

**DEVELOPER AGREEMENT**

**between**

**CITY OF HOLLYWOOD,**

**CITY OF HOLLYWOOD DOWNTOWN  
COMMUNITY REDEVELOPMENT AGENCY**

**and**

**JED EQUITIES, LLC**

**FOR**

**JED TOWER**

**(HOLLYWOOD 1-21 B LOT 9, 10, 11, 12, 13, 14, 15 LESS RD R/W BLK 44)**

**Dated**

**As of July \_\_\_, 2015**

## **AGREEMENT**

THIS AGREEMENT, dated as of this \_\_\_ day of \_\_\_\_\_, 2015, between CITY OF HOLLYWOOD, a municipal corporation of the State of Florida, Broward County, Florida, (hereinafter referred to as "City"), CITY OF HOLLYWOOD DOWNTOWN COMMUNITY REDEVELOPMENT AGENCY, a public instrumentality of the State of Florida, Broward County, Florida, (hereinafter referred to as "CRA") and JED EQUITIES, LLC, a Florida limited liability company, its successors, nominees and/or any affiliated entity thereof (hereinafter referred to as "Developer").

### **RECITALS:**

A. WHEREAS, the CRA Executive Director has expressed conceptual support for Developer's proposal for a mixed-use development project (the "Project"), and negotiated a proposed Development Agreement with Developer to be submitted for future consideration by City and CRA; and

B. WHEREAS, the City Manager, the CRA Executive Director and the City Attorney have met with the Developer and have negotiated terms of this Agreement and are recommending this Development Agreement to the City Commission and CRA Board for their consideration and approval; and

C. WHEREAS, this Agreement is entered into between the parties pursuant to Section 163.370, Florida Statutes, Section 163.358, Florida Statutes and Section 166.021, Florida Statutes;

NOW, THEREFORE, it is hereby mutually covenanted and agreed by and between the parties-hereto that this Agreement is-made upon the terms, covenants and conditions hereinafter set forth.

## **ARTICLE 1**

### **DEFINITIONS**

For all purposes of this Agreement, the terms defined in this Article 1 shall have the following meanings:

"Agreement" is defined as this Development Agreement among Developer, City, and CRA.

"Approved Project Plans" is defined as the Plans and Specifications for the Project that have been approved by the City of Hollywood.

"City" is defined as the City of Hollywood, Florida,

"Commencement of Construction" is defined as the commencement of major work (such as pilings or foundations) for construction of the Improvements in accordance with the Plans and Specifications to be performed in connection with the construction of the Project. Any and all preliminary work (including without limitation, any environmental remediation, all necessary demolition and obtaining permits and approvals from all necessary governmental agencies) shall not be deemed to be Commencement of Construction,

"Commercial Space" is defined as the ground floor commercial improvements to be constructed on the Project Land pursuant to the Approved Project Plans.

"CRA" is defined as City of Hollywood Community Redevelopment Agency for the downtown area, its successor and assigns, in whole or in part.

"Default Notice" is defined as set forth in Section 11.1 hereof

"Developer" is defined as JED Equities LLC, and/or any affiliated entity thereof, its successors and assigns in whole or in part.

"Event of Default" or "Default" is defined as set forth in Section 11.1 hereof.

"Execution Date" is defined as the latest date that this Agreement is signed by City, CRA and Developer.

"Fast Track Permits and Approvals" is defined as set forth in Section 4.1 hereof.

"Improvements" is defined collectively as the buildings and other improvements, including the Residential Development, the Commercial Space and Structural Parking to be constructed by Developer on the Project Land.

"Notice" is defined as set forth within Section 12.1 hereof.

"Plans and Specifications" is defined as the plans and specifications prepared by the Developer depicting the Project.

"Project" is defined collectively as the Commercial Space and the Residential Development, and Structural Parking and any and all uses depicted in the Plans and Specifications which are intended by the parties to be developed on the Project Land as approved by the City.

"Project Land" is legally described on Exhibit A attached hereto.

"Project Tax Increment" the amount of tax increment monies received by the CRA that is attributable to the difference between (i) the total of the assessed value of the taxable real property in the Project in the CRA's fiscal year when it first receives tax increment monies from taxing entities attributable to the completed Project, and each year thereafter during the life of this agreement and (ii) the total of the assessed value of the taxable real property in the Project in

the CRA's fiscal year immediately prior to the CRA's fiscal year when it first receives tax increment monies from taxing entities attributable to the completed Project.

