

**MASTER REDEVELOPMENT AGREEMENT
(SPRING STREETScape PROJECT – GARDEN TO ROMANA)**

By and Among

THE CITY OF PENSACOLA, FLORIDA,

THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PENSACOLA,

200 WEST GARDEN, LLC,

and

97 SPRING CONDOS LLC

Dated as of _____, 2023

**MASTER REDEVELOPMENT AGREEMENT
(SPRING STREETSCAPE PROJECT – GARDEN TO ROMANA)**

TABLE OF CONTENTS

		Page
ARTICLE 1 DEFINITIONS		
Section 1.1	Definitions	4
Section 1.2	Use of Words and Phrases	7
Section 1.3	Florida Statutes	7
ARTICLE 2 PURPOSE: FINDINGS: INTENT		
Section 2.1	Purpose	7
Section 2.2	Findings	7
Section 2.3	Intent	8
Section 2.4	Project Funding & Cost Overruns	8
Section 2.5	Maintenance and Ownership of Improvements Comprising Project.	9
Section 2.6	Project Schedule & Completion Date	10
ARTICLE 3 REPRESENTATIONS, WARRANTIES, COVENANTS AND OBLIGATIONS OF THE DEVELOPER		
Section 3.1	Representations and Warranties	12
Section 3.2	Covenants of the Developer	13
Section 3.3	Obligations of the Developer	13
ARTICLE 4 REPRESENTATIONS, WARRANTIES, COVENANTS AND OBLIGATIONS OF THE CITY		
Section 4.1	Representations and Warranties	15
Section 4.2	Covenants of the City	16
Section 4.3	Obligations of the City	16

**ARTICLE 5
 REPRESENTATIONS, WARRANTIES, COVENANTS
 AND OBLIGATIONS OF THE AGENCY**

Section 5.1.	Representations and Warranties	17
Section 5.2	Covenants of the Agency	17
Section 5.3	Obligations of the Agency	18

**ARTICLE 6
 EVENTS OF TERMINATION AND DEFAULT**

Section 6.1	Events of Termination During the Preconstruction Period	18
Section 6.2	Events of Default, Notice, Cure and Remedies	19

**ARTICLE 7
 MISCELLANEOUS**

Section 7.1	Notices	20
Section 7.2	Consents and Approvals	21
Section 7.3	Invalid Provisions	21
Section 7.4	Applicable Law and Construction	21
Section 7.5	Submission to Jurisdiction	22
Section 7.6	Complete Agreement	22
Section 7.7	Captions	22
Section 7.8	Successors, Assigns and Grantees	22
Section 7.9	Holidays	23
Section 7.10	Appendices	23
Section 7.11	No Brokers	23
Section 7.12	Developer Not Agent of Agency or City	23
Section 7.13	Public Purpose	23
Section 7.14	Technical Amendments	23
Section 7.15	Agreement Not a Chapter 86-191 Laws of Florida Development Agreement	23
Section 7.16	Third Parties	24
Section 7.17	Waiver of Jury Trial	24
Section 7.18	Compliance with Laws	24
Section 7.19	Severability	24
Section 7.20	Time of Essence	24
Section 7.21	Effective Date	24
Section 7.22	Waiver of Consequential Damages	24

APPENDICES

A	Developer Parcels
B	Conceptual Project Plan
C	Project Cost Estimate
D	Project Schedule

ARTICLE 1	4
-----------------	---

DEFINITIONS	4
ARTICLE 2	8
PURPOSE: FINDINGS: INTENT	8
ARTICLE 3	13
REPRESENTATIONS, WARRANTIES, COVENANTS AND OBLIGATIONS OF THE DEVELOPER.....	13
ARTICLE 4	17
REPRESENTATIONS, WARRANTIES, COVENANTS	17
AND OBLIGATIONS OF THE CITY	17
ARTICLE 5	18
REPRESENTATIONS, WARRANTIES, COVENANTS	18
AND OBLIGATIONS OF THE AGENCY	18
ARTICLE 6	19
EVENTS OF TERMINATION AND DEFAULT	19
ARTICLE 7	21
MISCELLANEOUS.....	21

**MASTER REDEVELOPMENT AGREEMENT
(SPRING STREETSCAPE PROJECT – GARDEN TO ROMANA)**

THIS MASTER REDEVELOPMENT AGREEMENT (SPRING STREETSCAPE PROJECT – GARDEN TO ROMANA) ("Agreement") is made and entered into this ____ day of _____, 2023 by and among the **CITY OF PENSACOLA, FLORIDA**, a municipal corporation (the "City"), the **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PENSACOLA**, a public body corporate and politic of the State of Florida created pursuant to Part III, Chapter 163, Florida Statutes, (the "Agency"), **200 WEST GARDEN, LLC**, a Louisiana limited liability company ("200 West"), and **97 SPRING CONDOS LLC**, a Louisiana limited liability company ("97 Spring" and, together with 200 West, the "Developer").

WITNESSETH:

WHEREAS, pursuant to Resolution No. 54-80 adopted by the City Council on September 25, 1980, and as confirmed and ratified pursuant to Resolution 65-81 adopted by the City Council on September 22, 1981, the City Council found and determined that an area designated therein as the "Pensacola Inner City" is a blighted area as therein described, that a combination of rehabilitation, conservation and redevelopment of the Pensacola Inner City is necessary, that there exists a need for a community redevelopment agency to function in the City to carry out community redevelopment purposes pursuant to Part III, Chapter 163, Florida Statutes (the "Act"), and that the Pensacola Inner City is appropriate for community redevelopment projects and is thereby designated a community redevelopment area; and

WHEREAS, pursuant to Resolution No. 55-80 adopted by the City Council on September 25, 1980, and as readopted and reaffirmed pursuant to Resolution 65-81 adopted by the City Council on September 22, 1981, the City Council declared itself to be the "Community Redevelopment Agency" in the City and vested all rights, powers, duties, privileges and immunities vested in a community redevelopment agency pursuant to Part III, Chapter 163, Florida Statutes, in the City Council; and

WHEREAS, pursuant to Resolution 65-81 adopted by the City Council on September 22, 1981, the City Council designated the boundaries and found and determined that an area designated therein as the "Urban Core Community Redevelopment Area" (the "Redevelopment Area") is a blighted area as therein described and that the rehabilitation, conservation and redevelopment is necessary and in the public interest; and

WHEREAS, pursuant to Ordinance No. 13-84 enacted by the City Council on March 8, 1984, the Urban Core Community Redevelopment Trust Fund was established into which the tax increment paid by each taxing authority each year is deposited in accordance with section 163.387, Florida Statutes, for the purpose of financing community redevelopment in the Redevelopment Area (the "Tax Increment"); and

WHEREAS, on January 14, 2010, the City Council adopted Resolution No. 02-10 approving an "Urban Core Community Redevelopment Plan 2010" for the Redevelopment Area (as may be further amended from time to time, the "Redevelopment Plan"); and

WHEREAS, the Developer owns certain parcels of real property located in the City as further described in Appendix A attached hereto (the "Developer Parcels") which parcels are within the boundaries of the Redevelopment Area; and

WHEREAS, the Developer is undertaking redevelopment of the Developer Parcels with various uses which may include residential rental units, grocery retail space and a structured parking facility (collectively, and as more specifically described below, the "Developer Facilities"), all of which are generally contemplated by and are objectives of the Redevelopment Plan; and

WHEREAS, the Developer desires to redevelop and improve the Spring Street right of way between Garden Street and Romana Street, which is a City right of way (the "Public Right of Way"), in conjunction with development and redevelopment of the Developer Parcels which are adjacent or in close proximity to the Public Right of Way; and

WHEREAS, the Developer has proposed to the City and the Agency that it will undertake all of the design, site work, construction and landscaping to modify the Public Right of Way and adjoining areas with Streetscape Improvements (as defined below) so that it is more walkable and pedestrian friendly and to include certain aesthetic enhancements (collectively, the "Project") as further described in the Conceptual Project Plan attached hereto as Appendix B; and

WHEREAS, the total estimated cost of the Project is \$2,371,645 (the "Project Cost Estimate"), a breakdown of which is included in the Project Cost Estimate attached hereto as Appendix C; and

WHEREAS, the Developer has represented to the City and the Agency that it is willing to pay a substantial portion of the costs of the Project but will require financial assistance from the City and the Agency to undertake and complete the Project as herein set forth; and

WHEREAS, the financial assistance to be provided by the City and Agency includes a grant of no more than \$1,482,278 (the "Redevelopment Incentive"); and

WHEREAS, the amount of the Redevelopment Incentive is reasonably estimated to be equal to or less than the Tax Increment generated by the Developer Parcels once improved with the Developer Facilities over the duration of the Redevelopment Plan; and

WHEREAS, the financial assistance to be provided by the City and the Agency as an inducement for installation and construction of the Project will result in creation of a vibrant, attractive and pedestrian friendly destination for residents and visitors of the Redevelopment Area; and

WHEREAS, the Developer has proposed that it will install and construct the Project in conjunction with redevelopment of the Developer Facilities; and

WHEREAS, the City has determined that the Project is consistent with the City's comprehensive plan; and

WHEREAS, the Developer Facilities are reasonably expected to generate substantial ad valorem and sales tax revenues through the term of the Redevelopment Plan and beyond; and

WHEREAS, the Project is expected to act as a catalyst for additional high quality redevelopment in the Redevelopment Area, thus significantly benefiting the City's economy and its citizens and significantly advancing the community redevelopment objectives set forth in the Act and the Redevelopment Plan; and

WHEREAS, the construction phase of the Developer Facilities and the Project is expected to create local jobs stemming from construction related activities, and upon completion, the Developer Facilities and the Project are expected to create local jobs related to operation of the residential and commercial uses; and

