allocated among the Parcels), subject to Declarant's rights and remedies set forth in this Section 14 in the event any Owner fails to pay same as required herein.

14.5 Levying Assessments. Declarant shall budget and adopt Assessments for the estimated Shared Facilities Costs for the period subject to such budget. In addition to the regular and capital improvement Assessments that are or may be levied, Declarant shall have the right to collect reasonable reserves for the replacement of Shared Facilities (or any components thereof) and to levy special Assessments to fund expenses which Declarant does not reasonably anticipate having sufficient funds to cover, or special Assessments or impose other charges against an Owner to the exclusion of the other Owner, for the repair or replacement of damage to any portion of the applicable Shared Facilities caused

by the misuse, negligence, or other action or inaction of an Owner or its Permitted Users. Any such special Assessment shall be subject to all of the applicable provisions of this Section 14, including without limitation lien filing and foreclosure procedures and late charges and interest. Any special Assessment levied hereunder shall be due within the time specified by Declarant in the action imposing such Assessment, but only in the event of an emergency shall this time be less than 45 days. Further, funds that are necessary or desired by Declarant for the addition of capital improvements (as distinguished from repairs, maintenance, replacement and/or emergency improvements) relating to the applicable Shared Facilities and that have not previously been collected as reserves or are not otherwise available to Declarant (other than by borrowing) shall be levied by Declarant as Assessments against the Owners, subject to Section 14.6 below. Assessments provided for in this Section 14 shall commence on the first day of the month next following the recordation of this Declaration and shall be applicable through December 31 of such year. Each subsequent annual Assessment shall be imposed for the year beginning January 1 and ending December 31. The annual Assessments shall be payable in advance in monthly installments, or in annual, semi- or quarter-annual installments if so determined by Declarant (absent which determination they shall be payable monthly). The Assessment amount (and applicable installments) may be changed at any time by Declarant from that originally stipulated or from any other Assessment that is in the future adopted by Declarant. The original Assessment for any year shall be levied for the calendar year (to be reconsidered and amended, if necessary, at any appropriate time during the year), but the amount of any revised Assessment to be levied during any period shorter than a full calendar year shall be in proportion to the number of months (or other appropriate installments) remaining in such calendar year. Declarant shall fix the date of commencement and the amount of the Assessment against the Parcels for each Assessment period, to the extent practicable, at least 30 days in advance of such date or period, and shall, at that time, prepare a list of the Assessments applicable to each Parcel which shall be kept in the office of Declarant and shall be open to inspection by any Owner. Written notice of the Assessment shall thereupon be sent to each Owner subject thereto 30 days prior to payment of the first installment thereof, except as to special Assessments. In the event no such notice of the Assessments for a new Assessment period is given, the amount payable shall continue to be the same as the amount payable for the previous period, until changed in the manner provided for herein.

14.6 Assessments for Capital Improvements. Prior to the Declarant adopting any budget which includes Shared Facilities Costs for capital improvements (as distinguished from repairs, maintenance, replacement and/or emergency improvements), the Declarant shall first provide to the Owners the estimated amount of such capital improvements at least 45 days prior to such budget or Assessments related to such capital improvements taking effect.

14.7 Effect of Non-Payment of Assessment; Personal Obligation; Lien; Remedies. If the Assessments (or installments) provided for are not paid on the date(s) when due, then such Assessments (or installments) shall become delinquent and shall, together with late charges, interest on the late amount at the Default Rate, and the cost of collection thereof (including any costs of any collection agency) and any costs for protection of the lien, as herein provided, thereupon become a continuing lien on the Parcel and all improvements thereon. Except as provided in Section 14.8 to the contrary, the obligation of an Owner to pay such Assessment shall pass to such Owner's successors in title and recourse may be had against either or both. If any installment of an Assessment is not paid within 10 days after the due date, at the option of Declarant a late charge not greater than the amount of 25% of such unpaid installment may be imposed; provided that only one late charge may be imposed on any one unpaid installment and if such installment is not paid thereafter, it and the late charge shall accrue interest as provided herein but shall not be subject to additional late charges; provided further, however, that each other installment thereafter coming due shall be subject to one late charge each as aforesaid. In addition, and without limitation of the foregoing, Declarant may bring an action at law against the Owner(s) obligated to pay the same, may record a claim of lien against the Parcel on which the Assessments and late charges are unpaid and all improvements thereon, may foreclose the lien against the applicable portion of the Parcel and all improvements thereon on which the Assessments and late charges are unpaid in like manner as foreclosure of a mortgage lien, or may pursue one or more of such remedies at the same time or successively, and attorneys' fees and costs incurred in preparing and filing the claim of lien and the complaint, if any, and prosecuting same (including costs of any collection agency), in such action shall be added to the amount of such Assessments, late charges and interest secured by the lien, and in the event a judgment is obtained, such judgment shall include all such sums as above provided and attorneys' fees incurred together with the

costs of the action, through all applicable appellate levels (and including fees incurred in bankruptcy or probate proceedings, if applicable). Failure of Declarant (or any collecting entity) to send or deliver bills or notices of Assessments shall not relieve Owners from their obligations hereunder. Declarant shall have such other remedies for collection and enforcement of Assessments as may be permitted by applicable law. All remedies are intended to be, and shall be, cumulative.

14.8 Subordination of the Lien. The lien of the Assessments provided for in this Section 14 shall be subordinate to real property Tax liens and the lien of any Mortgage on a Parcel; provided, however, that any such mortgage lender when in possession, and in the event of a foreclosure, any purchaser at a foreclosure sale, and any such Mortgage lender acquiring a deed in lieu of foreclosure, and all persons claiming by, through or under such purchaser or Mortgage lender, shall hold title subject to the liability and lien of any Assessment coming due after such foreclosure (or conveyance in lieu of foreclosure). Any unpaid Assessment that cannot be collected as a lien against the Parcel by reason of the provisions of this Section 14 shall be deemed to be an Assessment divided equally among, payable by and a lien against all Parcels subject to Assessment by Declarant, including the Parcels as to which the foreclosure (or conveyance in lieu of foreclosure) took place.

14.9 Curative Right. Declarant, for all Parcels now or hereafter located within the Project, acknowledges and agrees, and each Owner, by acceptance of a deed (including any leasehold deed) therefor or other conveyance of a Parcel, whether or not it shall be so expressed in such deed or other conveyance, shall be deemed to acknowledge and agree, that it shall be the right and obligation of Declarant to maintain, repair and replace the Shared Facilities in accordance with the provisions of this Declaration. Notwithstanding anything herein contained to the contrary, in the event (and only in the event) that Declarant fails to maintain the applicable Shared Facilities as required under this Declaration, any affected Parcel Owner shall have the right to perform such duties; provided, however, that, except in the case of an emergency (in which case such notice as is reasonable under the circumstances shall be required) same may only occur after 30 business days' prior written notice to Declarant and provided that Declarant has not effectuated curative action within said 30 business day period (or if the curative action cannot reasonably be completed within said 30 business day period, provided only that Declarant has not commenced curative actions within said 30 business day period and thereafter diligently pursued same to completion). To the extent that a Parcel Owner must undertake maintenance responsibilities as a result of Declarant's failure to perform same, then in such event, but only for such remedial actions as may be necessary, the Parcel Owner shall be deemed vested with the Assessment levy and collection rights of Declarant hereunder for the limited purpose of obtaining reimbursement from the Owners for the costs of performing such remedial work and the easement rights of Declarant for the limited purpose of carrying out such remedial actions.

#### 14.10 Records.

14.10.1 Financial Records. Declarant shall maintain financial books and records showing its actual receipts and expenditures with respect to the maintenance, operation, repair, replacement, alteration and relocation of the Shared Facilities, including the then current budget and any then proposed budget (the "**Facilities Records**"). The Facilities Records need not be audited or reviewed by a Certified Public Accountant. Any Owner shall have the right to inspect the Facilities Records at the offices of the Declarant during regular business hours, upon not less than 30 days' prior written notice to Declarant, provided that any such inspection shall be limited to the Facilities Records pertaining to the immediately preceding and current calendar year only (and not any other calendar years). The City reserves the right, upon 30 days' prior written notice to Declarant to audit the Facilities Records of Declarant any time during the duration of this Declaration and for a period of 6 months after termination of this Declaration. Upon an initial 30 days' prior written notice to Declarant and reasonable advance written notice thereafter in connection with the same inspection or audit, reasonable access to the Shared Facilities Records shall be granted during regular business hours to the City or any of its duly authorized representatives which are directly pertinent for the purpose of auditing same.

14.10.2 Public Records. The CITY OF HOLLYWOOD, FLORIDA, is a public agency subject to Chapter 119, Florida Statutes. The Declarant shall comply with Florida's Public Records Law, as amended. Specifically, in accordance with Section 119.0701, Florida Statutes, Declarant shall:

14.10.2.1 Keep and maintain public records required by the City to perform the service;

14.10.2.2 Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

14.10.2.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for (i) the duration of the term of this Declaration and (ii) following completion of its obligations under the terms of this Declaration if Declarant does not transfer the records to the public agency; and

14.10.2.4 Upon completion of its obligations under this Declaration, transfer, at no cost, to the City all public records in its possession or keep and maintain public records required by the City to perform the service. If Declarant transfers all public records to the City upon completion of its obligations under the terms of this Declaration, it shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Declarant keeps and maintains public records upon completion of its obligations under the terms of this Declaration, it shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

**IF THE DECLARANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DECLARANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS DECLARATION, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (954) 921-3211, [PCERNY@HOLLYWOODFL.ORG](mailto:PCERNY@HOLLYWOODFL.ORG), CITY CLERK'S OFFICE, 2600 HOLLYWOOD BLVD., HOLLYWOOD, FL 33020.**

14.11 Estoppel Certificates. Upon the request of any Owner or its mortgagee, the Declarant (or its authorized agent and/or Shared Facilities Manager) shall furnish an estoppel certificate confirming such information as may be reasonably requested by such parties, such as the amount and status of payment of Assessments, whether this Declaration has been amended (and, if so, identifying the amendments), and whether such Owner or its Permitted Users are in compliance with this Declaration. The estoppel certificate shall be based on the knowledge of the individual or entity issuing such certificate. Declarant (or its agent and/or Shared Facilities Manager, as applicable) may establish a reasonable fee to be charged to reimburse it for the cost of preparing any certificates, which fee shall not exceed \$250.00.

14.12 Conflict. In the event of any conflict between the provisions of this Section 14, and the provisions of any other Section of this Declaration addressing the same subject matter, the provisions of this Section 14 shall prevail and govern.

15. General Provisions.

15.1 Duration. The covenants and restrictions of this Declaration shall run with and bind the Land, and shall inure to the benefit of and be enforceable by Declarant (at all times) and the other Owner(s), and their respective legal representatives, successors and designated assigns, for the term of the Ground Lease and any renewals, replacements, extensions and/or modifications thereof (including any assignment of the Ground Lease to successors and/or assigns, and/or any replacement ground lease entered into by the record title owner of the Land, which ground lease allows for the continuation of this Declaration), after which time said covenants shall be automatically extended for successive periods of ten (10) years each unless an instrument signed by all of the then Owners of all Parcels and of 100% of the mortgagees thereof has been recorded, agreeing to revoke said covenants and restrictions.

15.2 Notice. Any notice, demand, request, consent, approval or other communication to be sent to any Owner under the provisions of this Declaration shall be in writing and shall be given or made or communicated by (i) personal delivery, or (ii) a national and reputable overnight carrier, with a request that the addressee sign a receipt evidencing delivery, or (iii) United States registered or certified mail, return receipt requested with postage prepaid, or (iv) such other means as may be determined from time to time by Declarant, addressed to the last known address of the person who appears as Owner on the records of Declarant at the time of such delivery. Each Owner shall have the right to designate a different address from time to time by notice similarly given to Declarant, with a specific direction to update the records of Declarant, at least 30 days before the effective date thereof. Any notice, demand, request, consent, approval or other communication which any Owner is required or desires to give or make or communicate to Declarant shall be in writing and shall be given or made or communicated by (i) personal delivery, or (ii) a national and reputable overnight carrier, with a request that the addressee sign a receipt evidencing delivery, or (iii) United States registered or certified mail, return receipt requested with postage prepaid, or (iv) such other means as may be determined from time to time by Declarant, addressed to the following address:

Declarant:	University Station I, LLC 3225 Aviation Ave 6th floor, Miami, FL 33133 Attention: Matthew Rieger, Esq. Phone: 305-860-8188 Email: mattr@htgf.com
Copy to:	Richard E. Deutch, Jr., Esq Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. 150 West Flagler Street, Suite 2200 Miami, FL 33130 Direct: 305-789-4108 Main: 305-789-3200 Fax: 305-789-2613 rdeutch@stearnsweaver.com

Declarant shall have the right to designate a different address from time to time by notice given to Owners in the manner set forth above.