"Residential Development" is defined as the residential units and related improvements to be constructed on the Project Land pursuant to the Approved Project Plans.

"Structural Parking" is defined as the parking garage to be developed on the Project Land.

"Substantial Completion" or "Substantially Complete" is defined as (i) all improvements have been substantially completed in accordance with Plans and Specifications, and (ii) all improvements therein shall have been issued temporary or final certificates of occupancy and may be used for their intended purpose.

"Unavoidable Delays" is defined as delays due to strikes, slowdowns, lockouts, acts of God, inability to obtain labor or materials, war, enemy action, civil commotion, fire, casualty, unusually severe weather conditions, a court order which causes a delay, the application of any requirement, or another cause beyond such party's control or which, if susceptible to control by such party, shall be beyond the reasonable control of such party. Such party shall use reasonable good faith efforts to notify the other party not later than twenty (20) days after such party knows of the occurrence of an Unavoidable Delay; provided, however, that either party's failure to notify the other of the occurrence of an event constituting an Unavoidable Delay shall not alter, detract from or negate its character as an Unavoidable Delay or otherwise result in the loss of any benefit or right granted to the delayed party under this Lease, no event shall (i) any party's financial condition or inability to fund or obtain funding or financing constitute an "Unavoidable Delay" with respect to such party and (ii) any delay arising from a party's (or its affiliate's) default under any project document constitute an "Unavoidable Delay" with respect to such party's obligations hereunder. The times for performance set forth in this Agreement shall automatically be extended to the extent performance is delayed by any Unavoidable Delay, except as otherwise expressly set forth in this Agreement.

**ARTICLE 2**  
**CONSTRUCTION OF THE RESIDENTIAL DEVELOPMENT**  
**AND THE COMMERCIAL SPACE**

Section 2.1 Construction, Commencement of Construction of the Residential Development, Commencement of Construction of the Commercial Space and Structural Parking.

(a) The Residential Development, the Commercial Space and the Structural Parking will be comprised of the number of residential units and square feet of commercial space and parking spaces as described in Article 3 herein.

(b) Developer shall, subject to Unavoidable Delays, apply for a master building permit for the Project, which application shall contain all of the information necessary for the issuance of the permit, within the time frames of the existing approvals and any extension thereof.

(c) Developer shall, subject to Unavoidable Delays, Commence Construction of the Residential Development and Commercial Space and Structural Parking for the Project within 90 days of the issuance by the City and all other governmental entities having jurisdiction over the Project of all required building permits for the Project, and shall, subject to Unavoidable Delays, Substantially Complete construction of the Residential Development and Commercial Space and Structural Parking for the Project within 36 months of the issuance by City and all other governmental entities having jurisdiction over the Project of all required building permits for the Project.

### ARTICLE 3

#### **PLANS, SPECIFICATIONS AND ENTITLEMENTS**

##### Section 3.1 Approval and Modification of Plans and Specifications.

(a) Prior to Commencement of Construction, Developer shall prepare and submit to City Plans and Specifications for the Project for the purpose of obtaining building permits pursuant to and in accordance with Section 3.2 below. Developer will provide as many copies of the Plans and Specifications as necessary for the various departments to review the Plans and Specifications simultaneously (instead of sequentially) to the extent such simultaneous review is not prohibited by the Florida Building Code and other applicable law.

(b) If Developer desires to modify previously approved Plans and Specifications (as such may have been modified by approved Plans and Specifications), Developer shall submit any such modified Plans and Specifications to City for City's site plan review process and necessary City Commission approvals, appropriate board approvals, and/or administrative staff approvals. Such modified Plans and Specifications shall clearly indicate such modifications in accordance with City' requirements. If the modifications are done solely at the election of the Developer and are not required by City and/or other regulatory agency, then such modified Plans and Specifications shall first be submitted to the Department of Planning and Development Services for review.

##### Section 3.2 Compliance with Requirements; Construction Standards.

(a) Notwithstanding anything to the contrary contained herein, the Plans and Specifications shall substantially comply with all applicable requirements. It is Developer's responsibility to assure such compliance.