WHEREAS, construction and operation of the Developer Facilities and Project is further expected to stimulate economic development in the City and to materially benefit the City, the taxing authorities which contribute the Tax Increment and their respective residents for many reasons, including but not limited to the increased direct and indirect funds that will be received from ad valorem tax revenue, sales tax revenue, utility revenue, and other revenues; and

WHEREAS, the City and Agency therefore have an interest in the diverse economic benefits which would be created through construction of the Project and redevelopment of the Developer Parcels; and

WHEREAS, the City and Agency desire to facilitate the successful construction of the Project in order to realize the public and community redevelopment benefits identified herein; and

WHEREAS, provision of the Project is a valid and important public purpose in light of the need to redevelop the land within the Redevelopment Area, and the City and the Agency are authorized by the Act to expend Tax Increment proceeds in furtherance of the community redevelopment objectives of remedying blight and preserving and enhancing the tax base; and

WHEREAS, the City and Agency hereby determine that the economic incentives and contributions contemplated herein are an advantageous means of inducing construction of the Project and which will serve a valid and paramount public purpose in that: (1) construction of the Project will directly promote redevelopment in the Redevelopment Area, as well as the overall economy of the City; (2) the Project will further the development of residential and commercial activities in the Redevelopment Area, thereby achieving essential objectives of the Redevelopment Plan and providing a more balanced and stable area economy and increased

opportunities for gainful employment; (3) construction of the Project will stimulate and promote redevelopment in the Redevelopment Area as a whole; and (4) all economic incentives will be used for the public purposes described herein; and

WHEREAS, the parties now desire to enter into this Agreement in order to provide for installation and construction of the Project in furtherance of meeting the redevelopment goals and objectives set forth in the Redevelopment Plan; and

WHEREAS, the City has determined that it is necessary and in the best interests of the health, safety and welfare of the City and its inhabitants that the City make a grant to the Developer in the form of the Redevelopment Incentive to facilitate installation and construction of the Project, and that the Project shall constitute and serve the purposes of "community redevelopment" within the meaning and in accordance with the Act; and

WHEREAS, the parties acknowledge that redevelopment activities in the Redevelopment Area must be coordinated to insure their compliance and consistency with the Act and the Redevelopment Plan, and the parties mutually agree to cooperate to achieve such coordination, and

WHEREAS, this Agreement has been prepared and reviewed by the City, the Agency and the Developer, and all are desirous of entering into this Agreement to effectuate redevelopment of the Project Site upon the terms and conditions as set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereto agree as follows:

ARTICLE 1
DEFINITIONS

Section 1.1 **Definitions.** Capitalized terms used herein shall have the meanings set forth in the Recitals above and as follows:

"Act" means Part III, Chapter 163, Florida Statutes known and referred to as the Community Redevelopment Act of 1969, as amended from time to time, and other applicable provisions of law.

"Agency" means the Community Redevelopment Agency of the City of Pensacola, Florida, created pursuant to Resolution No. 55-80 adopted by the City Council on September 25, 1980, as confirmed and ratified by Resolution No. 65-81 adopted by the City Council on September 22, 1981.

"Agreement" means this Master Redevelopment Agreement, including all Appendices and all amendments, modifications, addenda, supplements and revisions to this Agreement or

to any of the Appendices.

"Approval Delay" means any delay in achieving a construction or development milestone which is caused by the failure of any applicable governmental authority to timely issue a Building Permit which is required for the construction of the Project.

"Building Permit" means the permit, certificate, license or other approval by the City or other applicable governmental authority required to be obtained, issued, granted, or received as the final such permit, certificate, license or approval prior to commencement of construction, or equipping of any existing structure located on the Project Site.

"City" means the City of Pensacola, Florida, a Florida municipal corporation and its successors or assigns.

"Commencement Date" means the date when the Developer begins the installation and construction of the Project and/or Developer Facilities, occurring not later than December 31, 2024 (unless extended by consent and agreement of the parties or by Force Majeure or Approval Delay), as evidenced by a written Notice of Commencement provided to the CRA Manager.

"Completion Date" means the date when construction of the Project is completed as provided in Section 2.6 hereof.

"Conceptual Project Plan" means the site plan and narrative description of the conceptual plan for redevelopment of the Project Site prepared by the Developer and included herein as Appendix B.

"Construction Period" means the period of time beginning on the Commencement Date and ending on the Completion Date.

"Contract Documents" means the Design Documents, and the general contractor agreement executed by and between Developer and a general contractor for the completion of the Project.

"Design Documents" means the Interim Design Documents and the Final Design Documents for the Project.

"Developer" means, collectively, 200 West and 97 Spring, which is a wholly-owned subsidiary of 200 West, and their successors and assigns.

"Developer Facilities" means the proposed facilities to be constructed by the Developer on the Developer Parcels, which facilities shall include approximately 328 residential rental units, grocery retail space, two pocket parks, and a multi-level structured parking facility including approximately 175 ungated parking spaces for use by invitees of the grocery retail space, with an estimated total taxable assessed value of \$45,000,000, subject to appraisal and assessment by the applicable governmental authority. The Developer Facilities may be modified

by Developer in accordance with this Agreement.

"Developer Parcels" means the approximately 4.78 acre tax parcel owned by 200 West and the approximately 0.70 acre tax parcel owned by 97 Spring, each as described and shown in Appendix A.

"Effective Date" means _____, 2023, the effective date of this Agreement.

"Event of Termination" has the meaning ascribed to it in Article 7.

"Final Design Documents" means complete design documents which have been permitted by all applicable regulatory agencies, including a final narrative description and graphic depiction of the Project, including the final site plan, site elevation, design concept and any recommended Streetscape Improvements on or adjacent to the Project Site as prepared by or for the Developer.

"Force Majeure" means failure as a result of acts of God, (including fire, flood, earthquake, storm, hurricane or other natural disaster), epidemics, pandemics and related closures, war, invasion, act of foreign enemies, hostilities, civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, or terrorist activities or any other cause which is out of the control of the affected party.

"Interim Design Documents" means 30%, 60% and 90% complete design documents, including interim narrative description and graphic depictions of the Project, including the site plan, site elevation, design concept and any recommended Streetscape Improvements on or adjacent to the Project Site, as prepared by or for Developer.

"Payment Bond" means a payment bond provided by the Developer prior to commencing construction of the Streetscape Improvements, as further described in Section 3.3J hereof., together with the "Performance Bond" referred to as the "Performance and Payment Bonds."

"Performance Bond" means a performance bond provided by the Developer prior to commencing construction of the Streetscape Improvements, as further described in Section 3.3J hereof., together with the "Payment Bond" referred to as the "Performance and Payment Bonds".

"Preconstruction Period" means the period of time commencing upon the Effective Date of this Agreement and ending upon the Commencement Date, which shall not exceed December 31, 2024 (unless extended by consent and agreement of the parties, which consent and agreement by the parties shall not be unreasonably withheld, conditioned or delayed, or by Force Majeure or Approval Delay).

"Project" means installation and construction of Streetscape Improvements to the Public Right of Way and the Developer Parcels as depicted within Appendix B, Conceptual Project Plan, as may be modified in accordance with this Agreement.

"Project Cost Estimate" means the estimate of all Project Costs included herein as Appendix C.

"Project Costs" means all costs, both direct and indirect, incurred by the Developer in designing, permitting, installing and constructing the Project.

"Project Schedule" means the schedule and sequence of events prepared by the Developer defined within Appendix D for the anticipated commencement, progression, and completion of the design, construction, rehabilitation, equipping and furnishing of the Project in connection with the redevelopment of the Developer Facilities and the Project, including revisions, amendments and changes thereto made from time to time as provided herein.

"Project Site" means the site of the Streetscape Improvements within the Public Right of Way and the Developer Parcels as depicted in Appendix B.

"Public Right of Way" means the portion of Spring Street between Garden Street and Romana Street, which is a City right of way.

"Streetscape Improvements" means pedestrian, walkway and street improvements to be installed and constructed within the Project Site, which may include but are not limited to asphalt roadway, roadway striping, stormwater infrastructure, curbs, sidewalks, lighting, signage, benches, bollards, sculptures, waste receptacles, fountains, street access points, including but not limited delivery access areas to the Developer Facilities (the "Delivery Area"), and utility relocations, if any, together with associated landscaping and park improvements, as further described in Appendix B, Conceptual Project Plan.

"Termination Date" means the date on which this Agreement is terminated and is no longer of any force and effect as provided herein in Article 6. However, where the context of the terms of this Agreement demand, certain terms and obligations shall survive termination.

"Warranty Bond" means a warranty bond provided by the Developer prior to receiving payment of the Redevelopment Incentive, as further described in Section 2.6.G.4 hereof.

Section 1.2 **Use of Words and Phrases.** Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the singular shall include the plural as well as the singular number and the word "person" shall include corporations and associations, including public bodies, as well as natural persons. "Herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Agreement and not solely to the particular portion thereof in which any such word is used.

Section 1.3 **Florida Statutes.** All references herein to "Florida Statutes" are to Florida Statutes (2022), as amended from time to time, unless specifically indicated otherwise.

ARTICLE 2
PURPOSE: FINDINGS: INTENT

Section 2.1 **Purpose.** The purpose of this Agreement is to outline the details of the transaction, and the commitments and responsibilities of each of the parties from conceptual planning through final Project completion, and to provide acceptable releases to each of the parties should the Project fail to proceed or be terminated pursuant to the provisions of this Agreement, at any point in time.

Section 2.2 **Findings.**

A. The City and the Agency do hereby find that the Project will advance the community redevelopment goals and objectives set forth in the Redevelopment Plan which expressly contemplates and encourages redevelopment and enhancement of public rights of way and pedestrian walkways in the Redevelopment Area and provides for private sector participation in remediating the blighted conditions therein.

