

**PARTIAL ASSIGNMENT TO VALENCIA DEVELOPMENT CORPORATION OF THE
OPTION AGREEMENT
BETWEEN THE CITY OF PENSACOLA AND STUDER PROPERTIES, LLP**

This **PARTIAL ASSIGNMENT AND ASSUMPTION OF THE OPTION AGREEMENT** (this “**Partial Assignment**”), dated as of October 1, 2020 (the “**Effective Date**”), is entered into between **CITY OF PENSACOLA, a Florida municipal corporation**, 222 West Main Street, Pensacola, Florida 32502 (“**City**”), **STUDER PROPERTIES, LLP, a Florida limited liability partnership**, 321 North Devilliers Street, Suite 103, Pensacola, Florida 32501 (“**Assignor**”), and **VALENCIA DEVELOPMENT CORPORATION, a Texas corporation**, 4400 Post Oak Parkway, Suite 2800, Houston, Texas 77027 (“**Assignee**”). City, Assignor, Assignee, and their successors are each a “Party,” and collectively referred to herein as the “Parties”.

RECITALS

WHEREAS, City and Assignor entered into an Option Agreement dated October 1, 2018, with the Addendum dated April 1, 2020, (collectively, the “Option Agreement”), whereby City granted to Assignor the exclusive right to develop and lease vacant parcels at the Community Maritime Park more particularly described in Exhibit A to the Option Agreement (referred to hereinafter individually as a “Parcel” and collectively as the “Parcels”) subject to terms and conditions set forth in the Option Agreement; and

WHEREAS, the purpose of the Option Agreement is to provide for the development of the Parcels in a manner consistent with the 2010 CRA Plan and all applicable statutes, ordinances, and regulations, and to provide for the development of the western side of downtown in a cohesive way; and

WHEREAS, Assignor conducted market studies and developed plans at its sole cost and expense to establish a cohesive plan of development for the Parcels; and

WHEREAS, following community input and engagement, Assignor undertook a private request for proposal process to solicit developers who could further enact the plan of development outlined in the market research performed by Assignor and reviewed by the community; and

WHEREAS, Assignor established a selection committee comprised of a diverse group of community citizens that vetted all requests for proposals and identified three (3) Developers (as defined below), of which Assignee is one, to deliver a plan consistent with the goals for the Parcels;

WHEREAS, Section 11 of the Option Agreement provides that Assignor may assign its interest under the Option Agreement with the consent of the City, which consent will not be unreasonably withheld; and

WHEREAS, the Option Agreement further provides in Section 11 that, upon assignment of the Assignor’s entire interest under the Option Agreement, Assignor shall be relieved of all further liability under the Option Agreement; and

WHEREAS, Assignor desires to assign all of its right, title, and interest in the Option Agreement to three developers, to wit: Inspired Communities of Florida, LLC, Silver Hills Development, Inc., and Valencia Development Corp. (collectively referred to as “the Developers”), of which Assignee is one of the three developers; and

WHEREAS, Assignor has requested that the City give its written consent to this Partial Assignment, and the City is willing to do so upon the terms and subject to the conditions hereinafter set forth; and

WHEREAS, City and Assignee understand and agree that the City and Assignee will negotiate in good faith revisions to the Option Agreement and the template ground lease agreement attached as Exhibit D to the Option Agreement with a goal of concluding negotiations by November 9, 2020, and Assignee understands and agrees that approval of any renegotiated Option Agreement, renegotiated ground lease, and development of the Parcels is contingent upon the approval of the City Council in its sole and complete discretion.