(b) Construction of the Project shall be carried out pursuant to Plans and Specifications prepared by licensed architects and engineers, with required threshold inspections conducted by a licensed architect or professional engineer as required by applicable requirements.

##### Section 3.3 Entitlements.

City represents that the present status of the Project is as follows:

(i) Land Use designation is Regional Activity Center ("RAC").

- (ii) Zoning designation is Planned Development ("PD").
- (iii) Height is authorized per the Approved Project Plans.
- (iv) All concurrency requirements for the Project have been met.
- (v) City's current Land Use Plan and Comprehensive Plan have sufficient density and/or flex units to allow development of Project.

## **ARTICLE 4**

### **FAST TRACK PERMITS AND APPROVALS**

#### Section 4.1 Fast Track Permits and Approvals.

Without limiting the generality of Article 3, the parties agree that, to the extent not otherwise prohibited by the Florida Building Code or other applicable law, City will "Fast Track Permits and Approvals". Fast Track Permits and Approvals means that Developer may submit separate Plans and Specifications as to a portion of the Project then being built (i.e., the Residential Development, etc.). Under Fast Track Permits and Approvals, Developer may separately request and City shall separately issue the following permits on the various portions of the Project being constructed: (a) formal life safety review; (b) pilings; (c) foundation; (d) structural framing and exterior cladding (collectively, shell permit); (e) interior framing and interior partitioning; (f) full mechanical, electrical, plumbing and finish package; (g) all other permits or approvals necessary for the completion of the construction of that portion of the Project being built.

It is fully understood and agreed that, to the extent not otherwise prohibited by the Florida Building Code or other applicable law, the Department of Planning and Development Services may approve Plans and Specifications and/or work for portions of the Project without reviewing or having for review, a complete set of Plans and Specifications for the entire Project. However, in no event will Developer cause any work to be performed on any portion of the Project without an approved set of Plans and Specifications for that portion of the Project.

## **ARTICLE 5**

### **MISCELLANEOUS CONSTRUCTION PROVISIONS**

#### Section 5.1 Construction Agreements.

Developer shall have the full right and authority to enter into any and all Construction Agreements it deems necessary for the development of the Residential Land and Commercial Space and the Improvements thereon. Neither City nor CRA shall have any right of approval over said Construction Agreements or contractors and subcontractors, and agrees not to interfere with same, except to the extent required to carry out its governmental function as regulator of construction functions. All such Construction Agreements shall be the sole responsibility of Developer.

Section 5.2 Construction Period Street Closures.

City agrees, subject to reasonable traffic management and emergency vehicle requirements, to provide Developer with the right, if requested, to temporarily close for a reasonable amount of time any boulevard, street, avenue or road, as necessary, provided Developer pays the full cost incurred by City of such street closures and same do not interfere with the safe and adequate operation of the City's thoroughfares.

**ARTICLE 6**

**FINANCING**

Section 6.1 Developer's Project Financing.

Developer may obtain such loans as it deems appropriate to finance the development and Improvements of the Project Land and for such other necessary purposes.

**ARTICLE 7**

**REPRESENTATIONS**

Section 7.1 Representations.

Developer represents to City that it has not dealt with any broker, finder or like entity in connection with this Agreement or the transactions contemplated and Developer shall, to extent allowed by law, indemnify City against any claim for brokerage commissions, fees or other compensation by any person alleging to have acted for or dealt with the Developer in connection with this Agreement or the transactions contemplated hereby.

**ARTICLE 8**

**CITY/CRA INCENTIVES**

Section 8.1 CRA Contribution.

(a) **TAX INCREMENT CONTRIBUTION.** In recognition of the positive economic impact for the Project to the CRA, the CRA shall pay Developer, not later than the 30 days immediately following the initial receipt by the CRA, and each subsequent receipt by the CRA, of tax increment monies from the completed Project, an amount equal to 50% (fifty percent) of the annual Project Tax Increment. The parties acknowledge that according to the CRA plan in effect on the date of this Agreement, the Downtown District of the CRA will cease to exist on September 30, 2025. All obligations for payment to Developer under this section shall terminate immediately upon payment by the CRA of the amount due resulting from receipt by the CRA of the last tax increment monies based on a September 30, 2025 termination of existence. Should the Downtown District of the CRA continue to exist beyond September 30, 2025, Developer shall have the right to request that the CRA continue to pay Developer under this section for the period beyond September 30, 2025. No TIF payment withheld as a result of the provisions in