15.3 Enforcement. Without limiting the generality of Section 8, enforcement of these covenants and restrictions shall be accomplished by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenant or restriction, either to restrain violation or to recover damages, and against the Parcels to enforce any lien created by these covenants; and failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

15.4 Interpretation. The Section headings have been inserted for convenience only, and shall not be considered or referred to in resolving questions and interpretation or construction. Unless the context requires a contrary construction, the singular shall include the plural and the plural the singular, and the masculine, feminine and neuter genders shall each include the others. All references to Sections, paragraphs and Exhibits mean the Sections, paragraphs and Exhibits in (and, in the case of Exhibits, attached to) this Declaration unless another agreement is referenced. All Exhibits attached hereto are incorporated herein by reference and made a part of this Declaration.

15.5 Severability. Invalidation of any one of these covenants or restrictions or any part, clause or word hereof, or the application thereof in specific circumstances, by judgment or court order shall not affect any other provisions or applications in other circumstances, all of which shall remain in full force and effect.

15.6 Effective Date. This Declaration shall become effective upon its recordation in the Public Records.

15.7 Amendment. In addition, but subject, to any other manner herein provided for the amendment of this Declaration, the covenants, restrictions, easements, charges and liens of this Declaration may be amended, modified, changed, added to or deleted from, at any time and from time to time upon the execution and recordation of an instrument executed by Declarant and consented to by Declarant's Mortgagee. Notwithstanding the foregoing, the provisions of this Declaration affecting a Parcel or the Owner of such Parcel shall not be materially and adversely (as determined in the sole discretion of the applicable Owner) modified or, as to any rights granted to such Owner, impaired and/or diminished, without the prior written consent of such Owner. Further notwithstanding anything herein contained to the contrary, for so long as the Ground Lease is in full force and effect, the provisions of this Declaration shall not be amended or modified in any way that is inconsistent with the Ground Lease, unless such amendment is first approved by the City or other then-current lessor under such Ground Lease. In the event of any conflict between the provisions of this paragraph and the provisions of any other Section of this Declaration, the provisions of this paragraph shall prevail and govern.

15.8 Standards for Consent, Approval and Other Actions. Whenever this Declaration shall require the consent, approval, completion, substantial completion, or other action by the Declarant or its affiliates, such consent, approval or action may not be unreasonably withheld, and shall not be deemed given unless granted in writing by the party receiving the request, and all matters required to be completed or substantially completed by Declarant or its affiliates shall be deemed so completed or substantially completed when such matters have been completed or substantially completed in the reasonable opinion of Declarant. Without limiting the foregoing, no consent or approval shall be granted if the matter or action that is the subject of the consent or approval is not consistent with the Project Standard in the reasonable judgment of Declarant.

15.9 Easements. Formal language of legal and proper grant or reservation with respect to easements, as appropriate, is incorporated in the easement provisions to the extent not so recited in some or all of such provisions. Any deed or similar instrument for conveyance of an interest in a Parcel recorded after the date of recordation of this Declaration shall be deemed to have included a specific grant or reservation of all such easements benefitting such Parcel for the purpose of allowing the Owner of such Parcel the benefit of such easement.

15.10 Constructive Notice and Acceptance. Every person who owns, uses, occupies or acquires any right, title, estate or interest in or to any Parcel or other portion of the Garage Property, shall be conclusively deemed to have consented and agreed to every limitation, restriction, easement, reservation, condition, lien and covenant contained herein, whether or not any reference hereto is contained in the instrument by which such person acquired an interest in, or rights with respect to, such Parcel or other property.

15.11 No Public Right or Dedication. Nothing contained in this Declaration shall be deemed to be a gift or dedication of all or any part of the Shared Facilities to the public, or for any public use; provided,

however, this provision shall not limit the City's intended uses of the Public Parking Parcel or any of the City's rights under the Ground Lease.

**15.12 No Representations Or Warranties. NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, HAVE BEEN GIVEN OR MADE BY DECLARANT, OR ITS AGENTS OR EMPLOYEES IN CONNECTION WITH ANY PORTION OF THE SHARED FACILITIES OR ITS OR THEIR PHYSICAL CONDITION, COMPLIANCE WITH APPLICABLE LEGAL REQUIREMENTS, MERCHANTABILITY, HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR IN CONNECTION WITH THE SUBDIVISION, SALE, OPERATION, MAINTENANCE, COST OF MAINTENANCE, TAXES OR REGULATION THEREOF, EXCEPT (A) AS SPECIFICALLY AND EXPRESSLY SET FORTH IN THIS DECLARATION, AND (B) AS OTHERWISE REQUIRED BY LAW.**

**WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, EACH PARCEL OWNER RECOGNIZES AND AGREES THAT IN A STRUCTURE THE SIZE OF THAT ON THE PROJECT, IT IS TYPICAL TO EXPECT BOWING AND/OR DEFLECTION OF MATERIALS. AMONG OTHER ACTS OF GOD AND UNCONTROLLABLE EVENTS, HURRICANES AND FLOODING HAVE OCCURRED IN THE COUNTY AND THE PROJECT IS EXPOSED TO THE POTENTIAL DAMAGES FROM FLOODING AND FROM HURRICANES, INCLUDING BUT NOT LIMITED TO DAMAGES FROM STORM SURGES AND WIND-DRIVEN RAIN. WATER OR OTHER DAMAGES FROM THIS OR OTHER EXTRAORDINARY CAUSES SHALL NOT BE THE RESPONSIBILITY OF DECLARANT OR ANY OTHER PARTY. TO THE MAXIMUM EXTENT LAWFUL, DECLARANT DISCLAIMS ANY AND ALL AND EACH AND EVERY EXPRESS OR IMPLIED WARRANTIES, WHETHER ESTABLISHED BY STATUTORY, COMMON, CASE LAW OR OTHERWISE, AS TO THE DESIGN, CONSTRUCTION, SOUND AND/OR ODOR TRANSMISSION, EXISTENCE AND/OR DEVELOPMENT OF MOLDS, MILDEW, TOXINS OR FUNGI, FURNISHING AND EQUIPPING OF THE PROJECT AND/OR SHARED FACILITIES, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF HABITABILITY, FITNESS FOR A PARTICULAR PURPOSE OR MERCHANTABILITY, COMPLIANCE WITH PLANS, ALL WARRANTIES IMPOSED BY STATUTE AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES OF ANY KIND OR CHARACTER. FURTHER, GIVEN THE CLIMATE AND HUMID CONDITIONS IN FLORIDA, MOLDS, MILDEW, TOXINS AND FUNGI MAY EXIST AND/OR DEVELOP WITHIN THE PROJECT. BY ACQUIRING TITLE TO A PARCEL OR BY USE OF ANY PORTION OF THE PROJECT, EACH OWNER AND/OR USER OF THE PROJECT SHALL BE DEEMED TO HAVE ASSUMED THE RISKS ASSOCIATED WITH THE LOCATION OF THE PROJECT, HURRICANES, FLOODING, MOLDS, MILDEW, TOXINS AND/OR FUNGI AND TO HAVE RELEASED DECLARANT FROM ANY AND LIABILITY RESULTING FROM SAME.**

**AS TO SUCH WARRANTIES THAT CANNOT BE DISCLAIMED, AND TO OTHER CLAIMS, IF ANY, WHICH CAN BE MADE AS TO THE AFORESAID MATTERS, ALL INCIDENTAL AND CONSEQUENTIAL DAMAGES ARISING THEREFROM ARE DISCLAIMED. ALL OWNERS, BY VIRTUE OF ACCEPTANCE OF TITLE TO THEIR RESPECTIVE PARCELS (WHETHER FROM DECLARANT OR ANOTHER PARTY) SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ALL OF THE AFORESAID DISCLAIMED WARRANTIES AND INCIDENTAL AND CONSEQUENTIAL DAMAGES.**

**15.13 Covenants Running With The Garage Property. Anything to the contrary herein notwithstanding and without limiting the generality (and subject to the limitations) of Section 15.1, it is the intention of all affected parties (and their respective heirs, personal representatives, successors and assigns) that these covenants and restrictions shall run with the Garage Property and with title to the land comprising the Garage Property. Without limiting the generality of Section 15.5, if any provision or application of this Declaration would prevent this Declaration from running with the land comprising the Garage Property as aforesaid, such provision and/or application shall be judicially modified, if at all possible, to come as close as possible to the intent of such provision or application and then be enforced in a manner which will allow these covenants and restrictions to so run with the land; but if such provision and/or application cannot be so modified, such provision and/or application shall be unenforceable and considered null and void in order that the paramount goal of the parties (that these covenants and restrictions run with the land as aforesaid) be achieved.**



15.14 CPI. Whenever specific dollar amounts are stated in this Declaration or any exhibits hereto, unless limited by Legal Requirements or the specific text hereof (or thereof), such amounts shall increase from time to time by application of a nationally recognized consumer price index chosen by Declarant (rounded, in the case of insurance, to the closest \$1,000 increment), using the date this Declaration is recorded as the base year. In the event no such consumer price index is available, Declarant shall choose a reasonable alternative to compute such increases. In no event shall increases under this provision occur more frequently than the fifth anniversary of the recording of this Declaration and each fifth anniversary thereafter.

16. Disclaimer of Liability.

NOTWITHSTANDING ANYTHING CONTAINED HEREIN, DECLARANT SHALL NOT BE LIABLE OR RESPONSIBLE FOR, OR IN ANY MANNER A GUARANTOR OR INSURER OF, THE HEALTH, SAFETY OR WELFARE OF ANY OWNER OR USER OF ANY PORTION OF THE PROJECT, INCLUDING WITHOUT LIMITATION MEMBERS OF THE PUBLIC, TENANTS, GUESTS, INVITEES, AGENTS, SERVANTS, CONTRACTORS OR SUBCONTRACTORS OR FOR ANY PROPERTY OF ANY SUCH PERSONS. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING:

IT IS THE EXPRESS INTENT OF THE DECLARATION THAT THE VARIOUS PROVISIONS HEREOF WHICH GOVERN OR REGULATE THE USES OF THE PROJECT HAVE BEEN WRITTEN, AND ARE TO BE INTERPRETED AND ENFORCED, FOR THE SOLE PURPOSE OF ENHANCING AND MAINTAINING THE ENJOYMENT OF THE PROJECT AND THE VALUE THEREOF;

NEITHER DECLARANT NOR ANY SHARED FACILITIES MANAGER IS EMPOWERED NOR ESTABLISHED TO ACT AS AN ENTITY WHICH ENFORCES OR ENSURES THE COMPLIANCE WITH THE LEGAL REQUIREMENTS OF THE UNITED STATES, STATE OF FLORIDA, THE COUNTY, THE CITY AND/OR ANY OTHER GOVERNMENTAL AUTHORITY OR THE PREVENTION OF TORTIOUS ACTIVITIES; AND

ANY PROVISIONS OF THE DECLARATION SETTING FORTH THE USES OF ASSESSMENTS WHICH RELATE TO HEALTH, SAFETY AND/OR WELFARE SHALL BE INTERPRETED AND APPLIED ONLY AS LIMITATIONS ON THE USES OF ASSESSMENT FUNDS AND NOT AS CREATING A DUTY OF THE RECIPIENT OF SUCH ASSESSMENT FUNDS TO PROTECT OR FURTHER THE HEALTH, SAFETY OR WELFARE OF ANY PERSON(S), EVEN IF ASSESSMENT FUNDS ARE CHOSEN TO BE USED FOR ANY SUCH REASON.

EACH PARCEL OWNER AND EACH OTHER PERSON HAVING AN INTEREST IN OR LIEN UPON, OR MAKING ANY USE OF, ANY PORTION OF THE PROJECT (BY VIRTUE OF ACCEPTING SUCH INTEREST OR LIEN OR MAKING SUCH USES) SHALL BE BOUND BY THIS SECTION AND SHALL BE DEEMED TO HAVE AUTOMATICALLY WAIVED ANY AND ALL RIGHTS, CLAIMS, DEMANDS AND CAUSES OF ACTION AGAINST DECLARANT, ANY SHARED FACILITIES MANAGER OR THEIR AGENTS, EMPLOYEES AND AFFILIATES ARISING FROM OR CONNECTED WITH ANY MATTER FOR WHICH THE LIABILITY OF THE AFOREMENTIONED PARTIES HAS BEEN DISCLAIMED IN THIS SECTION.

\*\*\*Signatures contained on the following page\*\*\*







**EXHIBIT 1**

**of Vertical Subdivision Declaration**

**LEGAL DESCRIPTION OF THE GARAGE PROPERTY**

Parcel C of UNIVERSITY STATION, according to the Plat thereof, recorded in Plat Book 183, Page 609, of the Public Records of Broward County, Florida.