B. The City and the Agency do hereby find that the Developer has represented to City and the Agency that the Developer needs financial assistance from the City and the Agency in order for the Project to proceed.

C. The City and the Agency do hereby find that there is, in fact, a need for financial assistance by the City and the Agency for the Project to proceed.

D. The City and the Agency do hereby find that the City has an interest in the diverse economic benefits resulting from the construction and operation of the Developer Facilities and the Project, and that the Project is consistent with and furthers the objectives of the Redevelopment Plan and is in the best interest of the citizens of the City.

E. The parties hereto recognize and acknowledge and do mutually find that but for the financial assistance provided for herein, the Developer would not undertake construction of the Project and redevelopment of the Project Site, and such assistance is a critical and important inducement without which such construction and redevelopment would not be undertaken.

Section 2.3 **Intent.** It is the intent of the parties hereto to efficiently, effectively and economically cause the successful construction of the Project in order to improve the Public Right of Way, specifically, and the conditions in the Redevelopment Area, in general, as well as implement the Redevelopment Plan and otherwise further the purposes of the Act. It is further the intent of the parties that the Developer shall permit, design, engineer, construct, equip, and otherwise complete the Project by the Completion Date defined in Section 2.6F. The parties mutually recognize and acknowledge that the Developer will require the City's and the Agency's financial assistance, the extent of which is set forth in Section 2.4.

Section 2.4 **Project Funding & Cost Overruns.**

A. The cost of the Project is estimated to be \$2,371,645 as further described in the Project Cost Estimate. The Developer shall be responsible for funding and financing installation and construction of the Project and payment of the Project Costs. Subject to the Developer installing and construction the Project in accordance with this Agreement, the City shall be responsible for contributing the Redevelopment Incentive as described below.

B. Section 163.387 of the Act authorizes "area reinvestment agreements" between a community redevelopment agency and private parties pursuant to which the increment computed for a specific area is reinvested in services or public or private projects, or both, including debt service, supporting one or more projects consistent with the community redevelopment plan that is identified in the agreement to be constructed within that area. It is the express intent of the parties hereto that this Agreement shall constitute and be construed as an area reinvestment agreement within the meaning of the Act.

C. The City hereby agrees to pay the Redevelopment Incentive to the Developer in accordance with the terms set forth herein, to induce the Developer to install and construct the Project.

D. The City shall contribute the Redevelopment Incentive in a total amount not to exceed 62.5% of the Project Costs, as evidenced by the Developer's contract with its general contractor or \$1,482,278, whichever is less, in accordance with the following terms:

1. Prior to commencement of construction, the Developer shall deliver to the City the Performance and Payment Bond described in Section 3.3.J hereof.

2. Upon substantial completion of the Project, the Developer shall request a final inspection from the City. The City shall inspect the Project for compliance with the approved Design Documents and this Agreement. Any material changes to the Project that occur during construction shall be subject to review and approval by the City.

3. The Agency shall deposit the Redevelopment Incentive with a mutually agreed escrow agent following the submittal of a reimbursement request to the CRA Manager for payment of the Redevelopment Incentive upon: i) the City's acceptance of the Project in accordance with Section 2.6.D below, ii) completion of the multi-level structured parking facility and opening of the approximately 175 un gated parking spaces for use by invitees of the grocery retail space, and iii) completion and opening of the grocery retail space to the public. Completion and opening of the parking facility and grocery retail space shall be evidenced by final inspection from the City. The Developer shall provide all supporting documentation showing proof of payment by the Developer for the Project Costs as part of its reimbursement request, including, but not limited to, receipts and canceled checks or other documentation reasonably acceptable to the City's Finance Director. The Redevelopment Incentive shall be released to the Developer upon substantial completion of the 328 residential rental units in accordance with this Agreement. To release the funds, the Agency will provide the escrow agent a copy of the

certificate of occupancy and direct the escrow agent to release the amount of the Redevelopment Incentive to the Developer within ten (10) calendar days of receipt of a complete reimbursement request from Developer.

4. The Developer shall achieve substantial completion of the 328 residential rental units in accordance with this Agreement within thirty-six (36) months of substantial completion of the Project. A certificate of occupancy issued by the City shall evidence substantial completion of the residential rental units. Should the Developer fail to achieve substantial completion of the residential rental units as required in this part, then the Redevelopment Incentive shall be withdrawn from the escrow account described in Section 2.4.D.3 and returned to the Agency pursuant to Section 6.2.C below.

5. Prior to deposit of the Redevelopment Incentive with the escrow agent, the Developer shall deliver or cause to be delivered to the City the Warranty Bond described in Section 2.6.g hereof.

6. Notwithstanding anything contained in this Section 2.4 to the contrary, the Developer shall be entitled to payment of the Redevelopment Incentive upon substantial completion of the Project but before substantial completion of the 328 residential rental units if, at its option, the Developer obtains a standby letter of credit with a reputable financial institution as the issuer, mutually agreed to by the Developer and the City in the sum of the Redevelopment Incentive payable to the City of Pensacola, on demand in Pensacola, Florida, to secure the Developer's obligation to construct the 328 residential rental units pursuant to this Agreement. Such standby letter of credit shall name the City of Pensacola as the beneficiary with payment in the event the Developer does not meet its obligations as described above. Upon substantial completion of the 328 residential rental units, the City shall promptly cancel and return the letter of credit. Should the Developer fail to meet its obligation to construct the 328 residential rental units pursuant to this Agreement, the City shall be entitled to present the letter of credit for payment.

E. The City intends to finance the Redevelopment Incentive with proceeds derived from the Tax Increment generated within the Urban Core Community Redevelopment Area.

F. Except for the contribution of the Redevelopment Incentive described above, all other Project Costs associated with the design, installation and construction of the Project shall be the responsibility of the Developer.

G. Cost overruns above the Project Cost Estimate, if any, which result from changes to the Project deemed necessary by the Agency for consistency with the Redevelopment Plan, Conceptual Project Plan, or this Agreement shall be paid by the Developer. Cost overruns above the Project Cost Estimate, if any, which result from changes to the Project which are necessary to comply with the City's land development code provisions or requirements of other applicable regulatory boards or agencies, including but not limited to the provisions of this Agreement, shall be paid by the Developer. Notwithstanding the foregoing, the City and the Agency acknowledge and agree that any cost overruns required by the City or the Agency as provided herein, or which

are incurred by the Developer after the Project has been permitted as a result of changes requested by the City or Agency, may be included in total Project Costs, and the Redevelopment Incentive increased by 62.5% of the resulting cost overruns, upon approval by the Agency and City. Cost overruns resulting from errors or omissions of the Developer or its general contractor in the Contract Documents shall be the sole responsibility of the Developer.

Section 2.5 **Maintenance and Ownership of the Improvements Comprising Project.** The City is and shall continue to be the owner of the Public Right of Way and shall be the owner of the Streetscape Improvements constructed within the Public Right of Way upon completion of the Project; provided, however, that (i) the Developer shall be responsible for maintenance and repair of the Delivery Area, private stormwater lines located within the Developer Parcels and the Public Right-of-Way which solely serve the Developer Facilities and feed into the public stormwater infrastructure located within the Public Right of Way, and the Streetscape Improvements constructed hereunder, with the exception of the asphalt roadway, roadway striping, signage, curbs, public sidewalks (subject to acceptance by the City for maintenance), lighting, street access points, and public stormwater infrastructure located within the Public Right of Way which shall be the responsibility of the City, the areas of such maintenance responsibilities of the City being highlighted in red on Appendix E, attached hereto and incorporated herein, and (ii) the Developer shall provide the Warranty Bond in accordance with Section 2.6.G hereof. Sidewalks eligible for City maintenance shall be limited to non-decorative or minimally decorative public sidewalks that conform to City standards. The City reserves the right to accept or reject, in its reasonable discretion, the extent of which decorative sidewalk design elements are acceptable for City maintenance. Sidewalks with decorative design elements that are not acceptable for City maintenance, as enumerated in this part, shall be the responsibility of the Developer. Except as expressly provided herein, the City and/or Agency shall assume no ownership or maintenance responsibility for any improvements installed or constructed by the Developer on the Developer Parcels or any other privately owned property.

Section 2.6 **Project Schedule & Completion Date.**

A. The Developer shall submit its Design Documents to the CRA Manager who shall route the Design Documents for comment and approval at 30%, 60%, and 90% completion (the "Approval Schedule"). Final Design Documents shall be submitted to the CRA Manager after permit approvals from all applicable regulatory agencies have been received. Design Documents shall be substantially consistent and compliant with the Conceptual Project Plan unless otherwise approved by the City. Materials used to construct the Project are subject to review and approval by the City.

B. The Developer shall install and construct the Project and the Developer Facilities in accordance with this Agreement. Modifications to the Developer Facilities that do not conform to the description of the Developer Facilities as defined within the Agreement shall be subject to approval by the Agency.

C. The planning, design, development, construction, equipping, and completion of

the Project by the Developer shall be undertaken, diligently continued, and completed in substantial accordance with this Agreement and by the dates set forth in the Project Schedule subject to revision as provided below.

1. Due to changes in circumstances, expectations, or assumptions of the parties not now known to or by the parties, the Project Schedule may be revised by the Developer from time to time by prior written notice of such revision to the City and the Agency, which revision shall be effective upon approval of such written notice by the City and the Agency. Such approval shall not be unreasonably withheld and if not approved or rejected within twenty (20) calendar days of receipt, then such revision shall be deemed approved.