Section 10.2 shall be due to Developer by reason of an eventual cure of the default, and all such payments shall be retained by the CRA. In the event CRA is required to reimburse taxing entities which have contributed tax increment revenues for the Project because of a final and binding determination of a decrease in assessed valuation of the Project after the initial TIF calculation is made for that tax year, Developer will reimburse CRA only the pro-rata portion of any increment payment already made to Developer, for the same tax year as the reduction in property value occurred, that is attributable to the tax decrease. Should the Developer fail to make said payment within 30 days of notice provided by CRA to Developer, CRA shall have the ability to deduct said payment from the following year payment of incentives.

Additionally, City and CRA agree that all obligations for payment to Developer under this section may be assigned and/or pledged by Developer to any third party and City and CRA further agree to provide all required information and to otherwise cooperate with Developer in the creation and marketing of bonds, or other similar financial instruments, based upon the payment obligations of CRA to Developer or its successors or assigns under this Agreement.

(b) **MARKETING SUPPORT.** The Developer may engage in an international marketing campaign in order to attract qualified EB-5 investors. The CRA acknowledges that the EB-5 financing program creates a unique opportunity for the Project to move forward at a time when conventional financing is otherwise unavailable. Accordingly, and due to the positive economic impact from the Project to the CRA for the foreseeable future, the CRA agrees to provide support to the Developer's marketing efforts as the CRA has customarily done in the past for similar projects.

## **ARTICLE 9**

### **EVENTS OF DEFAULT. REMEDIES. ETC.**

#### Section 9.1 Definition.

Each of the following events shall be an "Event of Default" hereunder:

(a) to the extent permitted by law, if Developer admits, in writing, that it is generally unable to pay its debts as such become due;

(b) to the extent permitted by law, if Developer makes an assignment for the benefit of creditors;

(c) to the extent permitted by law, if Developer files a voluntary petition under Title 11 of the United States Code, or if Developer files a petition or an answer seeking, consenting to or acquiescing in, any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future Federal bankruptcy code or any other present or future applicable Federal, state or other bankruptcy or insolvency statute or law, or seeks, consents to, acquiesces in or suffers the appointment of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Developer, of all or any substantial part of its properties, or of all or any part of Developer's Interest in the Premises, and the

foregoing are not stayed or dismissed within one hundred and fifty (150) days after such filing or other action; or

(d) to the extent permitted by law, if, within one hundred and eighty (180) days after the commencement of a proceeding against Developer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future Federal bankruptcy code or any other present or future applicable Federal, state or other bankruptcy or insolvency statute or law, such proceeding has not been dismissed, or if, within one hundred eighty (180) days after the appointment, without the consent or acquiescence of Developer, of any trustee, receiver, custodian, assignee, sequestrator, liquidator or other similar official of Developer, of all or any substantial part of its properties, or of all or any part of Developer's Interest in the Premises, such appointment has not been vacated or stayed on appeal or otherwise, or if, within one hundred eighty (180) days after the expiration of any such stay, such appointment has not been vacated; or

(e) if CRA fails to make any payments required by Article 9 when due hereunder, and such failure continues for a period of thirty (30) days after written notice is given by Developer that the same is past due; or

(f) if City shall default in the observance or performance of any term, covenant or condition of this Agreement on City's part to be observed or performed and City shall fail to remedy such Default within thirty (30) days after written notice by Developer of such Default (the "Default Notice"). If, however, such a Default is of such a nature that it cannot reasonably be remedied within thirty (30) days (but is otherwise susceptible to cure), the following events shall be an "Event of Default" hereunder: (i) if City shall fail, within thirty (30) days after the giving of such Default Notice, to advise Developer of City's intention to institute all steps, (ii) from time to time, as reasonably requested by Developer, if City shall fail to advise Developer of the steps being taken necessary to remedy such default (which such steps shall be reasonably designed to effectuate the cure of such Default in a professional manner), or (iii) if City shall fail thereafter to diligently prosecute to completion all such steps necessary to remedy the same.