**EXHIBIT 2**

**of Vertical Subdivision Declaration**

**LEGAL DESCRIPTION OF PUBLIC PARKING PARCEL**

**[LEGAL DESCRIPTION AND SKETCH EXHIBIT TO BE REVISED PRIOR TO EXECUTION]**



SKETCH AND LEGAL DESCRIPTION

BY

**PULICE LAND SURVEYORS, INC.**

5381 NOB HILL ROAD  
SUNRISE, FLORIDA 33351

TELEPHONE: (954) 572-1777 • E-MAIL: surveys@pulicelandsurveyors.com  
CERTIFICATE OF AUTHORIZATION LB#3870



**LEGAL DESCRIPTION:**

A PORTION OF PARCEL "C", "**UNIVERSITY STATION**", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 183, PAGE 609, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE MOST SOUTHERLY SOUTHWEST CORNER OF SAID PARCEL "C"; THENCE NORTH 87°48'13" EAST ALONG THE SOUTH LINE OF SAID PARCEL "C" 133.48 FEET; THENCE NORTH 02°11'47" WEST 11.53 FEET TO THE **POINT OF BEGINNING**; THENCE SOUTH 87°48'13" WEST 133.69 FEET; THENCE NORTH 02°11'47" WEST 100.49 FEET; THENCE NORTH 87°48'13" EAST 0.69 FEET; THENCE NORTH 02°10'53" WEST 13.69 FEET; THENCE NORTH 87°48'20" EAST 17.81 FEET; THENCE NORTH 02°11'40" WEST 3.83 FEET; THENCE NORTH 87°48'13" EAST 115.19 FEET; THENCE SOUTH 02°11'47" EAST 118.01 FEET TO THE **POINT OF BEGINNING**.

THE UPPER LIMIT OF THE ABOVE DESCRIBED PARCEL IS THE CEILING OF THE FIFTH FLOOR.

TOGETHER WITH:

**BEGINNING** AT THE AFOREMENTIONED **POINT OF BEGINNING**; THENCE NORTH 02°11'47" WEST 118.01 FEET; THENCE NORTH 87°48'13" EAST 95.77 FEET; THENCE SOUTH 02°11'47" EAST 118.01 FEET; THENCE SOUTH 87°48'13" WEST 95.77 FEET TO THE **POINT OF BEGINNING**.

THE UPPER LIMIT OF THE ABOVE DESCRIBED PARCEL IS THE CEILING OF THE FOURTH FLOOR.

SAID LANDS LYING AND BEING IN THE CITY OF HOLLYWOOD, BROWARD COUNTY, FLORIDA, AND CONTAINING A TOTAL OF 26,964 SQUARE FEET, MORE OR LESS, AT GROUND LEVEL.

**NOTES:**

1. THIS SKETCH IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OR AN ELECTRONIC SIGNATURE AND ELECTRONIC SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. BEARINGS ARE BASED ON AN ASSUMED MERIDIAN, WITH THE SOUTH LINE OF PARCEL "C" BEING N87°48'13"E.
3. THIS IS NOT A SKETCH OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.
4. ALL RECORDED DOCUMENTS ARE PER BROWARD COUNTY PUBLIC RECORDS.

CLIENT: HOUSING TRUST GROUP

SCALE: N/A

DRAWN: L.S.

ORDER NO.: 71336A

DATE: 4/3/23; REV 4/20/23

GARAGE PUBLIC AREA

HOLLYWOOD, BROWARD COUNTY, FLORIDA

FOR: UNIVERSITY STATION

SHEET 1 OF 2

THIS DOCUMENT IS NEITHER FULL NOR COMPLETE WITHOUT SHEETS 1 AND 2

- JOHN F. PULICE, PROFESSIONAL SURVEYOR AND MAPPER LS2691
- VICTOR R. GILBERT, PROFESSIONAL SURVEYOR AND MAPPER LS6274
- DONNA C. WEST, PROFESSIONAL SURVEYOR AND MAPPER LS4290  
STATE OF FLORIDA





**EXHIBIT 3**

**of Vertical Subdivision Declaration**

**LEGAL DESCRIPTION OF RESIDENTIAL PARKING PARCEL**

[LEGAL DESCRIPTION AND SKETCH EXHIBIT TO BE REVISED PRIOR TO EXECUTION]



SKETCH AND LEGAL DESCRIPTION

BY

**PULICE LAND SURVEYORS, INC.**

5381 NOB HILL ROAD  
SUNRISE, FLORIDA 33351

TELEPHONE: (954) 572-1777 • E-MAIL: surveys@pulicelandsurveyors.com  
CERTIFICATE OF AUTHORIZATION LB#3870



**LEGAL DESCRIPTION:**

A PORTION OF PARCEL "C", "**UNIVERSITY STATION**", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 183, PAGE 609, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

**COMMENCING** AT THE MOST SOUTHERLY SOUTHWEST CORNER OF SAID PARCEL "C"; THENCE NORTH 87°48'13" EAST ALONG THE SOUTH LINE OF SAID PARCEL "C" 133.48 FEET; THENCE NORTH 02°11'47" WEST 11.53 FEET TO THE **POINT OF BEGINNING**; THENCE SOUTH 87°48'13" WEST 133.69 FEET; THENCE NORTH 02°11'47" WEST 100.49 FEET; THENCE NORTH 87°48'13" EAST 0.69 FEET; THENCE NORTH 02°10'53" WEST 13.69 FEET; THENCE NORTH 87°48'20" EAST 17.81 FEET; THENCE NORTH 02°11'40" WEST 3.83 FEET; THENCE NORTH 87°48'13" EAST 115.19 FEET; THENCE SOUTH 02°11'47" EAST 118.01 FEET TO THE **POINT OF BEGINNING**.

THE LOWER LIMIT OF THE ABOVE DESCRIBED PARCEL IS THE FLOOR SURFACE OF THE SIXTH FLOOR.

TOGETHER WITH:

**BEGINNING** AT THE AFOREMENTIONED **POINT OF BEGINNING**; THENCE NORTH 02°11'47" WEST 118.01 FEET; THENCE NORTH 87°48'13" EAST 95.77 FEET; THENCE SOUTH 02°11'47" EAST 118.01 FEET; THENCE SOUTH 87°48'13" WEST 95.77 FEET TO THE **POINT OF BEGINNING**.

THE LOWER LIMIT OF THE ABOVE DESCRIBED PARCEL IS THE FLOOR SURFACE OF THE FIFTH FLOOR.

SAID LANDS LYING AND BEING IN THE CITY OF HOLLYWOOD, BROWARD COUNTY, FLORIDA, AND CONTAINING A TOTAL OF 26,964 SQUARE FEET, MORE OR LESS, AT GROUND LEVEL.

**NOTES:**

1. THIS SKETCH IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND SEAL OR AN ELECTRONIC SIGNATURE AND ELECTRONIC SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.
2. BEARINGS ARE BASED ON AN ASSUMED MERIDIAN, WITH THE SOUTH LINE OF BLOCK 11 BEING N87°48'13"E.
3. THIS IS NOT A SKETCH OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.
4. ALL RECORDED DOCUMENTS ARE PER BROWARD COUNTY PUBLIC RECORDS.

CLIENT: HOUSING TRUST GROUP

SCALE: N/A

DRAWN: L.S.

ORDER NO.: 71336B

DATE: 4/3/23; REV 4/20/23

GARAGE RESIDENTIAL AREA

HOLLYWOOD, BROWARD COUNTY, FLORIDA

FOR: UNIVERSITY STATION

SHEET 1 OF 2

THIS DOCUMENT IS NEITHER FULL NOR COMPLETE WITHOUT SHEETS 1 AND 2

- JOHN F. PULICE, PROFESSIONAL SURVEYOR AND MAPPER LS2691
- VICTOR R. GILBERT, PROFESSIONAL SURVEYOR AND MAPPER LS6274
- DONNA C. WEST, PROFESSIONAL SURVEYOR AND MAPPER LS4290  
STATE OF FLORIDA



SKETCH AND LEGAL DESCRIPTION

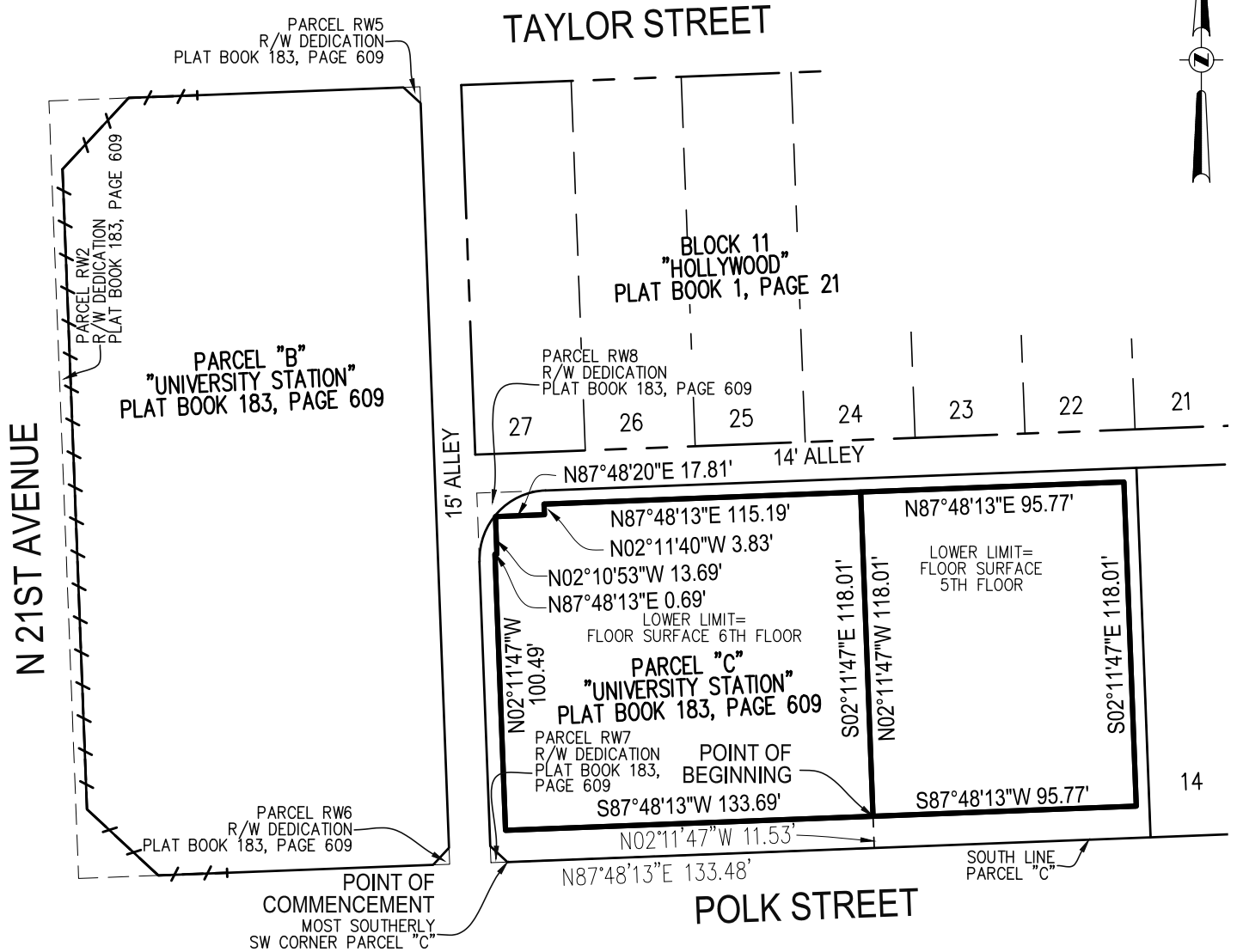
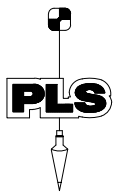
BY

**PULICE LAND SURVEYORS, INC.**

5381 NOB HILL ROAD  
SUNRISE, FLORIDA 33351

TELEPHONE: (954) 572-1777 • E-MAIL: surveys@pulicelandsurveyors.com

CERTIFICATE OF AUTHORIZATION LB#3870



CLIENT: HOUSING TRUST GROUP	
SCALE: 1"=60'	DRAWN: L.S.
ORDER NO.: 71336B	
DATE: 4/3/23; REV 4/20/23	
GARAGE RESIDENTIAL AREA	
HOLLYWOOD, BROWARD COUNTY, FLORIDA	
FOR: UNIVERSITY STATION	

SHEET 2 OF 2

THIS DOCUMENT IS NEITHER FULL NOR COMPLETE WITHOUT SHEETS 1 AND 2

LEGEND & ABBREVIATIONS:

