

**AGREEMENT FOR DEVELOPMENT AND SALE OF REAL
ESTATE "GARAGE CONTRACT"**

THIS AGREEMENT FOR DEVELOPMENT SALE OF REAL ESTATE (the "Agreement") is made and entered into as of this 28TH of December, 2017 (the "Effective Date") by and between HAY STREET DEVELOPMENT PAD, LLC, a North Carolina limited liability company ("Seller") having an address of 200 N. Mangum St., Ste. 202, Durham, NC 27701, THE CITY OF FAYETTEVILLE, a North Carolina municipal corporation ("Buyer"), having an address of 433 Hay Street, Fayetteville, NC 28301 (Seller and Buyer are sometimes effectively referred to herein as the "Parties"), and is joined by PCH DEVELOPMENT CO., LLC, a North Carolina limited liability company ("Guarantor"), having an address of 200 N. Mangum St., Ste. 202, Durham, NC 27701, for the sole purpose of guaranteeing the Guaranteed Obligations (as defined in paragraph 25 hereof).

RECITALS:

WHEREAS, on or about the Effective Date, Seller will acquire title to the parcel described as Lot 3 containing 1.00 acre as shown on the plat recorded in Plat Book 138, Page 149, Cumberland County Registry (the "Land"), in accordance with that certain Downtown Development Agreement dated as of March 28, 2017 (the "Agreement"), as amended by the First Amendment to Downtown Development Agreement (the "First Amendment"), the Second Amendment to Downtown Development Agreement (the "Second Amendment"), and the Third Amendment to Downtown Development Agreement (collectively, the "DDA"), the terms of which are incorporated herein by reference; and

WHEREAS, pursuant to the DDA, Seller has agreed to construct the Parking Garage (as defined in the DDA) on the Land, and encumber the Land with a declaration of condominium and the related plats and plans (collectively, the "Declaration" or the "Mixed Use Building Condominium Declaration") establishing various condominium units, one of which will contain the Parking Garage, and convey such unit containing the Parking Garage to Buyer, together with all improvements constructed therein, and all rights, privileges, and easements appurtenant thereto, including without limitation an undivided interest in the common and limited elements of the condominium (the "Property");

WHEREAS, Seller is not a contractor but intends and will contract with a licensed contractor for construction of the Parking Garage (the "General Contractor or GC"); and

WHEREAS, Buyer desires to purchase the Property from Seller by funding the construction of the Parking Garage in progress fashion, and upon substantial completion of the Parking Garage, accept a deed to the Property and Seller desires to sell the Property to Buyer, all as more particularly set forth in this Agreement.

NOW, THEREFORE, in consideration of and in reliance on the mutual promises and undertakings herein made and the mutual benefits to be derived therefrom, the parties hereto represent, covenant, and agree as follows:

1. **Development and Sale of Property.** Subject to the terms and conditions herein set forth, Seller will contract with the General Contractor for construction of the Parking Garage in substantial conformity with the plans and specifications attached for construction of the Parking Garage, a copy of which is marked as Exhibit A attached hereto and incorporated by reference (the "Plans and Specifications"). Seller will commence construction of the Parking Garage on or before April 30, 2018 and Substantially Complete construction by March 15, 2019 (the "Completion Date"), time being of the essence, both dates being subject to the terms and conditions hereof. Construction and the related process will be governed by the terms and conditions of the "Work Letter" attached hereto and incorporated herein by reference. Upon Substantial Completion of the Parking Garage, Seller will convey all of Seller's right, title and interest in the Property to Buyer, subject to the Permitted Exceptions (as hereinafter defined) by the execution and delivery of a special warranty deed in the form most recently approved by the North Carolina Bar Association (the "Deed").

The terms "Substantial Completion" or "Substantially Complete" and like terms used in this Agreement shall have the meanings given to the like terms in the Parking Garage Construction Contract.