#### Section 9.2 Enforcement of Performance; Damages: and Termination.

If an Event of Default occurs, subject to the rights of a recognized mortgagee, the non-defaulting party may elect to: (a) enforce performance or observance by the defaulting party of the applicable provisions of this Agreement, provided however if CRA shall default per Section 10.1 (e) above, then CRA agrees to the entry of a court order in favor of the Developer granting specific performance, or (b) when Developer is the defaulting party, CRA may withhold payment of a portion of the Project Tax Increment equal to  $[X/365 \times \text{the Project Tax Increment}]$  for the year of the default, or the first year when a Project Tax Increment is due thereafter], where "X" is the number of days the default remained uncured beyond the cure period as established in Section 10.1.

#### Section 9.3 Right to Enjoin Defaults.

In the event of Developer's Default or Event of Default, City and/or CRA shall be entitled to seek to enjoin the Default or Event of Default and shall have the right to invoke any

rights and remedies allowed at law or in equity or by statute or otherwise, except to the extent City's and/or CRA's remedies are expressly limited by the terms hereof. In the event of any Default by City or CRA of any term, covenant or condition under this Agreement, Developer shall be entitled to seek to enjoin the Default and shall have the right to invoke any rights and remedies allowed at law or in equity or by statute or otherwise, except to the extent Developer's remedies are expressly limited by the terms hereof, Each right and remedy of City, CRA and Developer provided for in this Agreement shall be cumulative and shall be in addition to every other right or remedy provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise except to the extent City's remedies, CRA's remedies and Developer's remedies are expressly limited by the terms hereof, and the exercise or beginning of the exercise by City, CRA or Developer of any one or more of the rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise shall not preclude the simultaneous or later exercise by City or Developer of any or all other rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, except to the extent City's remedies, CRA's remedies and Developer's remedies are expressly limited by the terms hereof.

Section 9.4 Remedies Under Bankruptcy and Insolvency Codes.

If an order for relief is entered or if any stay of proceeding or other act becomes effective against Developer in any proceeding which is commenced by or against Developer, under the present or any future Federal Bankruptcy Code or in a proceeding which is commenced by or against Developer seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any other present or future applicable federal, state or other bankruptcy or insolvency statute or law, City shall be entitled to invoke any and all rights and remedies available to it under such bankruptcy or insolvency code, statute or law or this Agreement.

**ARTICLE 10**

**NOTICES. CONSENTS AND APPROVALS**

Section 10.1 Service of Notices and Other Communications.

(a) In Writing. Whenever it is provided herein that notice, demand, request, consent, approval or other communication shall or may be given to, or served upon, either of the parties by the other (or any recognized mortgagee), or whenever either of the parties desires to give or serve upon the other any notice, demand, request, consent, approval or other communication with respect hereto or to the Project, each such notice, demand, request, consent, approval or other communication (referred to in this Section 11.1 as a "Notice") shall be in writing (whether or not so indicated elsewhere in this Agreement) and shall be effective for any purpose only if given or served by certified or registered U.S. Mail, postage prepaid, return receipt requested, personal delivery with a signed receipt or a recognized national courier service, addressed as follows or to such other address as a party may provide in writing to the other party:

if to City:                      City Manager  
   City of Holly wood

2600 Hollywood Boulevard  
Hollywood, Florida 33020

with a copy to: City Attorney  
City of Hollywood  
2600 Hollywood Boulevard  
Hollywood, Florida 33020

if to CRA: Executive Director  
City of Hollywood Community Redevelopment Agency  
330 North Federal Highway  
Hollywood, FL 33020

with a copy to: CRA General Counsel  
City of Hollywood  
2600 Hollywood Boulevard  
Hollywood, Florida 33020

if to Developer: JED Equities, LLC  
192220 NE 19<sup>th</sup> Place  
Miami, FL 33020

with a copy to: Debbie M. Orshefsky, Esq.  
Holland & Knight LLP  
515 E. Las Olas Blvd  
Fort Lauderdale, FL 33301

Any such Notice may be given, in the manner provided in this Section 11, (i) on either party's behalf by its attorneys designated by such party by notice hereunder, and (ii) at Developer's request, on its behalf by any recognized mortgagee designated in such request,

(b) Effectiveness. Every Notice shall be effective on the date actually received, as indicated on the receipt therefor or on the date delivery thereof is refused by the recipient thereof.