- - - NON-VEHICULAR ACCESS LINE
- R/W RIGHT-OF-WAY

**EXHIBIT 4**

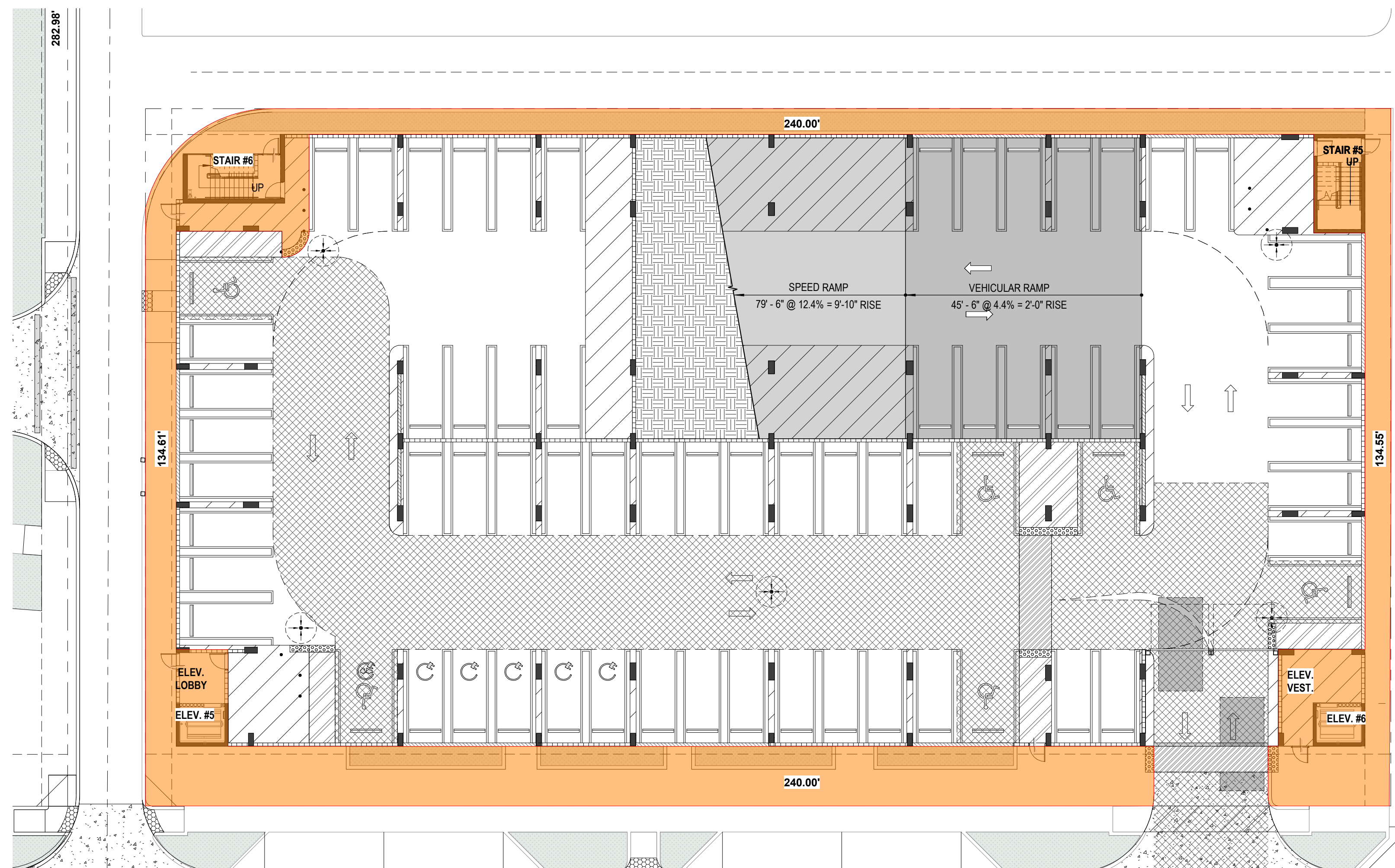
**of Vertical Subdivision Declaration**

**GRAPHIC DEPICTION OF SHARED FACILITIES**

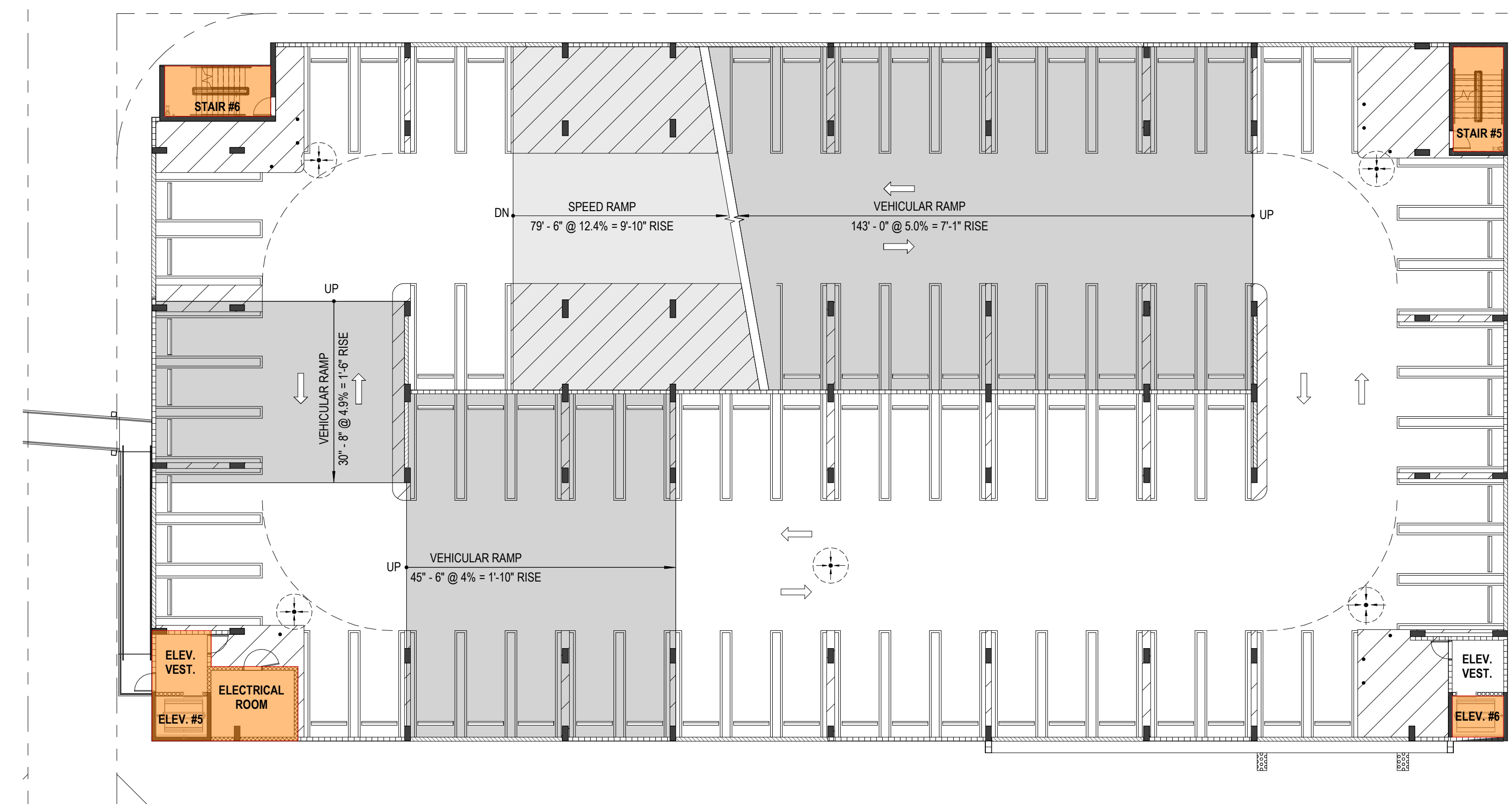
[EXHIBIT TO BE REVISED, IF NECESSARY, PRIOR TO EXECUTION]

Shared Facility areas shown in Orange.

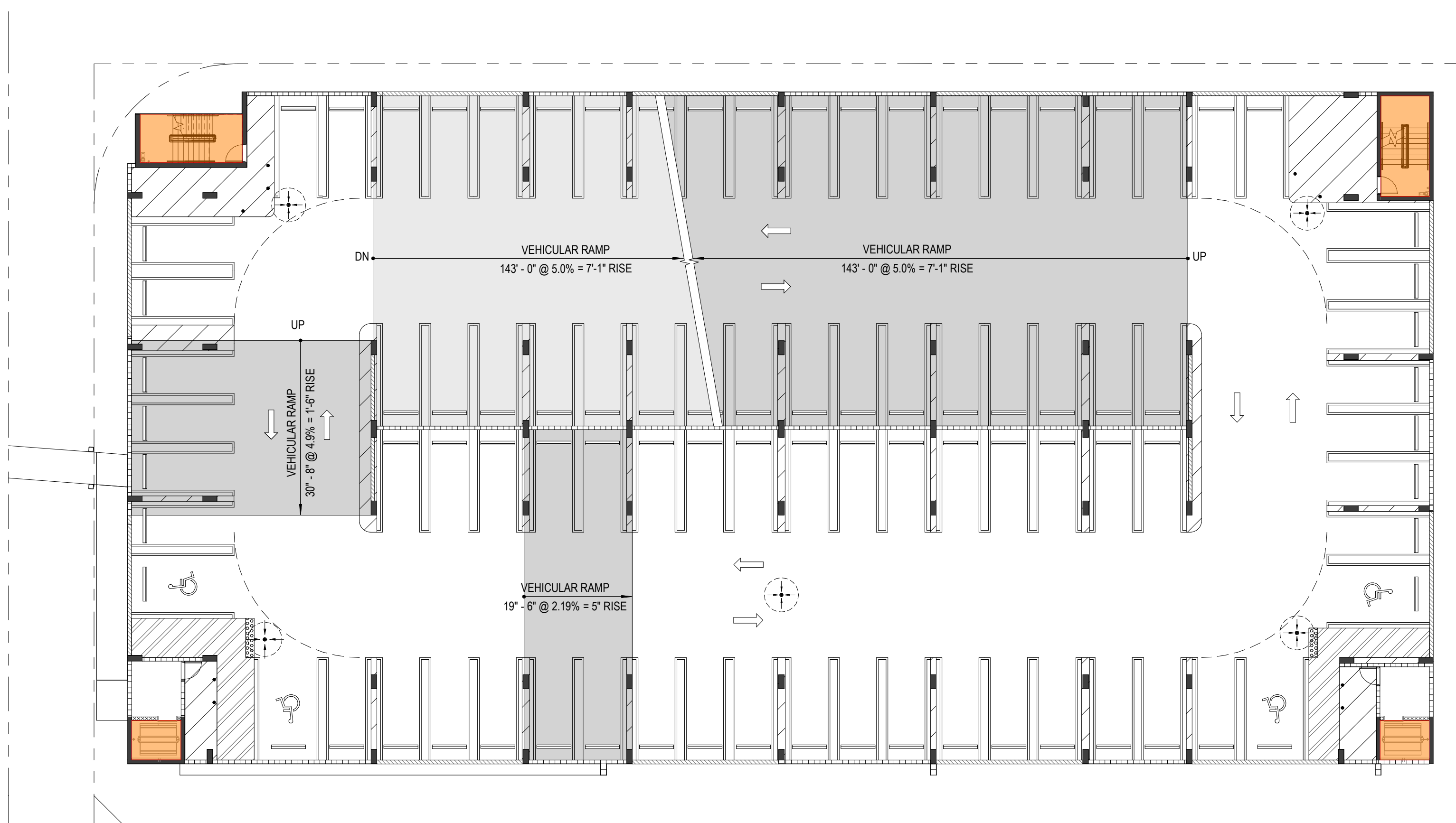
This is only meant to show the areas that are Shared Facilities, but is not inclusive of all the Shared Facilities described in the Declaration.