NOW, THEREFORE, in consideration of the Option Payment and the other mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Recitals. The recitals set forth above are true and correct and are hereby incorporated by reference.
2. Assignment. Assignor hereby transfers and assigns to Assignee all of Assignor’s right, title, and interest in, to, and under the Option Agreement with respect to the Assignee as follows: (the “Property”)

Parcel 7 at the Community Maritime Park

3. Assumption of Duties, Liabilities, and Obligations. Assignee hereby assumes and agrees to perform all duties, liabilities, and obligations of Assignor with respect to the Option Agreement and the Property that are arising from and after the Effective Date of the Partial Assignment.
4. Partial Assumption of Option Payment. With respect to the Addendum Option Payment as that term is defined in the Option Agreement and which is currently \$7,546.10 per month, Assignee agrees to pay to City the amount of \$1,327.89 per month under the same terms and conditions described in the Option Agreement. This amount represents the pro rata share of the Option Payment for the Parcels to which Assignee is taking its Assignment. Assignee is responsible only for payment of its pro rata share of the total Addendum Option Payment.
5. Retention of the Option Payments Paid by Assignor. The Parties agree that all installments paid of the Option Payment and the Addendum Option Payment remitted by the Assignor (hereinafter “Assignor’s Option Payments”) are fully earned by the City, and non-refundable to Assignor. However, City agrees that Assignor’s Option Payments will be used solely for expenses incurred in the further development and maintenance of the Community Maritime Park.

6. Option Payments Paid by Assignee. City and Assignee agree that all installments of the Addendum Option Payment remitted by Assignee are non-refundable and subject to the same terms, conditions, and retention by the City as the Option Payment and Addendum Option Payment under the Option Agreement and Assignee shall receive a credit equal to any payments made under this Agreement against any future agreement between Assignee and the City with respect to the Property.
7. Consent of City. City hereby gives its written consent to this Partial Assignment.
8. Release of Assignor. Pursuant to Section 11 of the Option Agreement, it is expressly understood and agreed that, upon execution of all three partial assignment agreements to each of the Developers, this assignment of Assignor's entire interest under the Option Agreement is complete, and Assignor shall be relieved of all further liability under the Option Agreement with respect to the Parcels for any liabilities accruing from and after the Effective Date of the last of the three partial assignments.
9. Termination for Convenience. Assignee may terminate this Partial Assignment for convenience at any time prior to the expiration of the Option Agreement on March 31, 2021, by providing 30 days' written notice to the City. Upon receipt of such notice of termination, the Assignee shall be relieved of all rights and responsibilities under this Partial Assignment and shall have no further interest in the Property or the Partial Assignment to which it pertains. The City shall be responsible for recording a Termination of Partial Assignment in the official records of Escambia County, Florida.
10. Representations and Warranties of Assignor and City. Assignor and the City each represent and warrant to Assignee as follows:
 - a. The City and Assignor has the capacity and authority to execute this Partial Assignment and perform their respective obligations hereunder and under the Option Agreement.
 - b. Neither the execution nor the delivery of this Partial Assignment Agreement (or of any instrument or document to be executed or delivered pursuant to the terms hereof) will result in the violation of any contractual obligation of Assignor or the City to any third party.
 - c. The Option Agreement is in full force and effect. Other than the Option Agreement, which includes the Addendum dated April 1, 2020, there are no other agreements or understandings existing between the Parties with respect to the Parcels, and there are no modifications, supplements, assignments, or amendments to the Option Agreement whether verbal or in writing. Notwithstanding the foregoing, the Parties acknowledge and understand that there are agreements between the City and third parties for use of the parking lots currently located on Parcels 2 and 4, and those agreements must be honored or modified with agreement of the third parties.
 - d. To the knowledge of the City and Assignor, no default exists nor does any fact or circumstance which would with the passage of time or the giving of notice exists, in each case under the Option Agreement or any other agreement between the City

and Assignor with respect to the Property.

- e. As of the Effective Date, all amounts required to be paid by Assignor under the Option Agreement have been paid.

11. Representations and Warranties of Assignee. Assignee represents and warrants to the City and Assignor as follows:

- a. Assignee has the capacity and authority to execute this Partial Assignment and perform their respective obligations hereunder and under the Option Agreement.
- b. Neither the execution nor the delivery of this Partial Assignment Agreement (or of any instrument or document to be executed or delivered pursuant to the terms hereof) will result in the violation of any contractual obligation of Assignee to any third party.