(c) References. All references in this Agreement to the "date" of Notice shall mean the effective date, as provided in the preceding subsection (b).

#### Section 10.2 Consents and Approvals.

All consents and approvals which maybe given under this Agreement shall, as a condition of their effectiveness, be in writing. The granting by a party of any consent to or approval of any act requiring consent or approval under the terms of this Agreement, or the failure on the part of a party to object to any such action taken without the required consent or approval, shall not be deemed a waiver by the party whose consent was required of its right to require such consent or approval for any other act unless provided for elsewhere in this Agreement. Wherever consent or

approval is required by either party within this Agreement, such consent or approval shall not be unreasonably withheld.

## ARTICLE 11

### **CERTIFICATES BY CITY AND DEVELOPER**

#### Section 11.1 Certificate of Developer.

Developer shall, within fifteen (15) days after request by City for reasonable purposes, execute, acknowledge and deliver to City, or any other person specified by City, a written statement (which may be relied upon by such Person) (a) certifying that this Agreement is unmodified and in full force and effect (or if there are modifications, that this Agreement as modified, is in full force and effect and stating such modifications) (and, if so requested, that the annexed copy of this Agreement is a true, correct and complete copy of this Agreement), and (b) stating (i) whether Developer has given City written notice of any Default, or any event that, with the giving of notice or the passage of time, or both, would constitute a Default, by City in the performance of any covenant, agreement, obligation or condition contained in this Agreement, which Default or event has not been cured, and (ii) whether, to the actual knowledge of Developer (but without independent inquiry), City is in default in performance of any covenant, agreement, obligation or condition contained in this Agreement, and, if so, specifying in detail each such Default or Event of Default.

#### Section 11.2 Certificate of City.

City shall, within fifteen (15) days after requested by Developer for reasonable purposes, execute, acknowledge and deliver to Developer, or such other person specified by Developer, a written statement (which may be relied upon by such Person) (a) certifying that this Agreement is unmodified and in full force and effect (or if there are modifications, that this Agreement, as modified, is in full force and effect and stating such modifications) (and, if so requested, that the annexed copy of this Agreement is a true, correct and complete copy of this Agreement), and (b) stating (i) whether a Default or Event Default has occurred or whether City has given Developer notice of any event that, with the giving of notice or the passage of time, or both, would constitute an Event of Default, which Default or Event of Default has not been cured, and (ii) whether, to the actual knowledge of City (but without independent inquiry), Developer is in default in the performance of any covenant, agreement, obligation or condition contained in this Agreement, and, if so, specifying, in detail, each such Default or Event of Default.

## ARTICLE 12

### **MISCELLANEOUS**

#### Section 12.1 Governing Law.

This Agreement shall be governed by, and construed in accordance with, the laws of the State of Florida, without regard to principles of conflict of laws, including without limitation, Section 163, Florida Statutes, Section 166, Florida Statutes and all applicable provisions of the City of Hollywood's codes and ordinances.

This Agreement shall also be governed by, and construed in accordance with, all CRA policies.

Section 12.2 References.

(a) Captions. The captions of this Agreement are for the purpose of convenience of reference only, and in no way define, limit or describe the scope or intent of this Agreement or in any way affect this Agreement.

(b) Table of Contents. The Table of Contents is for the purpose of convenience of reference only, and is not to be construed in any way as part of this Agreement.

(c) Reference to City and Developer. The use herein of the neuter pronoun in any reference to City or Developer shall be deemed to include any individual City or Developer, and the use herein of the words "successors and assigns" or "successors or assigns" of City or Developer shall be deemed to include the heirs, legal representatives and assigns of any individual City or Developer.

(d) City's and CRA's Governmental Capacity. Nothing in this Agreement or in the parties' acts or omissions in connection herewith shall be deemed in any manner to waive, impair, limit or otherwise affect the authority of CRA or City in the discharge of its police or governmental power.

(e) Reference to "herein", "hereunder", etc. All references in this Agreement to the terms "herein", "hereunder" and words of similar import shall refer to this Agreement, as distinguished from the paragraph, Section or Article within which such term is located.

Section 12.3 Entire Agreement, etc.