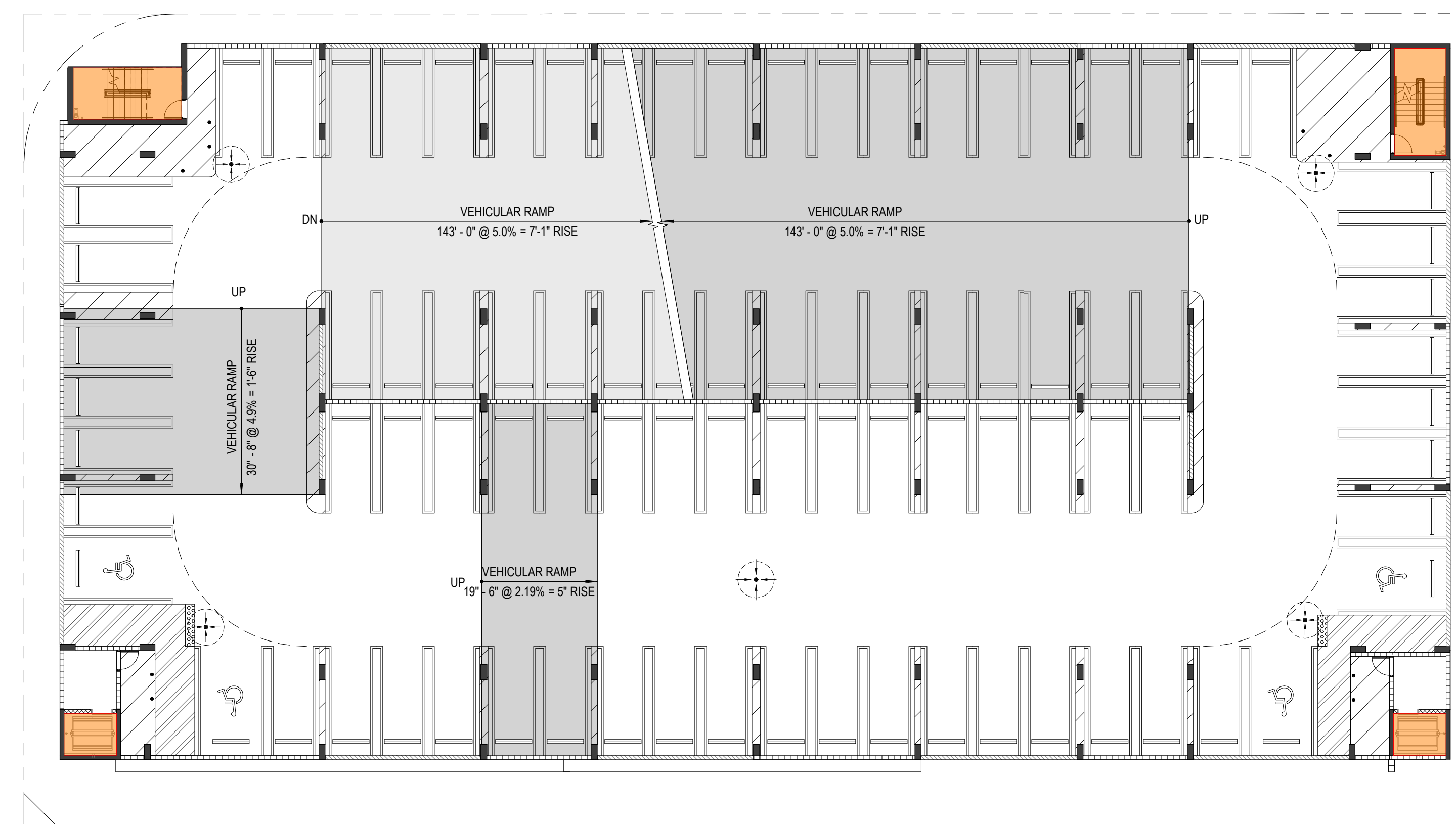
**1 GROUND FLOOR (GARAGE)**  
 SCALE: 1/16" = 1'-0"



**2 2ND LEVEL FLOOR PLAN (GARAGE)**  
 SCALE: 1/16" = 1'-0"



**3 3RD LEVEL FLOOR PLAN (GARAGE)**  
 SCALE: 1/16" = 1'-0"

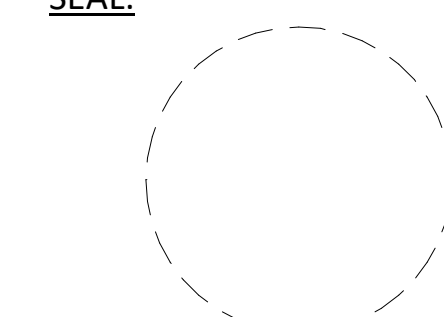


**4 4TH LEVEL FLOOR PLAN (GARAGE)**  
 SCALE: 1/16" = 1'-0"

KEY LEGEND	
	SHARED FACILITIES

EXHIBIT - PRESENTATION

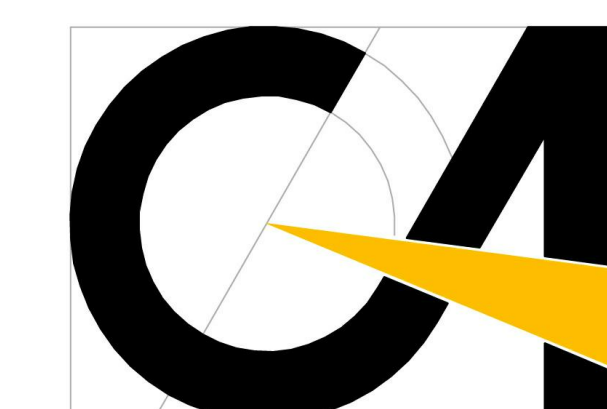
SEAL:

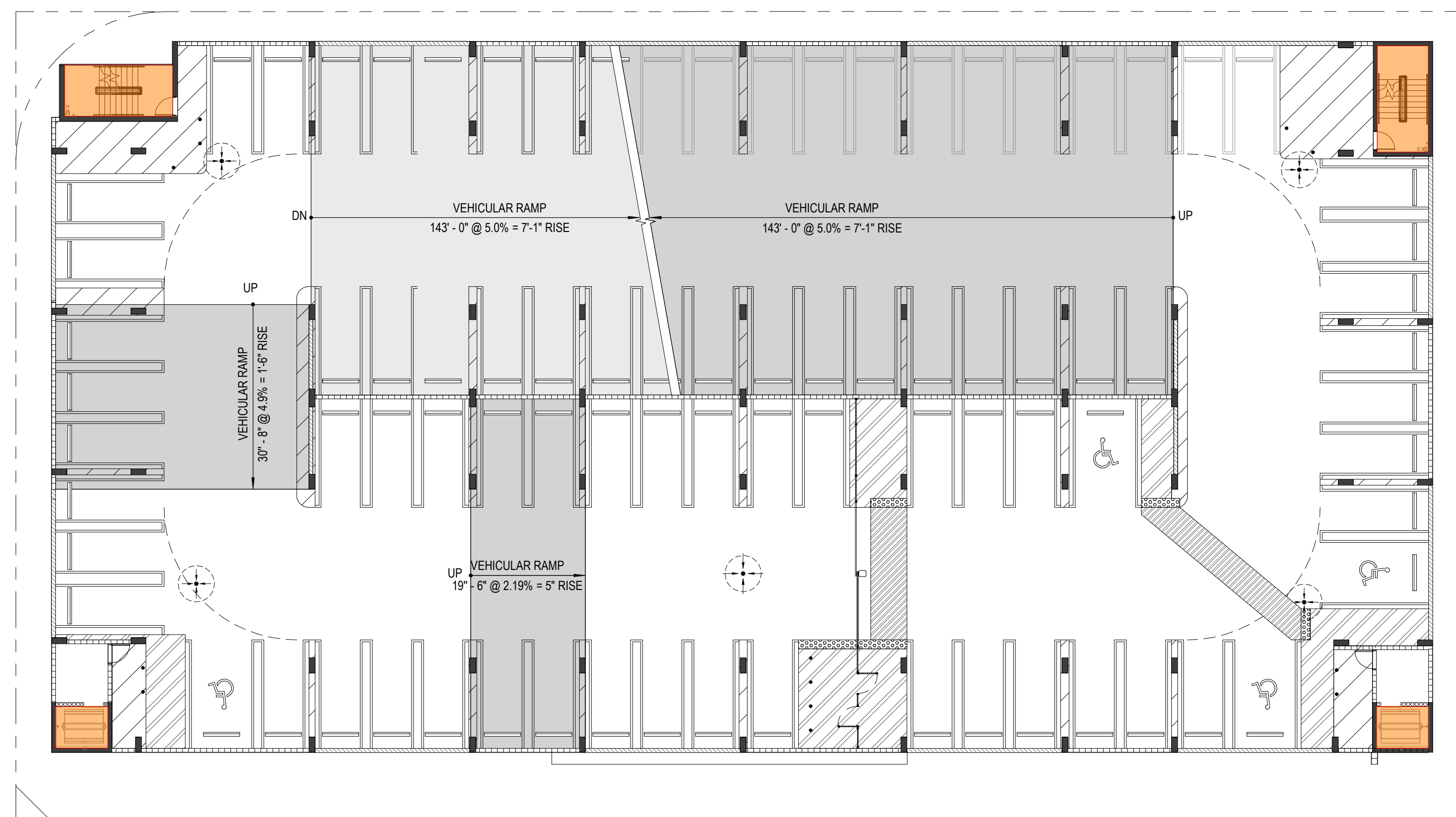


THIS DRAWING IS THE PROPERTY OF CORWIL ARCHITECTS INC. UNLESS OTHERWISE PROVIDED FOR BY CONTRACT, THE CONTENTS OF THIS DRAWING ARE CONFIDENTIAL AND SHALL NOT BE TRANSMITTED TO ANY OTHER PARTY EXCEPT AS AGREED TO BY THE ARCHITECT/ENGINEERS.

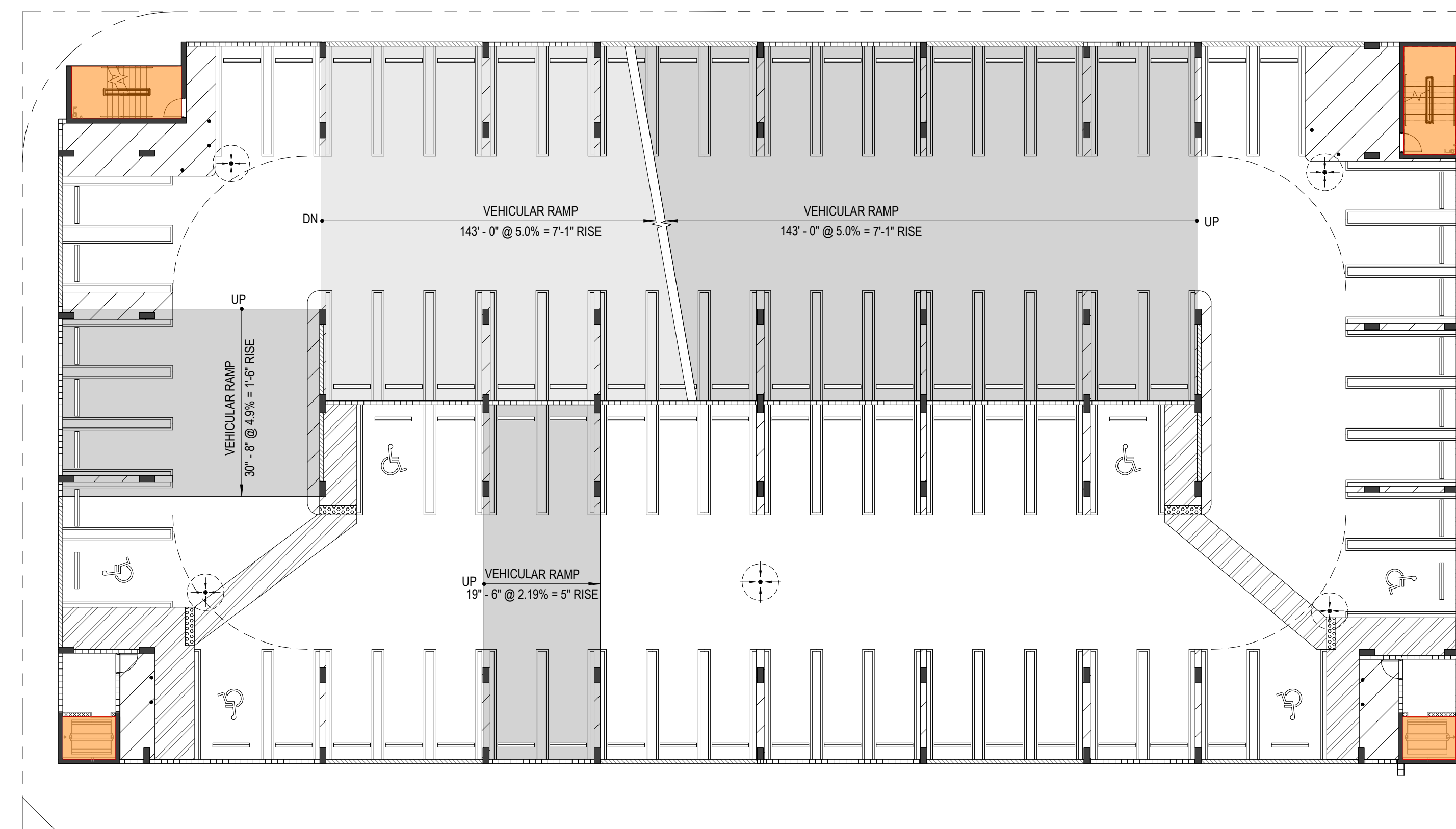
DATE: 3/7/2020  
 JOB No.: 2020-11  
 DRAWN BY: Author  
 APPR. BY: Approver