D. Construction of the Project will be considered complete upon:

1. Receipt by the City of an affidavit from the Developer's contractor stating that the Project has been completed, subcontractors have been paid for construction of same and all construction or other liens related to same have been released; and

2. Acceptance of the Project by the City in accordance with City policies and standards for acceptance of public infrastructure by private developers, including but not limited to the provision of sealed as-built plans and a written release of all liens associated with the work. Such acceptance by the City shall not be unreasonably withheld, conditioned or delayed.

E. The Developer will provide periodic construction status updates to the City and the Agency and will notify the City of impending completion.

F. Notwithstanding anything herein or in the Project Schedule to the contrary, the Completion Date of the Project shall be no later than three (3) years after the Commencement Date, subject to Force Majeure and Approval Delays.

G. Correction Period

1. If within eighteen (18) months after the date the City accepts the Project, the City gives the Developer written notice that any portion of the Project was not installed and constructed in accordance with the requirements of the Contract Documents or any Federal, State or Local rules, laws, and ordinances in effect at the time permits were issued for the Contract Documents, then after receipt of such notice of the condition the Developer shall promptly, without cost to the City:

a. Furnish to the City a correction/remediation plan within thirty (30) days of the City furnishing its notice of the condition.

b. Upon the City's acceptance of the Developer's correction/remediation plan, the Developer shall correct the condition as set forth in Developer's correction/remediation plan.

2. The City shall give notice of any such condition within 30 days of the discovery that any portion of the Project was not installed and constructed in accordance with the requirements of the Contract Documents or any Federal, State or Local rules, laws, and ordinances in effect at the time permits were issued for the Contract Documents.

3. If, after receipt of a notice of defect within 30 days and within the correction period, the Developer does not furnish a correction/remediation plan, or in an emergency where delay would cause serious risk of loss or damage, the City may have the defective Project work corrected. The Developer shall pay, or cause to be paid, all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction (including but not limited to all costs of corrective work done by third parties). Except in an emergency where delay would cause serious risk of loss or damage, the City shall not undertake any corrective work, review, or studies without first furnishing Developer notice and the opportunity to make corrections or furnish a correction/remediation plan.

4. As a condition precedent to the City's acceptance of the Project and obligation to make final payment, the Developer shall furnish or cause to be furnished a Warranty Bond in the form of EJCDC® C 612, Warranty Bond (2018) with terms reasonably acceptable to the City. The Warranty Bond shall be issued for the sum of the final cost of the Project, as evidenced by an affidavit issued by the Developer's general contractor pursuant to all improvements, as built. The Warranty Bond shall list the City as a party to the bond. The Warranty Bond period will extend to a date eighteen (18) months after completion of the Project and is intended to secure the obligation of the Developer or the Developer and general contractor as joint obligors to correct work as provided in this Section 2.6.G. The Developer shall deliver or cause to be delivered the fully executed Warranty Bond to City prior to or with the final application for payment of the Redevelopment Incentive. Notwithstanding anything contained herein to the contrary, the Developer acknowledges and agrees that it shall be responsible for any damages to the Streetscape Improvements caused by its continued construction of any portion of the Developer Facilities after the acceptance of the Project by the City.

5. The Developer's obligations under this Section 2.6.G are in addition to all other obligations and warranties. The provisions of this Section 2.6.G are not to be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 3
REPRESENTATIONS, WARRANTIES, COVENANTS AND OBLIGATIONS OF THE

DEVELOPER

Section 3.1 **Representations and Warranties.** The Developer represents and warrants to the City and Agency that each of the following statements is presently true and accurate as of the date hereof and can be relied upon by the City and Agency:

A. Each of 200 West and 97 Spring is a duly organized and validly existing limited liability company under the laws of the State of Louisiana, qualified to transact business in the State of Florida, has all requisite power and authority to carry on its business as now conducted, to own or hold properties and to enter into, and perform its obligations hereunder, and each instrument to which it is or will be a party, and is in good standing in the State of Louisiana and the State of Florida.

B. The principal place of business of the Developer is 6859 Jefferson Highway, Suite A, Baton Rouge, LA 70806. The manager(s) or managing member(s) thereof executing this Agreement on behalf of the Developer are authorized to act on behalf of the Developer and execute this Agreement on behalf of the Developer and any such actions by such manager(s) or managing member(s) shall be binding upon and enforceable against the Developer.

C. Each document in connection with the Project to which Developer is or will be a party has been duly authorized by all necessary action on the part of, and has been, or will be duly executed and delivered by, the Developer and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof (i) requires the approval and consent of any other party, except such as have been duly obtained, (ii) contravenes any existing law, judgment, government rule, regulation or order applicable to or binding on the Developer, or (iii) contravenes or results in any breach of, default under or results in the creation of any lien or encumbrance upon any property of the Developer other than the Developer Parcel under any indenture, mortgage, deed of trust, bank loan or credit agreement, the Developer's partnership or joint venture agreement, or any other agreement or instrument to which the Developer is a party.

D. This Agreement will constitute a legal, valid and binding obligation of the Developer, enforceable against the Developer in accordance with the terms hereof, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which effect creditor's rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

E. There are no pending, or to the knowledge of the Developer, threatened actions or proceedings before any court or administrative agency against the Developer, which question this Agreement or the validity of any instrument or document contemplated hereunder or which are likely in any case, or in the aggregate, to materially adversely affect the successful development of the Project, the consummation of the transactions contemplated hereunder or the financial condition of the Developer.

F. The Developer has filed or caused to be filed all federal, state, local and foreign tax returns, if any, required to be filed by the Developer and has paid all taxes shown to be due and payable on such returns or on any assessments levied against the Developer.

Section 3.2 Covenants of the Developer. The Developer covenants with the City and the Agency that the Developer shall timely fulfill or cause to be fulfilled all of the conditions and obligations expressed herein which are within the control of the Developer or which are the responsibility of the Developer to fulfill.

Section 3.3 Obligations of the Developer.

A. The Developer shall permit, design, construct and improve the Project in accordance with the Design Documents and the Developer Facilities in accordance with this Agreement unless otherwise approved by the City and the Agency.

B. Upon execution of this Agreement, the Developer shall commence the process of designing the Project and shall forward the Design Documents to the CRA Manager in accordance with Section 2.6.

C. As provided in Section 7.15 hereof, this Agreement shall not be construed as a development approval or to convey development rights upon the Developer. Prior to commencing construction of the Project, the Developer must submit to the City appropriate development applications for development permits or other entitlements. The City shall accept from the Developer for processing and review all such applications, provided that such applications are submitted in accordance with all City rules, regulations and this Agreement, and all fees are timely and properly paid. All required permits and development approvals must be obtained prior to commencing construction. Nothing in this Agreement shall be construed to waive or modify applicable land development code and requirements of the City.

D. The Developer shall be responsible for engaging the professional services required and for the payment of all costs associated with design and construction of the Project.

E. The Developer shall coordinate with the City's engineer and the CRA Manager, or his or her designee, through the Completion Date to ensure design and construction of the Project in a manner consistent with City standards and the Design Documents. No construction efforts shall commence until the City and Agency have reviewed and accepted the Design Documents in the manner contemplated by Section 2.6 and this Section 3.3 and Developer has received all required Building Permits.

F. All design, engineering and construction by Developer shall be done in accordance with all applicable laws and regulations of the federal, state and local governments, including but not limited to, compliance with all building codes, planning ordinances and regulations and zoning ordinances and regulations of the City.

G. The Developer shall be responsible for and shall initiate, diligently continue and complete the Project as contemplated by this Agreement, including the preparation of the Design Documents, and the construction, and equipping of the Project substantially in accordance with the approved Building Permit(s).

H. The Developer shall ensure that the Project, including each component thereof, adheres to all applicable building, zoning, parking, life safety, growth management, and all other codes and ordinances that may apply to the Project and Project Site.

I. The Developer shall have no authority to borrow money secured by the Project (except and only to the extent any portion of the Streetscape Improvements is located on a Developer Parcel) or incur any debt or liability on behalf of the City or the Agency.

J. The Developer shall contract with a licensed and insured general or roadway contractor for the construction phase and ensure that the contractor chosen by the Developer uses its proper skill and care in constructing the Project. The Developer shall also ensure that such general contractor obtains Performance and Payment Bonds reasonably acceptable to the City and shall submit such bonds to the City prior to commencing construction of the Streetscape Improvements. Because the City is not a party to the construction contract between the Developer and its general contractor, the City shall be protected in the Performance and Payment Bonds between the Developer and its contractor by being named as an additional obligee through the execution of a Dual Obligee Rider for the protection of the City in the event of a default or non-payment by either Developer or its general contractor. At minimum, the Performance and Payment Bonds shall cover the cost of all improvements within the Public Right of Way, as evidenced by the Developer's contract with its general contractor. As noted above, the Performance and Payment Bonds shall list the City as an additional obligee.

K. The Developer hereby indemnifies the City and Agency against all claims, costs, losses, demands, actions, proceedings, judgments, settlements and liability arising out of any breach or non-observance of the Developer's obligations pursuant to this Agreement.

L. The Developer shall obtain and deliver to the City evidence of commercial general liability insurance in amounts reasonably satisfactory to the City, which insurance the Developer shall maintain at all times during the construction of the Project.

M. **LOSS CONTROL AND SAFETY.** The Developer shall retain control over its employees, agents, servants, and contractors, and subcontractors, as well as control over its invitees, and its activities on and about the Project Site and the manner in which such activities shall be undertaken, and to that end, the Developer shall not be deemed to be an agent of the City. Precaution shall be exercised at all times by the Developer for the protection of all persons, including employees and property. The Developer shall make special effort to detect hazards and shall take prompt action where loss control/safety measures should reasonably be expected.