(a) Entire Agreement. This Agreement, together with the exhibits and attachments hereto, contains all of the promises, agreements, conditions, inducements and understandings between City and Developer concerning the Project and there are no promises, agreements, conditions, understandings, inducements, warranties or representations, oral or written, express or implied, between them other than as expressly set forth herein and in such attachments hereto or as may be expressly contained in any enforceable written agreements or instruments executed simultaneously herewith by the parties hereto, This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which together shall represent one instrument.

(b) Waiver, Modification, etc. No covenant, agreement, term or condition of this Agreement shall be changed, modified, altered, waived or terminated except by a written instrument of change, modification, alteration, waiver or termination executed by City and Developer. No waiver of any Default or Event of Default shall affect or alter this Agreement, but

each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent Default or Event of Default thereof.

(c) Effect of Other Transactions. No sublease or mortgage whether executed simultaneously with this Agreement or otherwise, and whether or not consented to by City, shall be deemed to modify this Agreement in any respect, and in the event of an inconsistency or conflict between this Agreement and any such instrument, this Agreement shall control.

#### Section 12.4 Invalidity of Certain Provisions.

If any provision of this Agreement or the application thereof to any person or circumstances is, to any extent, finally determined by a court of competent jurisdiction to be invalid and unenforceable, the remainder of this Agreement, and the application of such provision to persons or circumstances other than those as to which it is held invalid and unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

#### Section 12.5 Remedies Cumulative.

Each right and remedy of either party provided for in this Agreement shall be cumulative and shall be in addition to every other right or remedy provided for in this Agreement, or now or hereafter existing at law or in equity or by statute or otherwise (except as otherwise expressly limited by the terms at this Agreement), and the exercise or beginning of the exercise by a party of any one or more of the rights or remedies provided for in this Agreement, or now or hereafter existing at law or in equity or by statute or otherwise, except as otherwise expressly limited by the terms of this Agreement, shall not preclude the simultaneous or later exercise by such party of any or all other rights or remedies provided for in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise except as otherwise expressly limited by the terms of this Agreement.

#### Section 12.6 Performance at Each Party's Sole Cost and Expense.

Unless otherwise expressly provided in this Agreement, when any party exercises any of its rights, or renders or performs any of its obligations hereunder, such party shall do so at its sole cost and expense.

#### Section 12.7 Agreement Negotiated by Both Parties.

The parties recognize and acknowledge that they both participated, with the assistance of respective counsel in negotiation and preparation of this Agreement and neither party shall have any negative inference or presumption raised against it for having drafted the Agreement.

#### Section 12.8 Successors and Assigns.

The agreements, terms, covenants and conditions herein shall be binding upon, and inure to the benefit of, City and Developer and, except as otherwise provided herein, their respective

permitted successors and permitted assigns and shall be construed as covenants running with the Project Land.

Section 12.9 Recording of Agreement.

City shall cause a memorandum of this Agreement to be recorded in the Public Records of Broward County, Florida promptly after the execution and delivery of this Agreement or any such amendments and City shall pay and discharge all costs, fees and taxes in connection therewith.

Section 12.10 Non-liability of Officials and Employees.

No member, officer, director, stockholder, partner, elected or appointed official or employee of City/CRA or Developer shall be personally liable to Developer, or City, as the case may be, or any successor in interest, in the event of any default or breach by a party or for any amount or obligation which may become due to the other party or successor under the terms of this Agreement; and, any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such person, or under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom are expressly waived and released as a condition of, and as a consideration for, the execution of this Agreement.

Section 12.11 Conflict of Interest.

Developer represents and warrants that, to the best of its knowledge, no member, official or employee of City has any direct or indirect financial interest in this Agreement, nor has participated in any decision relating to this Agreement that is prohibited by law. Developer, represents and warrants that, to the best of its knowledge, no officer, agent, employee or representative of City and/or CRA has received any payment or other consideration for the making of this Agreement, directly or indirectly from Developer. Developer represents and warrants that it has not been paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement, other than normal costs of conducting business and costs of professional services such as architects, engineers, and attorneys providing services to Developer. Developer acknowledges that City is relying upon the foregoing representations and warranties in entering into this Agreement and would not enter into this Agreement absent the same.

Section 12.12 No Partnership.