SHEET NUMBER:  
**SK-0.02**

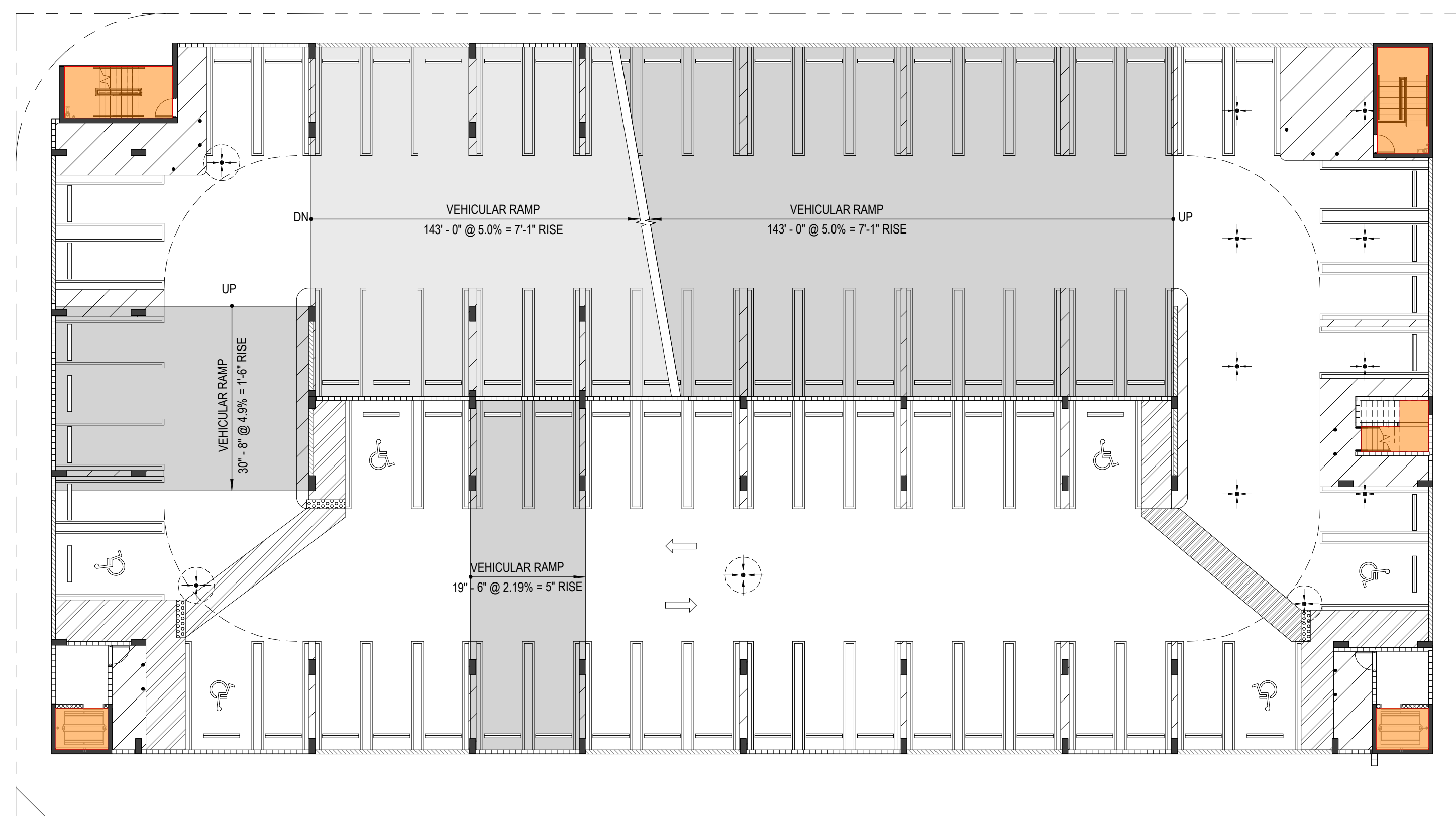




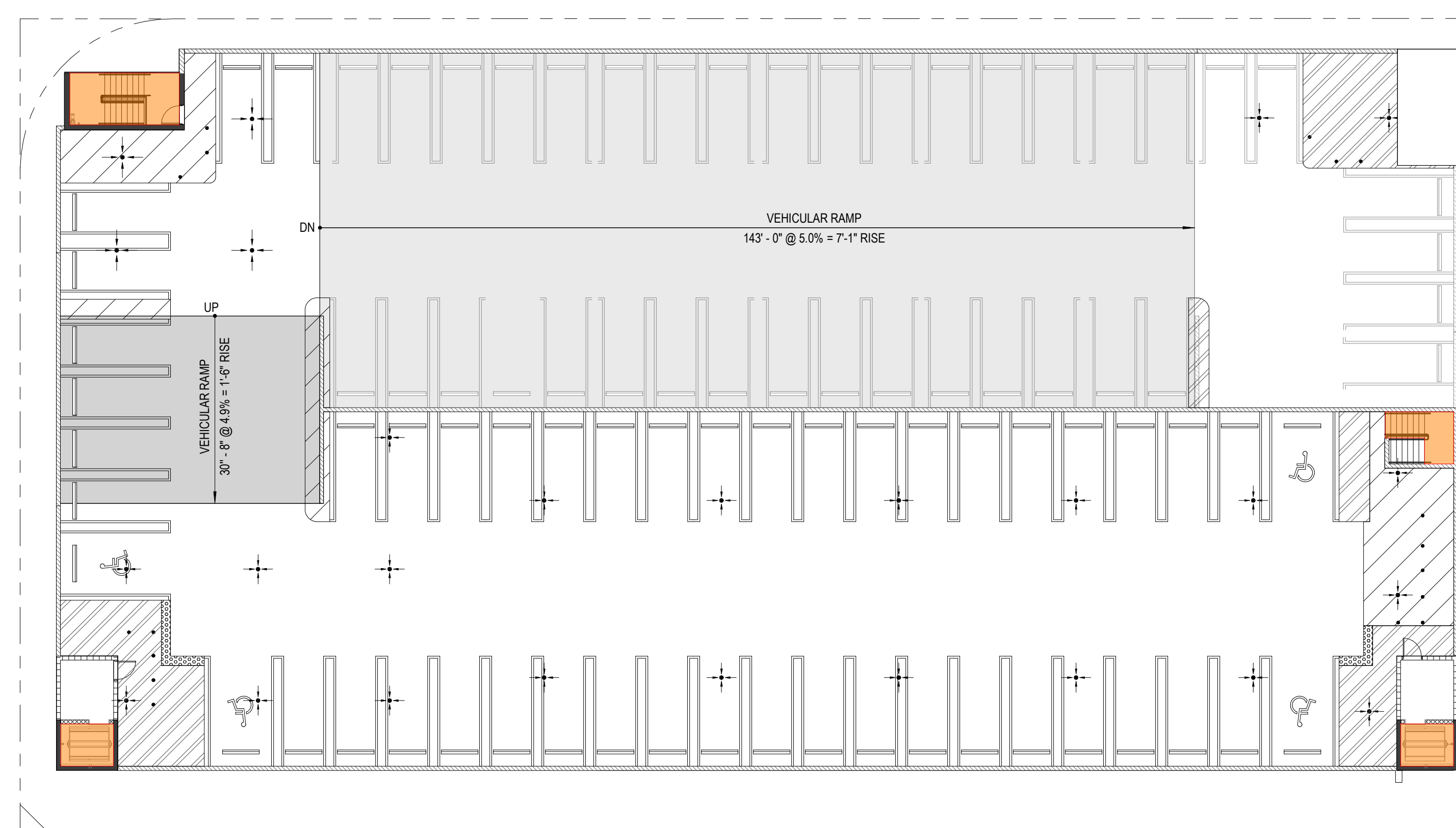
**1 5TH LEVEL FLOOR PLAN (GARAGE)**  
 SCALE: 1/16" = 1'-0"



**2 6TH LEVEL FLOOR PLAN (GARAGE)**  
 SCALE: 1/16" = 1'-0"



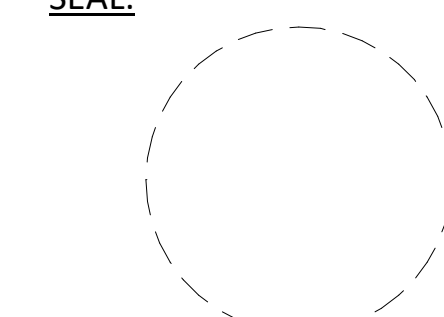
**3 7TH LEVEL FLOOR PLAN (GARAGE)**  
 SCALE: 1/16" = 1'-0"



**4 8TH LEVEL FLOOR PLAN (GARAGE)**  
 SCALE: 1/16" = 1'-0"

KEY LEGEND	
	SHARED FACILITIES

SEAL:



THIS DRAWING IS THE PROPERTY OF CORWIL ARCHITECTS INC. UNLESS OTHERWISE PROVIDED FOR BY CONTRACT, THE CONTENTS OF THIS DRAWING ARE CONFIDENTIAL AND SHALL NOT BE TRANSMITTED TO ANY OTHER PARTY EXCEPT AS AGREED TO BY THE ARCHITECT/ENGINEERS.

DATE: 3/7/2020  
 JOB No.: 2020-11  
 DRAWN BY: Author  
 APPR BY: Approver

SHEET NUMBER:

**SK-0.03**



**EXHIBIT 5**

**of Vertical Subdivision Declaration**

**LEGAL DESCRIPTION OF ADJACENT RESIDENTIAL PROPERTY**

Parcels A and B of UNIVERSITY STATION, according to the Plat thereof, recorded in Plat Book 183, page 609, of the Public Records of Broward County, Florida.

**EXHIBIT D**

**DEVELOPMENT AGREEMENT**



**DEVELOPMENT AGREEMENT**  
(University Station - Public Parking Parcel)

This DEVELOPMENT AGREEMENT (the “**Agreement**”) is made as of May \_\_, 2023 by and among City of Hollywood, Florida, a Florida municipal corporation (the “**City**”), University Station I, LLC, a Florida limited liability company (the “**Company**”), and University Station I Developer, LLC, a Florida limited liability company (the “**Developer**”). The City, the Company and the Developer are each a “Party” and may collectively be referred to in this Agreement as the “Parties”.

Recitals

- 1) The Company was formed pursuant to that certain Operating Agreement dated as of October 9, 2019, as same may be amended from time to time including that certain Amended and Restated Operating Agreement dated as of May 1, 2023 (the “**Operating Agreement**”) to acquire, construct, develop, improve, maintain, own, operate, lease, dispose of and otherwise deal with a mixed-use project, involving housing, offices, and retail operations located in Hollywood, Florida.
- 2) On March 12, 2020, the City received an unsolicited proposal (“**Proposal**”) from Housing Trust Group, LLC, a Florida limited liability company (“**HTG**”), an affiliate of the Company and Developer, pursuant to Section 255.065(3), Florida Statutes, to finance, develop, construct and manage an urban, mixed-use project to be known as “University Station” (the “**Project**”), as more particularly described in its unsolicited proposal. After following the selection process established in Section 255.065, the City selected the Proposal at the City commission’s regularly scheduled meeting on July 1, 2020, which resulted in an Interim Agreement between the City and HTG last amended and reinstated as of February 1, 2023, and ultimately a Comprehensive Agreement between the City and the Company dated May \_\_, 2023 (“**Comprehensive Agreement**”) after the Company achieved financing commitment from Florida Housing Finance Corporation (“**FHFC**”), Bank of America, N.A. (“**Construction Lender**”) and other lenders (collectively with FHFC and Construction Lender, “**Project Lenders**”).
- 3) Pursuant to that certain Amended and Restated Ground Lease entered into as of May \_\_\_\_\_, 2023 between the Company, as lessee, and the City, as lessor (“**Ground Lease**”), Company holds a leasehold interest in that certain real property legally described therein and located on Parcel A, B and C of the UNIVERSITY STATION plat recorded in Plat Book 183, Page 609, of the Public Records of Broward County, Florida (“**Land**”). The Company and the Developer have entered into that certain Development Agreement attached to the Operating Agreement to develop the Land into the Project composed of the following elements:
  - a) Two (2) residential buildings (the “**Residential Buildings**”), to be built on Parcels A and B of the Land, that will house:
    - i) 216 multi-family mixed-income apartment units,
    - ii) a retail/educational use area (“**Educational Space**”), and

- iii) two (2) additional retail areas, and
- b) One parking garage (“**Parking Garage**”), to be built on Parcel C of the Land (“**Parcel C Property**”), consisting of approximately 635 total parking spaces of which:
  - i) 270 spaces will serve the residents of the residential units (“**Residential Parking Parcel**”); and
  - ii) 365 spaces (the “**Public Parking Parcel**”) will serve the public, of which 20 spaces are to be reserved for use by the Educational Space user (“**Educational Parking**”).
- 4) The Company has entered into that certain AIA A102 Standard Form of Agreement dated October 5, 2022 (as amended, the “**GC Contract**”) with ANF Group, Inc. (“**General Contractor**”), to build the Project, as more particularly described in the project plans and specifications listed in Exhibit “B” of the GC Contract and further qualified within such GC Contract (“**Plans**”). The GC Contract contains two (2) schedules of values (each, hereinafter an “**SOV**”) in its Exhibit “B”: one for the Residential Buildings, and one for the Parking Garage. Parties understand that these SOVs are subject to changes via change orders, as defined in the GC Contract. The SOV for the Public Parking has a total construction cost of \$14,183,729.00. The spaces of the Public Parking Parcel represent 57.48% of the total spaces in the Parking Garage; accordingly, the construction budget of the Public Parking Parcel is \$8,152,852.38 (“**PP Hard Cost Budget**”).
- 5) The Company has entered into that certain Agreement of Purchase and Sale for Parking Public Parcel, dated as of [\_\_\_\_], 2023 (the “**PSA**”) with the City, which provides, *inter alia*, that City shall purchase the Public Parking Parcel for a purchase price of \$8,439,000.00 (the “**Purchase Price**”), to be paid in two (2) installments in accordance with the terms of the PSA. A portion of the Purchase Price in the amount of \$5,000,000.00 will be deposited on the date of execution of the PSA with The Bank of New York Mellon Trust Company, N.A., as fiscal agent (“**Fiscal Agent**”) for FHFC. The remainder of the Purchase Price, \$3,439,000.00, will be deposited with Fiscal Agent upon 50% completion of construction of the Parking Garage. The Purchase Price shall be completely paid to Company at the time the Company conveys via leasehold deed the Public Parking Parcel to the City (“**PSA Closing**”).
- 6) The Developer has provided and pursuant to this Agreement will continue to provide certain pre-development and development services solely with respect to the Public Parking Parcel to the City and the Company.
- 7) Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Comprehensive Agreement.