ARTICLE 4
REPRESENTATIONS, WARRANTIES, COVENANTS
AND OBLIGATIONS OF THE CITY

Section 4.1 **Representations and Warranties.** The City represents and warrants to Developer that each of the following statements is presently true and accurate as of the date hereof and can be relied upon by Developer:

A. The City is a validly existing municipal corporation of the State of Florida, has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations under this Agreement and each document contemplated hereunder to which it is or will be a part.

B. This Agreement has been duly authorized by all necessary action on the part of, and has been or will be duly executed and delivered by, the City and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof (i) requires the approval and consent of any other party, (ii) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the City or (iii) contravenes or results in any breach of, default under or result in the creation of any lien or encumbrance upon any party or the City, under any indenture, mortgage, deed of trust, bank loan or credit agreement, any special acts, ordinances, resolutions or any other agreement or instrument to which the City is a party, specifically including any covenants of any bonds, notes, or other forms of indebtedness of the City outstanding on the Effective Date.

C. This Agreement will constitute, a legal, valid and binding obligation of the City enforceable against the City in accordance with the terms hereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

D. This Agreement does not violate any laws, ordinances, rules, regulations, orders, contracts or agreements that are or will be applicable thereto.

Section 4.2 **Covenants of the City.** The City covenants with Developer that:

A. The City shall timely fulfill or cause to be fulfilled all of the conditions and obligations expressed herein which are within the control of the City or which are the responsibility of the City to fulfill.

B. The City shall not violate any laws, ordinances, rules, regulations, orders, contracts or agreements that are or will be applicable thereto, or, to the extent permitted by law, enact or adopt or urge or encourage the enactment or adoption of any laws, ordinances, resolutions, rules, regulations or orders or approve or enter into any contracts or agreements, including issuing any bonds, notes, or other forms of indebtedness, that will result in any

provision of this Agreement to be in violation thereof or which would materially impair the City's ability to perform its obligations under this Agreement.

Section 4.3 Obligations of the City.

A. The City agrees to timely and expeditiously process all applications received by the Developer for construction approvals and permits for the Project, provided that such applications are submitted in accordance with all City rules and regulations and all fees are timely and properly paid. All required permits and construction approvals, whether issued by the City or any other governmental agency, must be obtained prior to commencing construction. Nothing in this Agreement shall be construed to waive or modify applicable land development code provisions and requirements of the City. The Developer shall be solely responsible for obtaining any construction approvals and permits required by any governmental agency other than the City for construction and completion of the Project.

B. The City agrees to cooperate and expeditiously provide information, approvals and answers to the Developer upon written request, and shall not unreasonably withhold, condition or delay any such approvals.

ARTICLE 5
REPRESENTATIONS, WARRANTIES, COVENANTS
AND OBLIGATIONS OF THE AGENCY

Section 5.1 Representations and Warranties. The Agency represents and warrants to Developer that each of the following statements is presently true and accurate as of the date hereof and can be relied upon by Developer:

A. The Agency is a validly existing public body corporate and politic of the State of Florida, has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations under this Agreement.

B. This Agreement has been duly authorized by all necessary action on the part of, and has been or will be duly executed and delivered by, the Agency and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof (i) requires the approval and consent of any other party, (ii) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the Agency or (iii) contravenes or results in any breach of, default under or result in the creation of any lien or encumbrance upon any party or the Agency, under any indenture, mortgage, deed of trust, bank loan or credit agreement, any special acts, ordinances, resolutions or any other agreement or instrument to which the Agency is a party, specifically including any covenants of any bonds, notes, or other forms of indebtedness of the Agency outstanding on the Effective Date.

C. This Agreement will constitute, a legal, valid and binding obligation of the Agency

enforceable against the Agency in accordance with the terms hereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

D. This Agreement does not violate any laws, ordinances, rules, regulations, orders, contracts or agreements that are or will be applicable thereto.

Section 5.2 **Covenants of the Agency.** The Agency covenants with Developer that:

A. The Agency shall timely fulfill or cause to be fulfilled all of the conditions and obligations expressed herein which are within the control of the Agency or which are the responsibility of the Agency to fulfill.

B. The Agency will not violate any laws, ordinances, rules, regulations, orders, contracts or agreements that are or will be applicable thereto, or, to the extent permitted by law, enact or adopt or urge or encourage the enactment or adoption of any laws, ordinances, resolutions, rules, regulations or orders or approve or enter into any contracts or agreements, including issuing any bonds, notes, or other forms of indebtedness, that will result in any provision of this Agreement to be in violation thereof or which would materially impair the Agency's ability to perform its obligations under this Agreement.

Section 5.3 **Obligations of the Agency.**

A. The Agency agrees to timely and expeditiously review the Design Documents and to negotiate in good faith any changes or revisions deemed by the Agency as necessary for the Design Documents to be consistent with the Redevelopment Plan.

B. The Agency agrees to cooperate and expeditiously provide information, approvals and answers to the Developer upon written request.

ARTICLE 6
EVENTS OF TERMINATION AND DEFAULT

Section 6.1 **Events of Termination During the Preconstruction Period.** Upon written notice to the other party during the Preconstruction Period, the respective party shall have the right to terminate this Agreement for any of the following Events of Termination. In any such Event of Termination, each party shall be responsible for its own costs.

A. Should the Developer fail to receive financing commitments, then the Developer may choose to terminate this Agreement.

B. Should the Developer fail to obtain all necessary development approvals and/or

permits during the Preconstruction Period, subject to extension for Force Majeure and/or Approval Delay, then any of the parties hereto may choose to terminate this Agreement.

C. Should the parties fail to reach agreement on the Design Documents or any of its material components after good faith efforts to do so, then either party may terminate this Agreement.

D. Should the parties fail to reach agreement on any substantive modifications to the Developer Facilities, as described in Section 2.6, then either party may terminate this Agreement.

E. Determination by the Developer that the costs for the Project are too high or not economically feasible.

Section 6.2 Events of Default; Notice, Cure and Remedies.

A. Each of the following is hereby declared an "Event of Default" with respect to this Agreement:

1. A default by any party in the due and punctual performance of the covenants, conditions, agreements and provisions contained in this Agreement.

2. Any representation or warranty of any party hereto shall prove to have been untrue in any material respect.

3. Any party admits in writing its inability to pay its debts generally as they become due, or files a petition in bankruptcy or makes an assignment for the benefit of its creditors, consents to the appointment of a receiver or trustee for itself or shall file a petition or answer seeking reorganization or any arrangement under the federal bankruptcy laws or any other applicable law or statute of the United States of America or any state thereof.

4. Any party is adjudged insolvent by a court of competent jurisdiction or is adjudged bankrupt on a petition of bankruptcy filed against the party, or an order, judgment or decree is entered by any court of competent jurisdiction appointing, without the consent of the party, a receiver or trustee of the party or of the whole or any part of its property and any of the aforesaid adjudications, orders, judgments or decrees shall not be vacated or set aside or stayed within sixty (60) days from the date of entry thereof.

5. If, under the provisions of any law for the relief or aid of debtors, any court of competent jurisdiction shall assume custody or control of the party or of the whole or any substantial part of its property and such custody or control shall not be terminated within ninety (90) consecutive days from the date of assumption of such custody or control.

B. Notice of Default; Right to Cure. Upon an Event of Default by any party to this Agreement, or said party's successors and assigns, with regard to this Agreement or of any of its terms or conditions, the party alleging such default or breach shall give the breaching party not

less than thirty (30) days "Notice of Default" in writing in the manner provided for giving notice as set forth in Section 7.1 of this Agreement. The time of notice shall be measured from the date of certified mailing. The Notice of Default shall specify the nature of the alleged default, and, where appropriate, the manner and period of time in which said default may be satisfactorily cured. During any period for curing the default, the party charged shall not be considered in default for the purposes of termination or institution of legal proceedings. If the default is cured, then no default shall exist, and the noticing party shall take no further action.

C. Remedies. If the default has not been cured after proper notice and the expiration of said period to cure default, the noticing party may elect to terminate this Agreement and, at its option and in addition to any other rights or remedies, may institute legal action to cure, correct or remedy any default, to enforce any covenants or agreements herein, or to enjoin any threatened or attempted violation thereof; to recover damages for any default; or to obtain any remedies consistent with the purpose of this Agreement. Such legal actions must be instituted in the Circuit Court of the County of Escambia, State of Florida. This section shall not be interpreted as a pledge of ad valorem tax or other revenues by the City or the Agency. In the event that the Developer fails to construct the Developer Facilities in accordance with this Agreement, then any Redevelopment Incentive paid by the City or Agency to the Developer shall become due and payable to the Agency within 30 days' notice of default, subject any period to cure default.

D. Waiver. Failure or delay in giving Notice of Default or seeking enforcement of this Agreement, shall not constitute a waiver of any default. Except as otherwise expressly provided in this Agreement, any failure or delay by another party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies or deprive such party of its right to institute and maintain any actions or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

Section 6.3 Termination of Agreement in Full. This Agreement shall terminate upon the later of: i) the issuance of the Warranty Bond defined in Section G.4 above and payment of the Redevelopment Incentive to the Developer or ii) the completion of the Developer Facilities as evidenced by a certificate of occupancy issued by the City; provided, however, obligations as to maintenance, warranty and indemnity imposed by this Agreement will survive and continue beyond the termination of this Agreement as specifically provided herein.