The parties hereby acknowledge that it is not their intention under this Agreement to create between themselves a partnership, joint venture, tenancy-in-common, joint tenancy, or agency relationship for the purpose of developing the Project, or for any other purpose whatsoever. Accordingly, notwithstanding any provisions contained herein, nothing in this Agreement or the other documents executed by the parties with respect to the Project, shall be construed or deemed to create, or to express an intent to create, a partnership, joint venture, tenancy-in-common, joint tenancy, or agency relationship of any kind or nature whatsoever between the parties hereto. The provisions of this section shall survive Expiration of the Term.

Section 12.13 Time Periods.

Any time periods in this Agreement of less than thirty (30) days shall be deemed to be computed based on business days (regardless of whether any such time period is already designated as being computed based on business days). In addition, any time period which shall end on a day other than a business day shall be deemed to extend to the next business day.

Section 12.14 Time of Essence.

Time is of the essence under this Agreement.

Section 12.15 No Code Violations.

At all times during construction of the Project, Developer shall maintain the Project Land and the Improvements free of all Code violations.

Section 12.16 No Third Party Beneficiaries.

Nothing in this Agreement shall confer upon any person, other than the parties hereto and their respective successors, nominees, affiliated entities and permitted assigns, any rights or remedies under or by reason of this Agreement; provided, however, that a recognized mortgagee or its designee shall be a third party beneficiary hereunder to the extent such recognized mortgagee or such designee is granted rights hereunder. Furthermore, this Agreement shall not constitute or covenant running with the Project Land.

**EXECUTION**

IN WITNESS WHEREOF, City, CRA and Developer, intending to be legally bound, have executed this Agreement as of the day and year first above written.

**CITY OF HOLLYWOOD**

**ATTEST:**

By: \_\_\_\_\_  
Patricia A. Cerny  
City Clerk

By: \_\_\_\_\_  
Peter J. Bober  
Mayor

APPROVED AS TO FORM AND LEGALITY  
FOR THE USE AND RELIANCE OF  
CITY OF HOLLYWOOD, FLORIDA, ONLY.

By: \_\_\_\_\_  
Jeffrey P. Sheffel, City Attorney

STATE OF FLORIDA        )  
  ) ss:  
COUNTY OF BROWARD    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_2015, by Peter J. Bober, as Mayor of the CITY OF HOLLYWOOD. He is personally known to me.

\_\_\_\_\_  
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT  
PRINT NAME OF ACKNOWLEDGER:  
TITLE:  
COMMISSION NUMBER:  
COMMISSION EXPIRES:

CITY OF HOLLYWOOD COMMUNITY  
REDEVELOPMENT AGENCY

By: \_\_\_\_\_  
Jorge Camejo  
Executive Director

APPROVED AS TO FORM AND  
LEGALITY  
FOR THE USE AND RELIANCE OF  
CITY OF HOLLYWOOD, FLORIDA,  
ONLY.

By: \_\_\_\_\_  
Jeffrey P. Sheffel  
General Counsel

STATE OF FLORIDA        )  
                                  )ss:  
COUNTY OF BROWARD    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2015, by Jorge Camejo, as Executive Director of the City Of Hollywood Community Development Agency. He is personally known to me.

\_\_\_\_\_  
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT  
PRINT NAME OF ACKNOWLEDGER:  
TITLE:  
COMMISSION NUMBER:  
COMMISSION EXPIRES:

JED Equities, LLC

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

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

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

STATE OF FLORIDA        )  
  )ss:  
COUNTY OF BROWARD    )

The foregoing instrument was acknowledged before me this \_\_\_ day of \_\_\_\_\_, 2015, by \_\_\_\_\_, as \_\_\_\_\_ of JED Equities, LLC. He is personally known to me or has produced \_\_\_\_\_ as identification.

\_\_\_\_\_  
SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT  
PRINT NAME OF ACKNOWLEDGER:  
TITLE:  
COMMISSION NUMBER:  
COMMISSION EXPIRES:

Exhibit "A" - Legal Description

Lots 9, 10, 11, 12, 13, 14, and 15 less the East 15 feet and that part included in the external area formed by a 15 foot radius arc which is tangent to the South line of said Lot 15 and tangent to a line which is 15 feet West of and parallel to the East line of said Lot 15, Block 44, TOWN OF HOLLYWOOD, according to the Plat thereof, recorded in Plat Book 1, Page 21, of the Public Records of Broward County, Florida.