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

Section 1. **DEVELOPMENT SERVICES.**

A. The Developer shall oversee the development and construction of the Public Parking Parcel, and shall perform the services and carry out the responsibilities with respect to the Public Parking Parcel as are set forth herein, and such additional duties and responsibilities as are reasonably within the general scope of such services and responsibilities and are designated from time to time by the Company and the City.

B. The Developer's services shall be performed in the name and on behalf of the Company and the City, and shall consist of the duties set forth in the following subparagraphs of this Section 1.B and as provided elsewhere in this Agreement; provided, however, that if the performance of any duty of the Developer set forth in this Agreement is beyond the reasonable control of the Developer, the Developer shall nonetheless be obligated to (i) use its best efforts to perform such duty and (ii) promptly notify the Company and the City that the performance of such duty is beyond its reasonable control. The Developer shall cause, at the request of the Company, to be performed the following:

(i) Coordinate with the Company to construct, or cause the General Contractor to construct, the Parking Garage on the Parcel C Property as specified in the Plans, as may be further amended as allowed under this Agreement under the following conditions (and subject to payment as provided in Section 3 below):

(A) Furniture, Fixtures and Equipment on the Public Parking Parcel  
(**"FF&E"**):

- a. Parties understand that the following FF&E items desired by the City and discussed with the Developer are not included in the SOV of the Parking Garage:
  - i. Two (2) garbage receptacles per floor, for which Developer and City shall agree on a vendor and agree as to whether the Company or the City shall procure those for the Public Parking Parcel;
  - ii. Public parking pay station(s), for which City shall notify Developer of the City's chosen vendor or service provider and of the specifications and electrical requirements and locations of such stations, and agree as to whether the Company or the City shall procure those to the Public Parking Parcel;
  - iii. CCTV security system, for which Developer and City shall agree on a vendor and agree as to whether the Company or the City shall procure those to the Public Parking Parcel;
  - iv. Electrical Vehicle charging stations, which shall only be installed at the parking spaces designated as EVSE under the Plans after City and Company have agreed on a mechanism or

service provider agreement to charge the end consumer the cost of the power consumed in each charge; and

- v. Parking signage in the Public Parking Parcel, inclusive of signage to reserve some Public Parking Spaces as Educational Parking, as shall be approved by the City.
  
- b. City may install other FF&E in the Public Parking Parcel at its cost during construction, but only after written request to the Developer and approval of vendor/contractor credentials and approval of required insurance by the Developer and the General Contractor in writing. If Developer, in its sole discretion, considers such desired FF&E to have a negative effect to the general Project's completion, or the Developer or General Contractor do not authorize the insurance and credentials of the City's vendor/contractor, then the Company shall not authorize such FF&E, and Developer shall inform the City in writing of the reasons for its decision. The City may also install additional Electrical Vehicle charging stations, but only in the spaces designated in the Project as EV.

(B) Changes to the Project of the Public Parking Parcel requested by the City and agreed to by the Company:

- a. The City may request Developer to make any desired scope changes to the Public Parking Parcel in writing and Developer shall evaluate the cost of such desired changes and the implications of such desired changes as it relates to timing, budget, the engineering of the Parking Garage, and any other consideration.
  
- b. If Developer and/or the Company consider such desired changes to have a negative effect as it relates to any of the above considerations, then the Company may choose, at its sole discretion, not to make such changes, and Developer shall give the City written notice of its reasoned decision.
  
- c. If Company decides to make or cause the Developer or General Contractor to make any change, then the Company shall do one of the following:
  - i. If such changes are minor in nature, and do not affect the SOV of the Parking Garage, the permitted drawings, the construction timeline and the engineering of the Project, the Company may instruct, in its sole discretion, the General Contractor to make such changes, and Developer shall inform the City in writing of its decision.

- ii. If such changes are substantial in nature, and do affect the SOV of the Parking Garage, the construction timeline or the engineering of the Project, the Developer shall request the General Contractor to prepare a proposed change order and get comments from the architect and engineer of the Project, and thereafter request any required Project Lenders' approval of such proposed change order, obtain the necessary permitting from the required agencies, and after satisfying all such items, Company may approve, in its sole discretion, the final change order and instruct the General Contractor to perform the change(s), and Developer shall inform the City in writing of its decision.

(C) Changes to the Project of the Public Parking Parcel required by the approval agencies or any Project Lenders, if substantial in nature, shall be informed by the Company or Developer the City and Project Lenders.

(D) Changes to the Project of the Public Parking Parcel requested by the Company:

- a. The Company may need or desire to make changes to the scope of the Public Parking Parcel component of the Project. If so, Company shall request approval from the City in writing specifying the reasons for such changes. City shall evaluate such request which shall not be unreasonably withheld.
- b. Changes related to improving safety features shall be allowed by the City, when approved by the agencies in charge of such approvals, even if the additional safety features are not required by those agencies.

(ii) If requested by the Company, negotiate and cause to be executed in the name and on behalf of the City or the Company, agreements for architectural, engineering, testing or consulting services for the Public Parking Parcel, and any agreements for the construction of any approved improvements to be constructed or installed by the Company or the furnishing of any supplies, materials, machinery or equipment therefor, or any amendments thereof, provided that no agreement shall be executed nor binding commitment made until the terms and conditions thereof and the party with whom the agreement is to be made have been approved by the Company unless the terms, conditions, and parties comply with guidelines issued by the Company concerning such agreements;

(iii) Assist the Company in dealing with neighborhood groups, local organizations, abutters and other parties interested in the development of the Parking Garage.

(iv) Represent the City and the Company with respect to the General Contractor of the Parking Garage, and perform such duties as follows:

- Coordination of regular Owner/Architect/Contractor meetings with architect, the General Contractor, and any other specific engineers, contractors, professionals and consultants employed in connection with the design or construction of the Parking Garage, for which the Developer may invite, from time to time, a City representative or staff member;
- administration of the GC Contract and any procurement or construction contracts on behalf of the Company or the City;
- participation in conferences and meetings of such advice and assistance as will aid in developing economical, efficient and desirable design and construction procedures;
- the rendering of advice and recommendations as to the selection procedures for and selection of subcontractors and suppliers;
- the review and submission to the Company and City for approval of all requests for payments under any architectural agreement, GC Contract, or any loan agreements with any lending institutions providing funds for the benefit of both the Company and the City for the design or construction of any improvements;
- the submission of any suggestions or requests for changes which could in any reasonable manner improve the design, efficiency or cost of the Parking Garage;
- applying for and maintaining in full force and effect any and all governmental permits and approvals required for the lawful construction of the Parking Garage;
- furnishing such consultation and advice relating to the Parking Garage as may be reasonably requested from time to time by the Company or the City;
- keeping the Company and the City fully informed on a regular basis of the progress of the design and construction of the Parking Garage, including the preparation of such reports as are provided for herein or as may reasonably be requested by the Company or the City; and

- at the Company's expense, filing on behalf of and as the attorney-in-fact for the Company any notices of completion required or permitted to be filed upon the completion of any improvement(s) and taking such actions as may be required to obtain any certificates of occupancy or equivalent documents required to permit the occupancy of the Parking Garage.

(v) Inspect the progress of the course of construction of the Parking Garage, including verification of the materials and labor being furnished to and on such construction so as to be fully competent to approve or disapprove requests for payment made by the Parking Garage architect and the General Contractor, or by any other parties with respect to the design and construction of the Parking Garage, and in addition to verify that the same is being carried out substantially in accordance with the Plans approved by the Company or, in the event that the same is not being so carried out, to promptly so notify the Company.

(vi) If requested to do so by the Company, perform on behalf of the Company all obligations of the Company with respect to the design and construction of the Parking Garage contained in any loan agreement or security agreement entered into in connection with any financing for the Parking Garage, or in any agreement entered into with any governmental body or agency relating to the terms and conditions of such construction.

(vii) To the extent requested to do so by the City, prepare and distribute to the City a critical path schedule, and periodic updates thereto as necessary to reflect any material changes, but in any event not less frequently than quarterly, other design or construction cost estimates as required by the City, and progress and cost of construction and recommendations as to the drawing of funds from the Purchase Price to cover the cost of design and construction of the Parking Garage.

(viii) Assemble and retain all contracts, agreements and other records and data as may be necessary to carry out the Developer's functions hereunder. Without limiting the foregoing, the Developer will prepare, accumulate and furnish to the Company, City, and the appropriate governmental authorities, as necessary, data and information sufficient to identify the market value of improvements in place as of each real property tax lien date, and will make application for appropriate exclusions from the capital costs of the Parking Garage for purposes of real property *ad valorem* taxes.

(ix) Coordinate and administer the design and construction of all interior improvements in the elevators.

(x) Use its best efforts to accomplish the timely completion of the Parking Garage in accordance with the approved Plans and the time schedules for such completion approved by the Company.

(xi) At the direction of the Company, implement any decisions of the Company made in connection with the design, development and construction of the Parking Garage or any policies and procedures relating thereto, exclusive of leasing activities.

(xii) Prior to the PSA Closing, the Company, with the cooperation and assistance of the Developer, shall:

(A) Prepare final legal description of the Public Parking Parcel and the Residential Parking Parcel;

(B) Execute the Vertical Subdivision Declaration for the Parking Garage in the form attached to the PSA, which shall, among other matters, provide surveyed legal descriptions for the Residential Parking Parcel and the Public Parking Parcel, and obtain joinders from the City and all Project Lenders;

(C) Obtain necessary releases to release the Public Parking Parcel from all Project Lenders' mortgages.

(xiii) Perform and administer any and all other services and responsibilities of the Developer which are set forth in any other provisions of this Agreement, or which are requested to be performed by the Company and are within the general scope of the services described herein.

## Section 2. **LIMITATIONS AND RESTRICTIONS.**

Notwithstanding any provisions of this Agreement i) the Company is the owner of the entirety of the Parking Garage, including the Public Parking Parcel, until it has conveyed such to the City by leasehold deed in accordance with the PSA and ii) the Developer shall not take any action, expend any sum, make any decision, give any consent, approval or authorization, or incur any obligation with respect to any of the following matters unless and until the same has been approved by the Company:

(i) Approval of all construction and architectural contracts and all architectural plans, specifications and drawings prior to the construction and/or alteration of any improvements contemplated thereby, except for such matters as may be expressly delegated in writing to the Developer by the Company;

(ii) Any proposed change in the work of the construction of the Parking Garage, or in the Plans as previously approved by the Company, or in the cost thereof, or any other change which would affect the design, cost, value or quality of the Parking Garage, except for such matters as may be expressly delegated in writing to the Developer by the Company; or

(iii) Expending more than what the Developer in good faith believes to be the fair and reasonable market value at the time and place of contracting for any



goods purchased or leased or services engaged on behalf of the Company or otherwise in connection with the Parking Garage.

(iv) The services to be provided under this Agreement shall not include any development of construction of the Residential Buildings.

**Section 3. BUDGET OF THE PUBLIC PARKING GARAGE AND USE OF PURCHASE PRICE TO PAY THE COST OF THE PUBLIC PARKING PARCEL.**

A. The budget to develop the Public Parking Parcel (“**PP Budget**”) is comprised of: (1) the PP Hard Cost Budget, which was determined as set forth in Recital 4 above; and (2) a contingency fund of \$286,147.62 (“**PP Contingency**”).

B. To the extent that Company pays for any FF&E or change item identified on Section 1.B(i), such amount shall be paid out of the PP Contingency.