2. **Purchase Price.** The purchase price ("Purchase Price") for the Property shall be an amount equal to:

- (a) \$14,467,888;
- (b) Plus the actual design, engineering, environmental, permitting, special inspection, legal and tax fees/costs related to the construction of the Parking Garage;
- (c) Less an amount equal to the total of the City Reimbursement Schedule as described in the Third Amendment to the Downtown Development Agreement dated December 15, 2017 and incorporated hereby reference; and
- (d) Less an amount equal to the Buyer's share of any costs savings in the development or construction of the Parking Garage and calculated as provided for in the Third Amendment to Downtown Development Agreement (the "Construction Costs Savings").

Provided, notwithstanding any terms to the contrary in this Agreement the Purchase Price may not exceed the total of (a) and (b) above.

3. **Construction Contract with General Contractor.** Following the City's approval of both the Plans and Specifications and the General Contractor with whom the Seller intends to contract for construction of the Parking Garage, the Seller will enter into a construction contract with terms consistent with this Agreement and applicable terms as are set out in AIA Document A101-2017 (or A102-2017), AIA Document A201-2017, AIA Document A312, AIA Document A101-2017 Exhibit A (or AIA102-2017 Exhibit A) together with such other terms and conditions as are reasonably acceptable to the Seller, Buyer and General Contractor (the "Parking Garage Construction Contract").

In addition to such terms and conditions as are set out or incorporated above or agreed upon by Seller, Buyer and the General Contractor, the Parking Garage Construction Contract will:

- (a) Name the Buyer as a third party beneficiary;
- (b) Incorporate this Agreement as if fully set out;
- (c) Name Buyer as an additional insured under all insurance policies;
- (d) Require General Contractor to obtain both performance and payment bonds as is usual and customary;
- (e) Name Buyer as a third party beneficiary under all bonds;
- (f) Upon default by PCH under the terms of the DDA (subject to any notice and cure provisions provided in this Agreement), permit Buyer, or its assignee to exercise all rights as Owner under (i) the terms of the Parking Garage Construction Contract (ii) Seller under the terms of this Agreement; or, (iii) Seller as permittee or licensee under any applicable permit or license pertaining to the construction of the Parking Garage;
- (g) Provide for liquidated damages on such terms and amounts as are reasonably acceptable to Buyer;
- (h) Require retainage in accordance with Section 5 of this Agreement;
- (i) Require the approval of Buyer; provided such approval will not be unreasonably withheld, conditioned or delayed if the Parking Garage Construction Contract complies with this Section 3.

4. Payment of Purchase Price. Payments toward the Purchase Price (other than the initial payment described below) from Buyer to Seller will be made by way of applications and certificates for payment submitted by Seller to Buyer in form and substance identical to AIA Document G702-1992, a copy of which is marked as Exhibit B attached hereto and incorporated herein by reference (each a "Payment Application").

Each Payment Application will have a copy of a completed payment application from the General Contractor, provided that Payment Applications submitted prior to execution of the Parking Garage Construction Contract will not include a copy of the completed payment application from the General Contractor. Prior to the full execution of the Parking Garage Construction Contract, Payment Applications and Buyer's payment thereunder will proceed in the manner described in Article 5 Payment of AIA Document A101-2017, a copy of which form is attached hereto as Exhibit C, except that Buyer will make payment on or before the day that is 45 days after its receipt of the Payment Application. After full execution of the Parking Garage Construction Contract, Payment Applications and Buyer's payment thereunder will proceed in the manner and on the timeline described in the Parking Garage Construction Contract. In each case, a project agent designated by Buyer from time to time in writing to Seller ("Buyer's Project Agent") will be substituted for and act in the place of the architect in each Payment Application submitted to Buyer by Seller.

The balance of the Purchase Price following credit from the initial payment, all Payment Applications, credits and adjustments as required in Paragraph 2, 4, 5, 8, 13 and 16 of this Agreement and otherwise, if any, will be paid at Closing.