ARTICLE 7 MISCELLANEOUS

Section 7.1 Notices. Unless otherwise specifically provided herein, all notices, demands, requests for approvals or other communications which may be or are required to be given by any party to the others shall be made in writing and shall be deemed given and delivered on the date delivered in person, faxed, or e-mailed, or on the on the date mailed by registered or

certified mail, postage prepaid, return receipt requested, and addressed:

To the City: City of Pensacola
222 W. Main St.
Pensacola, Florida 32502
Attention: City Administrator

With copy to: Office of the City Attorney
City of Pensacola
222 W. Main St.
Pensacola, Florida 32502

To the Agency: Community Redevelopment Agency of the City of Pensacola
222 W. Main St.
Pensacola, Florida 32502
Attention: CRA Manager

To the Developer: 200 West Garden, LLC
c/o John R. Buzzell
6859 Jefferson Highway, Suite A
Baton Rouge, LA 70806

97 Spring Condos, LLC
c/o John R. Buzzell
6859 Jefferson Highway, Suite A
Baton Rouge, LA 70806

With a copy to: Phelps Dunbar, LLP
c/o Randy P. Roussel and Trevor J. Haynes
400 Convention Street, Suite 1100
Baton Rouge, Louisiana 70802

The addresses to which notices are to be sent may be changed from time to time by a written notice of such change from the party changing its address delivered to the other parties. Until such a notice is received, a party may rely upon the last address received for the other party.

Section 7.2 Consents and Approvals.

(A) All consents and approvals which may be 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, except as expressly set forth herein to the

contrary.

(B) Unless expressly provided otherwise, all consents and approvals which may be given by a party under this Agreement shall not (whether or not so indicated elsewhere in this Agreement) be unreasonably withheld, delayed, or conditioned by such party and shall be given or denied within a reasonable time. Upon disapproval of any request for a consent or approval, the disapproving party shall, together with notice of such disapproval, submit to the requesting party a written statement setting forth with specificity its reasons for such disapproval.

Any amendments to this Agreement will require the approval of the Developer, the City Council for the City and the governing body of the Agency.

Section 7.3 **Invalid Provisions.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the requirements of applicable laws and if the remainder of this Agreement can substantially be reasonably performed without material hardship, so as to accomplish the intent and the goals of the parties hereto.

Section 7.4 **Applicable Law and Construction.** The laws of the State of Florida shall govern the validity, performance and enforcement of this Agreement. The submission of this document to the parties for examination thereby does not constitute an offer to buy, or a reservation of or operation for the Project, the Project Site, or any part thereof. This Agreement has been negotiated by the City, Agency and the Developer, and this Agreement, including the appendices, and each of them, the City, the Agency, and the Developer shall be deemed to have participated in the preparation thereof.

Section 7.5 **Submission to Jurisdiction.**

A. Each party to this Agreement hereby submits to the jurisdiction of the State of Florida, Escambia County and the courts thereof for the purposes of any suit, action or other proceeding arising out of or relating to this Agreement and hereby agrees not to assert by way of a motion as a defense or otherwise that such action is brought in an inconvenient forum or that the venue of such action is improper or that the subject matter thereof may not be enforced in or by such courts.

B. If at any time during the term of this Agreement, the Developer is not a resident of the State of Florida or has no officer, employee, or agent thereof available for service of process who is a resident of the State of Florida, or if any permitted assignee thereof shall be a foreign corporation, partnership or other entity or shall have no officer, employee, agent, or general partner available for service of process in the State of Florida, the Developer for itself and its successors or assigns hereby designates the Secretary of State of the State of Florida as its agent for the service of process in any court action between it and the City or the Agency arising out of or related to this Agreement and such service shall be made as provided by the laws of the State of Florida for service upon a nonresident; provided, however, that at the time

of service on the Secretary of State, a copy of such service shall be mailed by prepaid, registered mail, return receipt requested, to the Developer at the address for notices as provided in Section 7.1 hereof.

Section 7.6 **Complete Agreement.** This Agreement, including the Appendices, and all of the terms and provisions contained herein, constitute the full and complete agreement between the parties hereto, and supersedes and controls over any and all prior agreements, understandings, representations, and statements, whether written or oral, made with regard to the matters addressed by this Agreement. This Agreement can be modified or amended only by a writing signed by all parties hereto.

Section 7.7 **Captions.** The section headings and captions of this Agreement and the table of contents preceding this Agreement are for convenience and reference only and in no way define, limit or describe the scope or intent of this Agreement, or any part thereof, or in any way affect this Agreement, or construe any article or section hereof.

Section 7.8 **Successors, Assigns and Grantees.** The terms herein contained shall bind and inure to the benefit of the City, the Agency, the Developer and its successors and assigns, except as may be otherwise specifically provided herein.

Section 7.9 **Holidays.** It is hereby agreed and declared that whenever a notice or performance under the terms of this Agreement is to be made or given or done on a Saturday or Sunday or on a legal holiday observed in the City of Pensacola, Florida, it shall be postponed to the next following business day not a Saturday, Sunday, or legal holiday.

Section 7.10 **Appendices.** Each Appendix referred to in and attached to this Agreement is an essential part of this Agreement. The Appendices, and any amendments or revisions thereto, even if not physically attached hereto, shall be treated as if they are part of and incorporated within this Agreement.

Section 7.11 **No Brokers.** The City, the Agency and the Developer hereby represent, agree and acknowledge that no real estate broker or other person is entitled to claim or to be paid a commission solely as a result of the execution and delivery of this Agreement.

Section 7.12 **Developer Not Agent of Agency or City.** The Developer and any contractor hired by Developer are not individually or collectively and shall not be deemed to be individually or collectively an agent or contractor of the Agency or the City, and are not subject to nor shall be required to comply with any laws, ordinances, regulations, orders, or policies of or applicable to the Agency or the City applicable or relating to public works projects of the Agency or the City or contractors retained by the Agency or the City for such types of projects. Nothing contained in this Agreement shall be construed or deemed to name, designate, or cause (either directly or indirectly) the Developer, or any contractor thereof, to be an agent for the Agency or the City.

Section 7.13 **Public Purpose.** This Agreement satisfies, fulfills, and is pursuant to

and for a public purpose and municipal purpose and is in the public interest, and is a proper exercise of the City's and Agency's redevelopment powers and authority under the Act.

Section 7.14 **Technical Amendments.** The Mayor, Chair of the Agency, and his or her respective designee, as to the City and Agency, are authorized to approve such changes and to execute amendments to this Agreement to address technical terms or correct scrivener's errors and to make and incorporate such amendments and corrections to this Agreement, or any Appendix hereto, or any other agreement contemplated hereby. Any such amendments or corrections shall require notice to, and approval of, the Developer.

Section 7.15 **Agreement Not a Chapter 86-191 Laws of Florida Development Agreement.** The City, Agency, and the Developer acknowledge and agree that it is their mutual intent that this Agreement, including any Appendix, is an agreement contemplated by Part III, Chapter 163, Florida Statutes, and is not a development agreement described in Sections 163.3220-163.3243, Florida Statutes, originally enacted as Chapter 86-191, Laws of Florida, entitled the "Local Government Development Agreement Act." Nothing herein shall be construed as a development approval or to convey development rights upon the Developer.

Section 7.16 **Third Parties.** This Agreement is solely for the benefit of the Developer, the City, and the Agency, and no right or cause of action shall accrue upon or by reason, to or for the benefit of any third party not a formal party to this Agreement. Nothing in this Agreement expressed or implied is intended or shall be construed to confer upon any person or corporation other than the Developer, the City, and the Agency any right, remedy, or claim under or by reason of this Agreement or any of the provisions or conditions of this Agreement. Nothing contained in this Agreement shall limit or impair the Developer's right to protect its rights from interference by a third party.

Section 7.17 **Waiver of Jury Trial.** Each party hereto waives all right to trial by jury in any claim, action, proceeding or counterclaim the party may have against the other parties hereto regarding any matters arising out of or in any way connected with this Agreement.

Section 7.18 **Compliance with Laws.** The Developer will be solely responsible for obtaining all permitting, zoning, building, and other approvals required in conjunction with the proposed Project. The City agrees to cooperate with Developer with respect to obtaining any required approvals; however in entering into this Agreement the City expressly reserves its police power to review and determine all requested zoning and permit approvals in accordance with the City's obligations under federal, state, and local law. The Developer is responsible at all times for complying with all applicable federal, state, and local laws.

Section 7.19 **Severability.** If any portion of any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced

to the fullest extent determined by law.

Section 7.20 **Time of Essence.** Time is of the essence in each and every instance hereunder with respect to the covenants, undertakings, and conditions to be performed hereunder by the parties.

Section 7.21 **Effective Date.** The Effective Date of this Agreement shall be the day and year first above written.

Section 7.22 **Waiver of Consequential Damages.** NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE FOR SPECIAL, PUNITIVE, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR INDIRECT DAMAGES OR LOST OPPORTUNITY OR LOST PROFITS, WHETHER BASED IN CONTRACT, TORT, STRICT LIABILITY, OTHER LAW OR OTHERWISE AND NO MULTIPLIER OR SIMILAR CONCEPT SHALL BE APPLIED FOR PURPOSES OF CALCULATING LOSSES.

Section 7.23 **Developers Commitment to Fully Perform.** As a material condition of this Agreement, the Developer commits to construction of the Developer Facilities in accordance with this Agreement both upon, and subsequent to, issuance of the Redevelopment Incentive. Failure to complete the Developer Facilities in accordance with this Agreement may be deemed a default under this Agreement by the Developer, the sole remedy of which shall be the return of the Redevelopment Incentive paid to the Developer, if any, to the City and/or Agency.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City, the Agency and the Developer, by and through the undersigned, have entered into this Master Redevelopment Agreement as of the day and year first above written.

THE CITY OF PENSACOLA, FLORIDA

[Seal]

By: _____
Mayor

Attest:

City Clerk

IN WITNESS WHEREOF, the City, the Agency and the Developer, by and through the undersigned, have entered into this Master Redevelopment Agreement as of the day and year first above written.

**COMMUNITY REDEVELOPMENT
AGENCY OF THE CITY OF PENSACOLA**

[Seal]

By: _____
Chair

Attest:

City Clerk

IN WITNESS WHEREOF, the City, the Agency and the Developer, by and through the undersigned, have entered into this Master Redevelopment Agreement as of the day and year first above written.