12. Notices. Notices to parties shall be sent as described in Section 13 of the Option Agreement as follows:

Notices to the City shall be sent to:

City of Pensacola
Attn: Mayor
222 West Main Street, 7th Floor
Pensacola, Florida 32502
Email: GRobinson@cityofpensacola.com
Telephone: (850) 435-1626

With copy to: City of Pensacola
Attn: City Attorney
222 West Main Street
Pensacola, Florida 32502
Email: legal@cityofpensacola.com
Telephone: (850) 435-1615

Notices to Assignee shall be sent to:

Valencia Development Corp.
Attn: John Keeling
4400 Post Oak Pkwy, Suite 2800
Houston, TX 77027
Email: _____
Telephone: 713-871-0221

With copy to: *None*

13. Memorandum of Option. There will not be a memorandum of option recorded. This Partial Assignment shall be recorded in the official records of Escambia County, Florida, within five (5) days of full execution of this Partial Assignment at the sole expense of the Assignee.
14. Attorney's Fees and Costs. Section 14 of the Option Agreement pertaining to attorney's fees and costs is stricken and of no effect.
15. Assignment of Option Agreement. Section 11 of the Option Agreement pertaining to Assignment of Option Agreement is stricken. This Agreement regarding the partial assignment to Assignee shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs or successors and permitted assigns. Assignee may not assign its interest under this Agreement without the prior consent of the City, which consent will not be unreasonably withheld; provided however, Assignee will be permitted to assign this Agreement without the consent of the City, if (a) Assignee gives the City written notice of such assignment at least five (5) days prior to such assignment, and (b) the assignee is a corporation, limited liability company, partnership, other entity, or joint venture of which Seth Mendelsohn, Ryan Solow, and Peter Edwards remain controlling owners or principals thereof, and (c) Assignee's assignee executes an instrument in form reasonably satisfactory to the City agreeing to be bound by all the terms and conditions of this Agreement. Upon any assignment of Assignee's entire interest under this Agreement, Assignee shall be relieved of all further liability under this Agreement.
16. Choice of Law and Venue. This Partial Assignment shall be interpreted in accordance with the laws of the State of Florida with venue in Escambia County.
17. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.
18. No Other Revisions to the Option Agreement. Except as expressly set forth above, none of the terms and conditions of this Partial Assignment shall be deemed to modify or amend any of the terms and conditions of the Option Agreement.

[Signature pages follow.]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

CITY:

CITY OF PENSACOLA
a Florida municipal corporation

By: _____
Grover C. Robinson, IV, Mayor

Date signed: _____, 2020

(AFFIX CITY SEAL)

Attest:

Ericka L. Burnett, City Clerk

Signed, sealed and delivered in the presence of:

Print Name: _____

Print Name: _____

Legal in form and valid as drawn:

Approved as to content:

Susan A. Woolf, City Attorney

Print Name: _____
Title: _____

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by Grover C. Robinson, IV, the Mayor of City of Pensacola, a Florida municipal corporation, on behalf of said municipal corporation, who () is personally known to me or () has produced a driver's license as identification.

NOTARY PUBLIC

[SEAL]

[Signature page to Partial Assignment between City of Pensacola and Valencia Development Corp.]

ASSIGNOR:

STUDER PROPERTIES, LLP

Print: _____

By: _____

Print name: _____

Print: _____

Its: _____

Date signed: _____, 2020

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by _____, the _____ of STUDER PROPERTIES, LLP, a Florida limited liability partnership, who () is personally known to me or () has produced a driver's license as identification.

[SEAL]

NOTARY PUBLIC

[Signature page to Partial Assignment between City of Pensacola and Valencia Development Corp.]

ASSIGNEE:

VALENCIA DEVELOPMENT CORP.

Print: _____

By: _____

Print name: _____

Print: _____

Its: _____

Date signed: _____, 2020

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by _____, the _____ of VALENCIA DEVELOPMENT CORP., a Texas corporation, who () is personally known to me or () has produced a driver's license as identification.

[SEAL]

NOTARY PUBLIC

[Signature page to Partial Assignment between City of Pensacola and Valencia Development Corp.]