Following execution of this Agreement Buyer will make an initial payment towards the Purchase Price upon receipt of and following review and approval (not to exceed 30 days after receipt) of a Payment Application in the amount of \$125,000, supported by invoices detailing the

included costs, and representing costs incurred by Seller or Guarantor prior to the Effective Date of this Agreement and which Buyer agreed to pay under the terms of the DDA.

In the event that the Buyer's Project Agent disputes an amount to be paid in a Payment Application, such disputed amount may be withheld from payment pending resolution by the Buyer's Project Agent and the Architect (as defined in Section 10 of the Work Letter) and payment will be made with the next regular Payment Application if determined to be due; provided, however, Buyer's right to dispute any aspect of a Payment Application shall not exceed Seller's right to dispute amounts owed under the Parking Garage Construction Contract.

5. **Retainage.** With respect to sums billed under Payment Applications that are billings by the General Contractor under the Parking Garage Construction Contract, Buyer may withhold as retainage (the "Retainage") the greater of (i) the amount of retainage set forth in the Parking Garage Construction Contract, or (ii) 5% of each Payment Application until Seller's Work is 50% completed and 0% thereafter. The percentage held from each Payment Application will be increased or decreased to equal the percentage of Retainage held by Seller from the General Contractor's payment application and will be subject to the same terms and conditions as set out in the Parking Garage Construction Agreement. No retainage will be held on sums owed under contracts other than the Parking Garage Construction Contract (it being the intent that no retainage will be held on soft costs).

6. **Title.** Title to the Property will be conveyed subject to zoning ordinances, matters that would be disclosed by a current and accurate survey, and covenants, conditions and easements of record, including without limitation, matters shown on recorded plats, utility easements, the parking leases entered into or to be entered into under the DDA, other parking leases or licenses that Buyer may have entered into (collectively, the "Parking Leases"), the Declaration, applicable encumbrances contemplated under the DDA, and the Brownfields Agreement and related plats should Seller's Brownfields application concerning the Land be accepted by the State of North Carolina (collectively, the "Permitted Exceptions"). Nothing herein shall prohibit Buyer from obtaining a title insurance commitment and survey of the Land.

7. **Recordation of Mixed Use Building Condominium Declaration.** Within sixty (60) days of Buyer's request, Seller and PCH will prepare all documents, plats and plans as required by NC Gen. Stat. §47C-2.101 et seq. and the terms of the DDA, as amended, to create the Mixed Use Building Condominium and deliver to Buyer. The Mixed Use Condominium Declaration (as defined and described in the DDA) will name Seller as declarant.

All such documents, plans and plats will be subject to Buyer's reasonable approval and upon Buyer's request will be recorded in the Cumberland County Register of Deeds.

8. **Time and Place of Closing - Tender of Performance.**

(a) Closing under this Agreement (the "Closing") shall take place on or before the date that is fifteen (15) days after the last to occur of the following acts:

- Completion; (i) Seller provides written notice to Buyer that Seller has achieved Substantial
- (ii) Seller completes punch work on Punch List (see Section 8 of the Work Letter); and
- (iv) Seller obtains Certificate of Occupancy.

Buyer in its sole discretion may agree to Close prior to completion of the punch work on the Punch List in which case an amount agreed upon by the Parties will be withheld from payment of the balance of the Purchase Price, held by Buyer and paid to Seller upon completion of the punch work on the Punch List, provided that such amount will not exceed the amount Seller may withhold from General Contractor under the Parking Garage Construction Contract.

Closing may be conducted in escrow fashion without the presence of the parties. Seller shall deliver exclusive possession of the Property to Buyer at closing subject to the Parking Leases and a right of entry in favor of Seller and its contractors for the purposes of completing punch work on the Punch List.