**200 WEST GARDEN, LLC,
a Louisiana limited liability company**

By: 200 West Garden Development, LLC
Its: Manager

By: _____
Name: _____
Its: Manager

**97 SPRING CONDOS LLC,
a Louisiana limited liability company**

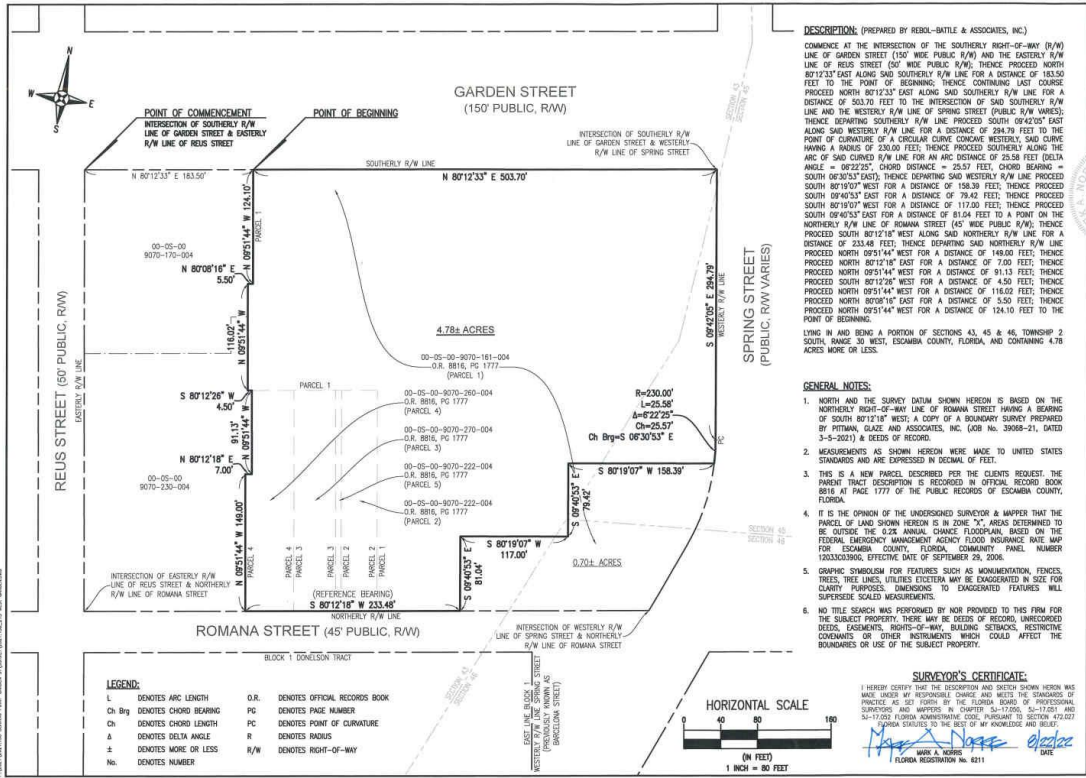
By: 200 West Garden, LLC
Its: Member

By: 200 West Garden Development, LLC
Its: Manager

By: _____
Name: _____
Its: Manager

APPENDIX A

DEVELOPER PARCELS



DESCRIPTION: (PREPARED BY REBOL-BATTLE & ASSOCIATES, INC.)

COMMENCE AT THE INTERSECTION OF THE SOUTHERLY RIGHT-OF-WAY (R/W) LINE OF GARDEN STREET (150' WIDE PUBLIC R/W) AND THE EASTERLY R/W LINE OF REUS STREET (60' WIDE PUBLIC R/W); THENCE PROCEED NORTH 80°12'33" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 183.50 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE LAST COURSE PROCEED NORTH 80°12'33" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 503.70 FEET TO THE INTERSECTION OF SAID SOUTHERLY R/W LINE AND THE WESTERLY R/W LINE OF SPRING STREET (PUBLIC R/W VARIES); THENCE DEPARTING SOUTHERLY R/W LINE PROCEED SOUTH 09°42'05" EAST ALONG SAID WESTERLY R/W LINE FOR A DISTANCE OF 204.24 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE CONCAVE WESTERLY, SAID CURVE HAVING A RADIUS OF 230.00 FEET; THENCE PROCEED SOUTHERLY ALONG THE ARC OF SAID CURVED R/W LINE FOR AN ARC DISTANCE OF 25.58 FEET (DELTA ANGLE = 09°22'25", CHORD DISTANCE = 25.57 FEET, CHORD BEARING = SOUTH 06°30'53" EAST); THENCE DEPARTING SAID WESTERLY R/W LINE PROCEED SOUTH 80°19'07" WEST FOR A DISTANCE OF 158.39 FEET; THENCE PROCEED SOUTH 09°49'53" EAST FOR A DISTANCE OF 81.94 FEET TO A POINT ON THE NORTHERLY R/W LINE OF ROMANA STREET (45' WIDE PUBLIC R/W); THENCE PROCEED SOUTH 80°12'18" WEST ALONG SAID NORTHERLY R/W LINE FOR A DISTANCE OF 234.48 FEET; THENCE DEPARTING SAID NORTHERLY R/W LINE PROCEED NORTH 09°14'44" WEST FOR A DISTANCE OF 149.00 FEET; THENCE PROCEED NORTH 80°18'18" EAST FOR A DISTANCE OF 7.00 FEET; THENCE PROCEED NORTH 09°14'44" WEST FOR A DISTANCE OF 81.13 FEET; THENCE PROCEED SOUTH 80°12'28" WEST FOR A DISTANCE OF 4.50 FEET; THENCE PROCEED NORTH 09°14'44" WEST FOR A DISTANCE OF 116.00 FEET; THENCE PROCEED NORTH 80°08'18" EAST FOR A DISTANCE OF 5.50 FEET; THENCE PROCEED NORTH 09°14'44" WEST FOR A DISTANCE OF 114.10 FEET TO THE POINT OF BEGINNING.

LYING IN AND BEING A PORTION OF SECTIONS 43, 45 & 46, TOWNSHIP 2 SOUTH RANGE 30 WEST, ESCAMBA COUNTY, FLORIDA, AND CONTAINING 4.78 ACRES MORE OR LESS.

- GENERAL NOTES:**
- NORTH AND THE SURVEY DATUM SHOWN HEREON IS BASED ON THE NORTHERLY RIGHT-OF-WAY LINE OF ROMANA STREET HAVING A BEARING OF SOUTH 80°18'18" WEST; A COPY OF A BOUNDARY SURVEY PREPARED BY PITTMAN, GLAZE AND ASSOCIATES, INC. (JOB NO. 39088-21, DATED 3-5-2003) IS DEEDS OF RECORD.
 - MEASUREMENTS AS SHOWN HEREON WERE MADE TO UNITED STATES STANDARDS AND ARE EXPRESSED IN DECIMAL OF FEET.
 - THIS IS A NEW PARCEL DESCRIBED PER THE CLIENT'S REQUEST. THE PRESENT TRACT DESCRIPTION IS RECORDED IN OFFICIAL RECORD BOOK 8818 AT PAGE 1777 OF THE PUBLIC RECORDS OF ESCAMBA COUNTY, FLORIDA.
 - IT IS THE OPINION OF THE UNDERSIGNED SURVEYOR & MAPPER THAT THE PARCEL OF LAND SHOWN HEREON IS IN ZONE "X", AREAS DETERMINED TO BE COVERED BY THE 0.2% ANNUAL CHANCE FLOODPLAIN, BASED ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP FOR ESCAMBA COUNTY, FLORIDA, COMMUNITY PANEL NUMBER 1203003060, EFFECTIVE DATE OF SEPTEMBER 28, 2006.
 - GRAPHIC SYMBOLISM FOR FEATURES SUCH AS MONUMENTATION, FENCES, TREES, TREE LINES, UTILITY'S EXISTION MAY BE ENLARGED IN SIZE FOR CLARITY PURPOSES; DIMENSIONS TO EXAGGERATED FEATURES WILL SUPERSEDE SCALED MEASUREMENTS.
 - NO TITLE SEARCH WAS PERFORMED BY NOR PROVIDED TO THIS FIRM FOR THE SUBJECT PROPERTY. THERE MAY BE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS, RIGHTS-OF-WAY, BUILDING SETBACKS, RESTRICTIONS, COVENANTS OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES OR USE OF THE SUBJECT PROPERTY.

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THE DESCRIPTION AND SKETCH SHOWN HEREON WAS MADE UNDER MY SUPERVISION AND MEETS THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS, BY CHAPTER 475-17.005, 475-17.006, 475-17.007 AND 475-17.008 FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 475.022, F.S. (ORCA STATUTE) TO THE BEST OF MY KNOWLEDGE AND BELIEF.