C. Notwithstanding the above Section 3.B, if such change is requested by the City pursuant to Section 1.B(i)(B), the City shall provide the Company or the Developer with the additional funding sources (“**Additional Public Parking Sources**”) to pay for the design and construction, and if applicable, permitting, demolition and delay penalties to debt and equity providers, whatever they might be under the Project loan documents or the Operating Agreement, as detailed to the City by the Developer in a written report. If any Additional Public Parking Sources are provided by the City, such funds shall also be deposited in the Fiscal Agent’s subaccount for the Public Parking funds, together with any remainder of the Purchase Price, and the Purchase Price shall be increased by an amount equal to the Additional Public Parking Sources.

D. The amount that the Company is obligated to pay for the FF&E items described in Section 1.B(i)(A)(a) shall be limited to the PP Contingency amount. Parties shall seek an equitable solution to provide the funding to completely furnish the FF&E items mentioned under such Section.

E. The Company will make monthly requisitions (from the commencement of the Ground Lease until the PSA Closing) to FHFC’s Servicer for the withdrawal of portions of the Purchase Price to pay for items itemized in the PP Budget (“**Draw Requests**”). These Draw Requests shall be based on percentage of completion of the SOV of the Parking Garage. The cost of the Residential Parking Parcel shall be paid from the other sources secured by the Company, not the Purchase Price.

F. The Funding Loan Agreement between the Construction Lender, FHFC and the Fiscal Agent shall authorize Fiscal Agent to release portions of Purchase Price and any Additional Public Parking Sources to the Company, based on the FHFC servicer approved Draw Requests for the purpose of the Company paying the General Contractor and any other contractor or vendor to be paid under the PP Budget. These portions of Purchase Price to be drawn in each Draw Request shall be the amount resulting from applying the change in the percentage of completion of the SOV for the Parking Garage from the prior Draw Request to the current Draw Request.

G. At the completion of the Parking Garage, the Developer will issue a cost certificate for the Public Parking Parcel cost (“**Public Parking Final Cost**”). If the Public Parking Final Cost is higher than the Purchase Price (as may be adjusted after adding Additional Public Parking Sources), that should constitute a final saving (“**Savings**”). If the Public Parking Final Cost is lower than the Purchase Price (as may be adjusted after adding Additional Public Parking Sources), that should constitute a final shortfall (“**Shortfalls**”).

H. Any Savings that may arise from not spending the entirety of the Purchase Price, shall be returned to the City. In such case, the Fiscal Agent shall allow the Company to draw the remainder of the Purchase Price and Additional Public Parking Sources to pay back the City, and the Purchase Price should be reduced at PSA Closing in an amount equal to the Savings.

I. To the extent there are any Shortfalls in the sources of funds made available to the Company by the City to build the Public Parking Parcel, the Developer will fund the requisite funds in order to complete the Public Parking Parcel (if funds are not otherwise made available by the Company to pay for the Shortfalls).

#### Section 4. **COMPENSATION.**

A. For its services in connection with this Agreement, the Developer shall be entitled to receive a fee of Ten Dollars (\$10.00).

B. No member of the Company shall have any personal liability for payment of all or any portion of the Development Fee or interest thereon.

#### Section 5. **AMENDMENT.**

This Agreement may be amended only in a writing executed by the parties hereto and with the prior written consent of the Project Lenders and Raymond James Housing Opportunities Fund 75 L.L.C. (the “**Tax Credit Investor**”).

#### Section 6. **DEFAULT AND REMEDIES.**

A. If the Developer shall default in the performance of any of its covenants or obligations under this Agreement and such default shall continue unremedied for a period of thirty (30) days after written notice thereof from the Company or City to the Developer, the Company or City may exercise one or more of the following rights and remedies, provided, however, if the default is of such a nature that it cannot be cured within the 30-day period, and the Developer has commenced to cure each default within the 30-day period, the Developer shall have an additional thirty (30) days in which to cure said default provided it acts in good faith and with due diligence to cure the same (all of which shall be cumulative):

(i) Terminate the Development Agreement; provided that the City shall have no authority to terminate this Development Agreement without the Consent of Tax Credit Investor.

(ii) Enforce the provisions of this Agreement by legal proceedings for the specific performance of any covenant or agreement contained in this Agreement. The City shall not have any other remedies against the Developer, and shall only have the right to seek enforcement of this Agreement against the Company as it relates to any other appropriate legal or equitable remedy and recover damages from the Company caused by any breach by the Developer or the Company of the provisions of this Agreement, including court costs, reasonable attorneys' fees and other expenses incurred in the enforcement of the obligations of the Developer hereunder. The Company indemnifies the Developer for any liability under this Agreement.

(iii) Exercise any and all rights and remedies which the Company (or its Partners) may have under applicable law.

Notwithstanding anything to the contrary set forth in this Agreement, the City shall not have the right to terminate this Agreement for a default unless it has first given the Project Lenders and the Tax Credit Investor notice of such default and opportunity to cure such default for a period of no less than sixty (60) days.

#### Section 7. **APPLICABLE LAW.**

This Agreement, and the application or interpretation hereof, shall be governed by and construed in accordance with the laws of the State.

#### Section 8. **BINDING AGREEMENT.**

Subject to the following sentence, this Agreement shall be binding on the parties hereto, their heirs, executors, personal representatives, successors and assigns.

#### Section 9. **HEADINGS.**

All section headings in this Agreement are for convenience of reference only and are not intended to qualify the meaning of any section.

Section 10. **TERMINOLOGY.**

All personal pronouns used in this Agreement, whether used in the masculine, feminine or neuter gender, shall include all other genders, the singular shall include the plural, and vice versa as the context may require.

Section 11. **BENEFIT OF AGREEMENT.**

The Parties acknowledge and agree that this Agreement will not create any obligation on the part of Developer or the City to third parties. Except as specifically provided with respect to notice and cure rights of Project Lenders and the Tax Credit Investor, no person that is not a party to this Agreement will be a third-party beneficiary or acquire any rights hereunder; provided, however, at all times during the 15-year tax credit compliance period, the parties agree that this Agreement may not be amended without the consent of the Tax Credit Investor.

Section 12. **NOTICES.**

Except as otherwise specifically provided herein, all notices, demands or other communications hereunder shall be in writing via electronic mail subject electronically confirmed receipt or response by the recipient, and shall be deemed to have been given and received upon such electronic confirmation or electronic mail response from recipient; or (only after electronic mail not being acknowledged as received or responded to) by mail to the principal offices of the receiving party at the addresses listed on Section 1.3 of the PSA, with Developer's mail address being the same as the Company's mailing address, and shall be deemed to have been received (i) two (2) business days after being deposited in the United States mail and sent by certified or registered mail, postage prepaid, (ii) one (1) business day after being delivered to a nationally recognized overnight delivery service, (iii) on the day if sent by telecopier or other facsimile transmission, answer back requested, or (iv) on the day delivered personally. In each case, to the attention and electronic mail of the following at the addresses set forth below:

- A. If to the City, to Raelin Storey at [rstorey@hollywoodfl.org](mailto:rstorey@hollywoodfl.org);
- B. If to the Company, to Jordan Tolman at [jordant@htgf.com](mailto:jordant@htgf.com); and
- C. If to the Developer, to Rodrigo Paredes at [rodrigop@htgf.com](mailto:rodrigop@htgf.com).

Copies of all notices sent under this Section 12 shall also be sent to the following:

Florida Housing Finance Corporation  
227 North Bronough Street, Suite 5000  
Tallahassee, Florida 32301-1329  
Attention: Executive Director

And

Nabors, Giblin & Nickerson, P.A.  
1500 Mahan Drive, Suite 200  
Tallahassee, Florida 32308  
Attention: Junious Brown, Esq.

And

The Bank of New York Mellon Trust Company, N.A.  
4655 Salisbury Road, Suite 300  
Jacksonville, FL 32256  
Attention: Mirnesa Velic

And

Bank of America, N.A.  
520 Newport Center Drive, Suite 1100  
Newport Beach, CA 92660  
Attention: Daniel Vlahovic  
Email: daniel.vlahovic@bofa.com  
Telephone: 949.287.0471

And

Bank of America, N.A.  
8300 Greensboro Drive, Suite 300  
McLean, VA 22102  
Attention: Shauna Jones  
Email: shauna.jones@bofa.com

And

Tiber Hudson LLC  
1340 Smith Avenue, Suite 200  
Baltimore, Maryland 21209  
Attention: Krista M. North, Esq.  
Email Address: krista@tiberhudson.com  
Telephone Number: 410.204.8509

And

Raymond James Housing Opportunities Fund 75 L.L.C.  
c/o Raymond James Affordable Housing Investments, Inc.  
880 Carillon Parkway  
St. Petersburg, Florida 33716  
Facsimile No.: 727-567-8455  
Attention: Steven J. Kropf, President

With copies to:

Nixon Peabody LLP  
Exchange Place  
53 State Street  
Boston, Massachusetts 02109  
Attention: Nathan A. Bernard, Esq.

### Section 13. **RELATIONSHIP OF THE PARTIES.**

Nothing contained in this Agreement shall be construed to constitute the Developer as a partner, employee or agent of the Company or the City, nor shall the Developer (in its capacity as such and not as a member) hold itself out as such. Except as specifically set forth herein, the Developer (in its capacity as such and not as a member) has no right or authority to incur, assume or create, in writing or otherwise, any liability or obligation of any kind, express or implied, in the name or on behalf of the Company or the City, it being intended by the parties that the Developer (in its capacity as such and not as a member) be and remain an independent contractor responsible for its own actions.

### Section 14. **TERMINATION.**

This Agreement shall terminate on the date of the PSA Closing, unless sooner terminated in accordance with this Agreement.

### Section 15. **SUCCESSORS AND ASSIGNS.**

The terms contained in this Agreement shall bind and inure to the benefit of each Party and its respective successors and assigns. No Party may assign this Agreement without the prior written consent of the other Parties, which consent shall not be unreasonably withheld, and any assignment by the Developer shall require the consent of the Tax Credit Investor. The Company and Developer may also, with City's reasonable consent, collaterally assign its rights under this Agreement to a lender or lenders providing financing for all or any portion of the Project; and while it is understood that any such assignee that acquires Developer's interest under this Agreement by purchase in a foreclosure or similar proceeding or by a transfer in lieu of foreclosure, or otherwise as a result of or in connection with the exercise by such holder of any applicable remedy, shall be a permitted assignee, without the consent of any of the other Parties, said unconsented assignment shall be subordinate to the City's underlying fee ownership of the

Property and any easement interests held by the City. The City hereby consents to any collateral assignment to the Project Lenders. Upon assignment of the rights and obligations as set forth herein, the Party assigning its rights and obligations shall have no further liability or responsibility under the terms of this Agreement, and the assignee shall be liable for performance of this Agreement and for any default(s) committed by the assignor prior to such assignment.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]**

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date and year first above written.

COMPANY:

UNIVERSITY STATION I, LLC, a Florida limited liability company

By: \_\_\_\_\_  
Name: Matthew Rieger  
Its: Manager

DEVELOPER:

UNIVERSITY STATION I DEVELOPER, LLC, a Florida limited liability company

By: HTG Florida Developer, LLC, a Florida limited liability company, its sole member

By: \_\_\_\_\_  
Name: Matthew Rieger  
Its: Manager

CITY:

CITY OF HOLLYWOOD, FLORIDA, a Florida municipal corporation organized and existing under the laws of the State of Florida

ATTEST:

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_

\_\_\_\_\_  
PATRICIA A. CENRY, MMC  
CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
DOUGLAS R. GONZALES  
CITY ATTORNEY



IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the date and year first above written.

COMPANY:

UNIVERSITY STATION I, LLC, a Florida limited liability company

By: \_\_\_\_\_  
Name: Matthew Rieger  
Its: Manager

DEVELOPER:

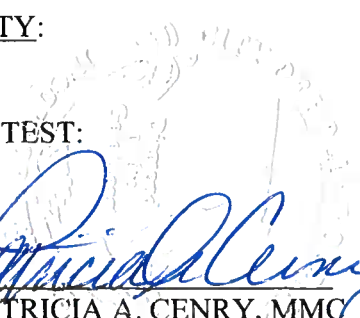
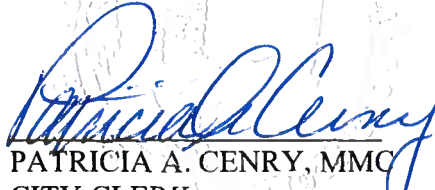
UNIVERSITY STATION I DEVELOPER, LLC, a Florida limited liability company

By: HTG Florida Developer, LLC, a Florida limited liability company, its sole member


By: \_\_\_\_\_  
Name: Matthew Rieger  
Its: Manager

CITY:

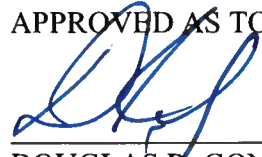
ATTEST:

  
  
PATRICIA A. CENRY, MMC  
CITY CLERK

CITY OF HOLLYWOOD, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida

By:   
Name: George R. Keller, Jr., CPPT  
Its: City Manager

APPROVED AS TO FORM:

  
DOUGLAS R. GONZALES  
CITY ATTORNEY