(b) Seller's Closing Documents. Seller shall deliver or cause to be delivered at Closing the following documents (collectively, the "Conveyance Documents") duly executed and acknowledged where appropriate:

- (i) The Deed;
- (ii) An affidavit certifying Seller is not a "foreign person" as defined in the Federal Foreign Investment in Real Property Tax Act of 1990, as amended or otherwise confirming that Buyer is not required to withhold any part of the Purchase Price pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended;
- (iii) Evidence reasonably acceptable to Buyer's title company as to the authority of the person or persons executing documents on behalf of Seller;
- (iv) Affidavits and waivers as customarily required by title companies for insuring Buyer's interest without exception to mechanic's and materialmen's liens and tenant in possession exceptions (excepting the Parking Leases);
- (v) A commercially reasonable Assignment and Assumption of the Permits, Warranties and Contracts to transfer the same to the extent applicable to the Property (collectively, the "Assignments");
- (vi) A counterpart to the closing statement (the "Closing Statement"); and
- (vii) Such other documents as may be reasonably necessary to complete the Closing.

(c) Buyer's Closing Documents. At Closing, Buyer shall deliver or cause to be delivered to the following items and/or documents (duly executed and acknowledged where appropriate):

- (i) The balance of the Purchase Price in immediately available funds (subject to the provisions of paragraphs 2, 4, 5, 8, 13 and other applicable terms of this Agreement;
- (ii) A counterpart to the Assignments;
- (ii) A counterpart of to the Closing Statement; and

(iii) Such other documents as may be reasonably necessary to complete the Closing.

9. **Adjustments at Closing; Closing Costs.** Adjustments will be made as required by this Agreement including without limitation, the provisions of paragraphs 2, 4, 5, 8, 13 and 16. All Progress Payments made prior to Closing will be applied to the Purchase Price in favor of Buyer. Buyer shall pay the following closing costs: Deed recording fees, examination of title and title insurance; record searches, tax certificates; survey costs; costs associated with Buyer's due diligence, one-half of the escrow fees, if any; any costs and expenses associated with any financing of the purchase of the Property by Buyer; Buyer's own attorneys' and other consultants' fees and expenses; any other costs of Closing. Seller shall pay the following closing costs: transfer/excise tax on the Deed, one-half of the escrow fees, if any, and Seller's own attorneys' and other consultants' fees and expenses.

10. **Conditions of Closing – Seller.** The obligations of the Seller to consummate the transaction provided for herein on the Closing is subject to the satisfaction of the following additional conditions at Closing, unless Seller shall agree in writing to waive the same:

(a) The representations and warranties of Buyer herein contained shall be true in all material respects on and as of the date and time of Closing, with the same force and effect as if made on and as of such date and time, and the covenants of the Buyer set forth herein shall have been complied with at or before the Closing; and

(b) The Buyer shall deliver the funds and documents as set forth in Section 8 hereof subject to the provisions of Section 2, 4, 5, 12 and 13 and elsewhere in this Agreement or applicable provisions of the Construction Contract between Seller and the General Contractor.

11. **Conditions of Closing – Buyer.** Buyer's obligation to close is subject to the satisfaction of the following conditions of Closing, unless Buyer shall waive the same:

(a) The representations and warranties of Seller herein contained shall be true in all material respects on and as of the date and time of Closing, with the same force and effect as if made on and as of such date and time, and the covenants of the Seller set forth herein shall have been complied with at or before the Closing;

(b) Seller shall have delivered all of the Conveyance Documents (hereafter defined);

(c) Seller will convey good, marketable and feasible and insurance fee simple title to the Property to the Buyer by the Deed, free and clear of all encumbrances except the Permitted Exceptions;

(d) Seller shall have achieved Substantial Completion of Seller's Work in substantial conformity with the Plans and Specifications and obtained a Certificate of Occupancy in accordance with the Plans and Specifications; and

(e) Seller shall have recorded the Mixed Use Building Condominium Declaration, related documents, plats and plans.

12. **Representations and Warranties of Seller.** Seller represents and warrants to Buyer as follows:

(a) **Seller's Entity.** Seller is a limited liability company, duly organized, validly existing and in good standing under the laws of the State of North Carolina. The execution and performance of this Agreement will not violate any term of Seller's organizational documents, nor any judicial decree, statute or regulation by which it may be bound or affected.