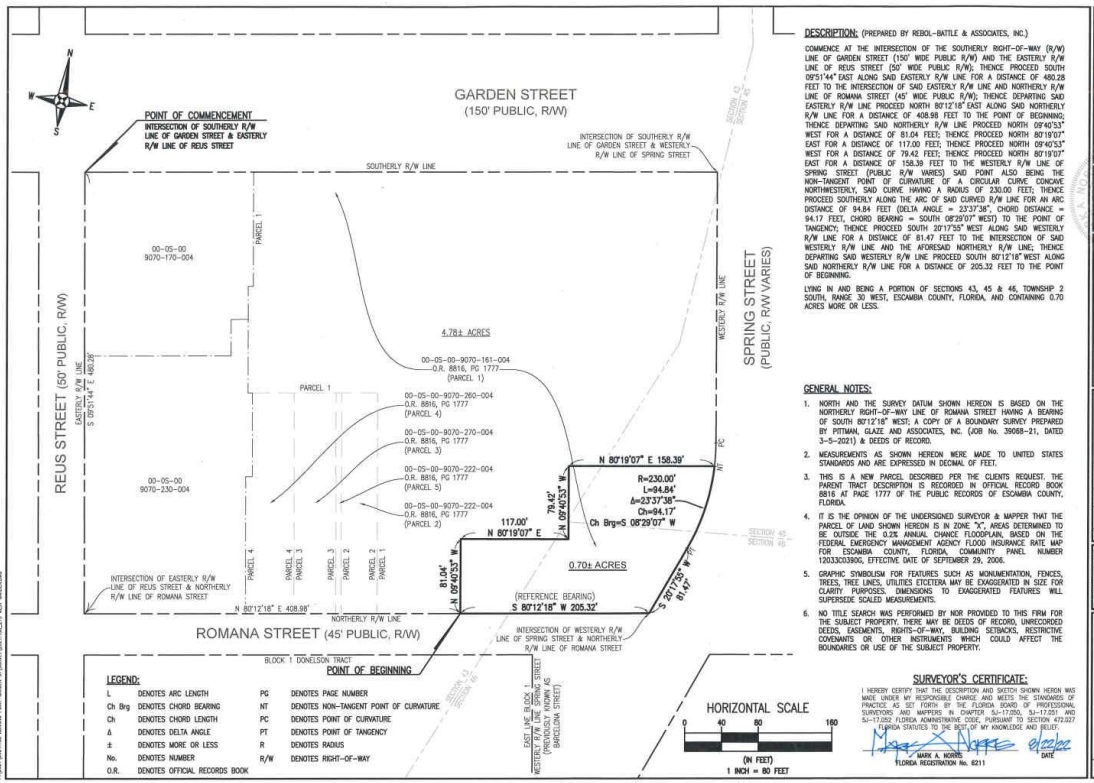
Mark A. Morris
MARK A. MORRIS
FLORIDA REGISTRATION NO. 6211

RBA
REBOL-BATTLE & ASSOCIATES, INC.
REGISTERED PROFESSIONAL SURVEYOR
FLORIDA REGISTRATION NO. 12030

415 WEST GARDEN STREET
TALLAHASSEE, FLORIDA 32302
A PORTION OF
SECTION 43 & 46, TOWNSHIP 2 SOUTH RANGE 30 WEST,
ESCAMBA COUNTY, FLORIDA

DESCRIPTION & SKETCH

1 of 1



REBOL-BATILE & ASSOCIATES, INC.
1000 W. GARDEN STREET
TAMPA, FLORIDA 33606
TEL: 813-288-1111
FAX: 813-288-1112
WWW.REBOL-BATILE.COM

415 WEST GARDEN STREET
TAMPA, FLORIDA 33606
A PORTION OF
SECTION 24 AND TOWNSHIP 28 NORTH
RANGE 18 WEST

DESCRIPTION & SKETCH

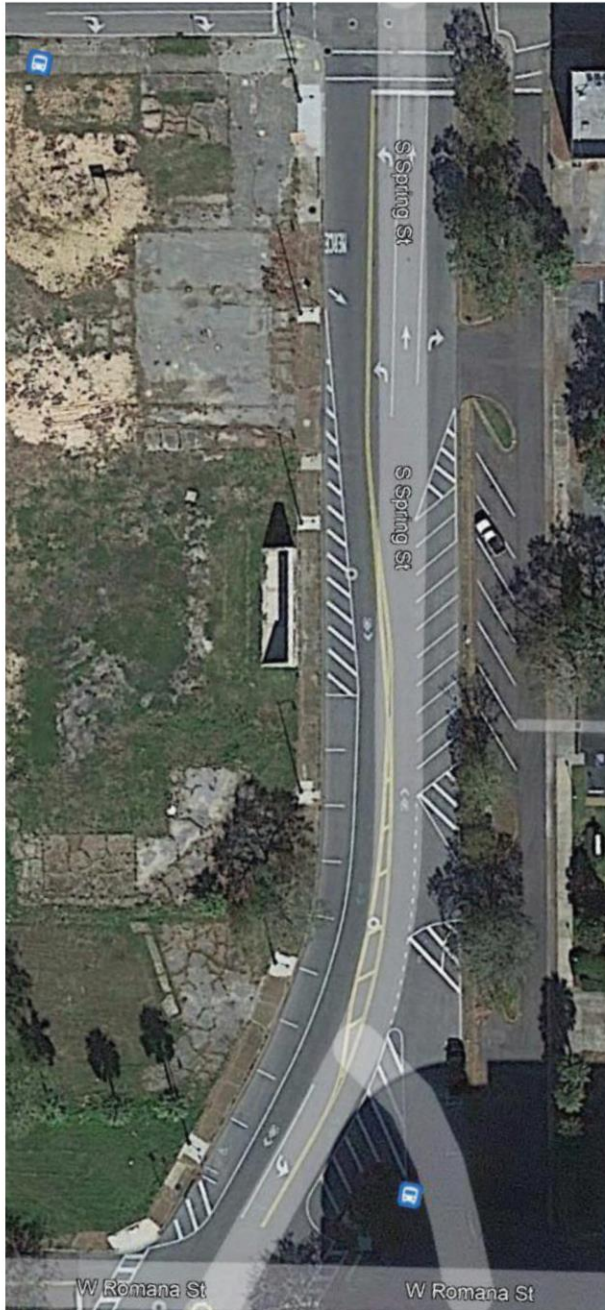
RECORDED BY: [Signature]
DATE: [Date]

1 of 1

APPENDIX B

CONCEPTUAL PROJECT PLAN

SPRING ST (GARDEN ST - ROMANA ST)
EXISTING CONDITION






PROPOSED CONCEPT



APPENDIX C

PROJECT COST ESTIMATE

					
5/7/2022					
Conceptual Budget					
Spring Street Right-of-Way					
Garden St to Romana St					
Landscape	<i>Description</i>	<i>Unit</i>	<i>Qty</i>		
	Tree - 4" DBH	ea	60	\$	110,000
	Shrubs - 1 Gal	ea	880	\$	13,200
	Shrubs - 3 Gal	ea	1,500	\$	34,000
	Irrigation	lump	1	\$	40,000
				\$	197,200
					Sub-Total
Civil Site	<i>Description</i>	<i>Unit</i>	<i>Qty</i>		
	Curb-D/ Curb-Ribbon	In ft	2,005	\$	40,100
	Concrete 4" - Pedestrian	sq ft	3,518	\$	75,000
	Concrete 6" - Vehicular	sq ft		\$	-
	Asphalt Patchwork	sq yd	100	\$	5,000
	Asphalt w/ Base	sq yd	2,761	\$	140,000
	Subgrade Prep	sq yd	450	\$	15,000
	Cut to Grade/Haul	cu yd	500	\$	10,000
	Select Fill Haul/Place/Compact	cu yd	500	\$	20,000
	Final Grade	lump		\$	15,000
	Stripe Thermo	In ft	1,100	\$	25,000
				\$	345,100
					Sub-Total
Utilities/ Electrical	<i>Description</i>	<i>Unit</i>	<i>Qty</i>		
	Underground Utility Distribution	lump	1	\$	225,000
	Overhead Utility Demolition	lump	1	\$	25,000
	Sewer Services	lump	1	\$	30,000
	Storm Drainage	lump	1	\$	150,000
	Curb Inlets/Boxes/Manholes	lump	1	\$	15,000
				\$	445,000
					Sub-Total
Landscape Site	<i>Description</i>	<i>Unit</i>	<i>Qty</i>		
	Paver - Pedestrian	sq ft	5,672	\$	75,000
	Paver - Vehicular	sq ft	8,405	\$	390,000
	Signage / Wayfinding	ea	5	\$	20,000
	Landscape Tree Up-Lighting	ea	120	\$	55,000
	Planters	ea	19	\$	10,000
				\$	550,000
					Sub-Total
FFE	<i>Description</i>	<i>Unit</i>	<i>Qty</i>		
	Bench - 1	ea	4	\$	10,000
	Litter Receptacle	ea	4	\$	15,000
	Bollard Decorative	ea	8	\$	15,000
	Bike Racks	ea	2	\$	10,000
				\$	50,000
					Sub-Total
Lighting	<i>Description</i>	<i>Unit</i>	<i>Qty</i>		
	Street Light - City Standard	ea	8	\$	220,000
				\$	220,000
					Sub-Total
General	<i>Description</i>	<i>Quantity</i>			
	Permitting	1		\$	15,000
	Matl Testing (ac)	1		\$	10,000
	Mobilization & Layout (ac)	1		\$	75,000
	Clearing & Demo (ac)	1		\$	80,000
	Traffic Control (ea)	1		\$	50,000
	Erosion Control (sf)	1		\$	25,000
				\$	255,000
					Sub-Total
				\$	2,062,300
					Site Sub-Total
	CONTRACTOR CONTINGENCY	15.00%		\$	309,345
				\$	2,371,645
					PROJECT TOTAL

APPENDIX D

PROJECT SCHEDULE

Component	Date
Projected grocery, parking deck, and Streetscape Improvements / Project construction start	Summer 2023
Projected sitework complete and vertical start	Winter 2024
Projected condominium tower starts	Spring 2024
Projected grocery, parking deck, and Streetscape Improvements / Project delivery	Winter 2025
Projected clubhouse and first multifamily unit delivery	Spring 2025
Projected condominium construction complete	End of Year 2025
Projected final multifamily unit delivery	Winter 2026
Projected multifamily construction complete	Spring 2026

APPENDIX E

MAINTENANCE RESPONSIBILITY