(b) **Seller's Authority.** Seller has full power and authority to enter into this Agreement and to perform all its obligations hereunder, and has taken all action required by law, its governing instruments, or otherwise to authorize the execution, delivery and performance of this Agreement and all the deeds, agreements, certificates, and other documents contemplated herein. No consent is required from any party that has been obtained in order for Seller to perform its obligations hereunder.

(c) **No Conflict or Lien.** Neither the execution or delivery of this Agreement nor the consummation of the transactions contemplated herein will conflict with or result in a breach of any contract, license or undertaking to which Seller is a party or by which any of its property is bound, or constitute a default thereunder or, except as contemplated herein, result in the creation of any lien or encumbrance upon the Land.

(d) **No Proceedings.** No legal or administrative proceeding is (a) pending or, to the best of Seller's knowledge, threatened against the Land, or (b) pending or to the best of Seller's knowledge threatened against Seller, which would materially adversely affect the Land, Seller's right to convey the Property to Buyer as contemplated in this Agreement, or the validity or enforcement of this Agreement.

(e) **Condemnation.** Seller has no knowledge of and has received no written notice of any pending or threatened condemnation proceedings relating to the Land.

(f) **Assessments or Leases.** To Seller's knowledge, there are no pending or threatened condemnation or eminent domain or other assessments or governmental charges related to the Land, to Seller's knowledge, there are no underground storage tanks on, about or beneath the Land, but the Land is within the plume of residual contamination from former underground storage tanks on an adjacent parcel, and Seller has applied for the Land to be entered into the Brownfields Program of the State of North Carolina; and Seller will not have entered into any leases or tenancies that will encumber the Property after Closing, excepting the parking leases under the DDA, as amended.

The representations and warranties set forth in this Section 12 shall survive the Closing, and shall not be merged therein.

13. Representations and Warranties of Buyer. Buyer represents and warrants to Seller as follows:

(a) Buyer's Authority. Buyer has full power and authority to execute, deliver and perform under this Agreement.

(b) No Proceedings. There are no actions or proceedings pending or to Buyer's knowledge, threatened against Buyer which may materially adversely affect the validity or enforceability of this Agreement.

(c) No Conflict. This Agreement constitutes the valid and binding obligation of Buyer and the execution, delivery and performance of this Agreement has not and will not constitute a breach or default under any other agreement, law or court order under which Buyer is a party or may be bound.

The representations and warranties set forth in this Section 13 shall survive the Closing, and shall not be merged therein.

14. Default.

(a) Default Prior to Substantial Completion of Work

(i) Default by Buyer Prior to Substantial Completion. In the event of a default by Buyer of (x) any term under this Agreement other than a failure to pay any amount included in a Payment Application approved by the Architect and Buyer's Project Agent, and upon Buyer's failure to cure the default following thirty (30) days' notice to the Buyer; or (y) a failure to pay any amount included in a Payment Application approved by the Architect and Buyer's Project Agent and upon Buyer's failure to cure the default following 15 days' notice to Buyer, Seller may terminate this Agreement and seek such remedies as are available at law and/or equity.

(ii) Default by Seller Prior to Substantial Completion. Upon a default under any terms of this Agreement by Seller and following thirty (30) days' notice to the Seller of the default and Seller's failure to cure the default within thirty (30) days (or such longer cure period as may be provided for herein, if any) the Buyer may seek such remedies as are available at law and/or equity to include without limitation and without prejudice to any other rights or remedies of Buyer:

- a. Terminate the Agreement and the Parking Garage Construction Contract General Contractor;
- b. Subject to the rights of Seller's lender and Seller's right to inspect after Take Over as described in Section 9 of the Work Letter, exclude the Seller and/or the General Contractor from the site and take possession of all materials, equipment, tools and construction equipment and machinery thereon owned by the Seller and/or the General Contractor or its subs, as set forth under the provisions concerning Take Over in the Work Letter;
- c. Accept assignment of Parking Garage Construction Contract or sub-contractor contracts;
- d. Finish construction of the Parking Garage by whatever reasonable method Buyer may deem expedient, as set forth under the provisions concerning Take Over in the Work Letter;

- e. Suspend any and all further payments to the Seller pending Substantial Completion of construction of the Parking Garage; and
- f. Upon Substantial Completion of construction of the Parking Garage pay to the Seller any amount due under the Purchase Price which exceeds the cost to the Buyer of finishing construction, including reasonable compensation for professional services and expenses made necessary by Seller's breach, and other damages incurred by Buyer and less such credits and adjustments as provided for in paragraphs 2, 4, 5, 8 and 13. If such cost and damages exceed the unpaid balance of the Purchase Price the Seller shall pay that difference to the Buyer at Closing (provided that Seller will not be responsible for any costs incurred by Buyer as a result of Buyer changing the Plans and Specifications after Take Over, and any costs resulting from such changes will not reduce any sum payable to Seller on the final reconciliation). The amount to be paid to either Seller or Buyer, as the case may be under this provision, shall be determined by the Architect and the Buyer's Project Agent and this obligation for payment shall survive the termination of this Agreement;
- g. At the Closing Seller will deliver an executed Deed as more fully described in this Agreement together with any sums due to Buyer as required by the provisions of this Agreement or, Buyer shall pay such sums as are due to Seller. In the event Seller refuses or for any reason is unable to deliver a Deed as required under the terms of this Agreement at the Closing then Seller shall have the remedy of specific performance.

(b) Default Following Substantial Completion of Work. In the event of a default by either party following Substantial Completion of work and either prior to or following the Closing the non-defaulting party may seek such remedies as are available at law and/or equity to include without limitation specific performance, recovery of damages together with attorney's fees and costs.

(c) In addition to such other events or failure to act by either party as required by this Agreement, the DDA, Exhibit A and the Construction Contract the following acts or failures to act shall constitute a default under the terms of this Agreement entitling the non-breaching Party to terminate this Agreement, subject to the notice and cure provisions set forth in Section 14(a) above:

- (i) Failure by Buyer to pay any amounts included in a Payment Application approved by both Architect and Buyer's Project Agent;
- (ii) Failure by either Party to take any action as is required by this Agreement the DDA, Exhibit A or the Construction Contract;
- (iii) Seller or General Contractor:
 - a. repeatedly refuse or fails to supply enough properly skilled workers or materials for the prosecution of the construction;
 - b. fail to make payments to contractors, suppliers or others as required under such respective agreements between Seller and the contractors or suppliers;
 - c. repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or,

- d. breaches of a provision of this or other contract documents and fails to cure such breach within the time permitted;
- (iv) Seller or its General Contractor substantially breaches the Construction Contract between Seller and the General Contractor which is not cured within the time permitted by such Construction Contract; or
- (v) A default under the terms of the DDA, as amended by either party, which is not cured within such time as is permitted.

(d) Notwithstanding anything herein to the contrary, to the extent General Contractor is afforded notice and cure rights prior to Seller exercising any default remedy for the benefit of Seller under the Parking Garage Construction Contract, Seller shall have correlative notice and cure rights under this Agreement prior to Buyer's exercise of any default remedy; provided, however, this provision shall not be construed to shorten any notice and cure rights specifically set forth herein.

(e) Provided any lender of Seller having a first lien deed of trust on the Land has notified Buyer in writing of its security interest in the Land and made request for notice of default hereunder, Buyer shall copy Seller's lender on any notice of default to Seller under this Agreement, and Seller's lender shall be afforded the same cure rights, if any, that Seller is afforded hereunder. Nothing herein shall obligate any lender of Seller to cure any default by Seller.

15. Brokerage.

(a) Seller's Warranties. Seller warrants to Buyer that Seller has not dealt with any real estate broker, agent, salesperson or finder in connection with this transaction and that no right to or claim for commission or other compensation has been created by its actions with respect to this Agreement.

(b) Buyer Warranties. Buyer warrants to Seller that Buyer has not dealt with any real estate broker, agent, salesperson or finder in connection with this transaction and that no right to or claim for commission or other compensation has been created by its actions with respect to this Agreement.

16. Liquidated Damages. In the event Seller fails to complete construction by the Completion Date, extended as provided for in this Agreement, liquidated damages will be assessed against the Seller in the amount of \$1,000.00 per day beginning on the day following the Completion Date and continuing to accrue at the rate of \$1,000.00 a day thereafter until construction is Substantially Complete. Provided the unpaid balance of the Purchase Price exceeds the total liquidated damages at the time liquidated damages are assessed and a Payment Application is submitted, the Payment Application will be reduced by the amount due for liquidated damages.

The Parking Garage Construction Contract between Seller and the General Contractor will incorporate this term regarding liquidated damages. Notwithstanding the foregoing, the parties recognize that the incorporation into the Parking Garage Construction Contract of this liquidated damages provision and Buyer's 45 day period for payment set forth in above Section 4 could

impede the negotiation of the Parking Garage Construction Contract and result in a Parking Garage Construction Contract that could have been more favorable to the parties without such constraints on liquidated damages and payment terms, and therefore the parties agree to revisit these liquidated damages and payment provisions and cooperate to amend this Agreement regarding these provisions as may be deemed by the parties to be in the best interest of the parties.

17. **Notices.** All notices, requests or other communications hereunder shall be deemed to have been duly given on the day actually given if (i) in writing, (ii) all costs of delivery shall have been prepaid by the sender, and (iii) if sent by (1) hand delivery with written evidence of the time of delivery, (2) by recognized overnight courier, (3) by registered or certified mail, return receipt requested, or (4) via facsimile transmission with a confirmation by the sending machine of receipt by the receiving machine, but only if a copy of such is also sent simultaneously therewith by recognized overnight courier, and (iv) addressed using the address set forth in the caption of this Agreement (or to such new address as the addressee of such a communication may have notified the sender thereof).

18. **Assignment.** Buyer shall not assign this Agreement without the prior written consent of Seller which may be withheld for any reason. Notwithstanding the foregoing, no assignment of this Agreement shall be interpreted as a release or novation of Buyer's obligations under this Agreement to the extent such obligations are not satisfied by Buyer's assignee.

19. **Governing Law.** All questions with respect to the construction of this Agreement and the rights and liabilities of the parties shall be determined in accordance with the laws of the State of North Carolina, without regard to its conflicts of law principles. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

20. **Dates.** If any date upon which action is required under this Agreement shall not be a day when the commercial banks in Fayetteville, North Carolina are open for business, then the date for such action shall be extended to the next day that the commercial banks in Fayetteville, North Carolina are open for business.

21. **Attorneys' Fees.** The prevailing party shall be entitled to recover its reasonable attorneys' fees and expense in any suit, action, proceeding or arbitration brought to enforce, interpret or collect any monies due under this Agreement. The parties acknowledge that this is a business contract primarily for commercial purposes.

22. **Entire Agreement.** This Agreement together with the DDA which is incorporated herein by reference contains the entire agreement among the parties regarding the subject matter of this Agreement. There are no promises, agreements, conditions, undertakings, warranties, or representations, oral or written, express or implied, among them, relating to this subject matter, other than as set forth herein. This Agreement is intended by the parties to be an integration of all prior or contemporaneous promises, agreements, conditions, negotiations, and undertakings between them. This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute one and the same instrument. Reference to this Agreement shall include its Exhibits.

23. **Waiver of Condominium Offering Statement.** The parties acknowledge that the Declaration will not create any residential condominium units, and accordingly Buyer hereby expressly waives its right to receive any public offering statement for the Property under Article 4 of Chapter 47C of the North Carolina General Statutes, and hereby waives any contract cancellation period conferred on buyers entitled to a public offering statement.

24. **Counterpart.** This Agreement may be executed in counterpart, and when the various counterpart signatures are assembled, will constitute one complete agreement.

25. **Completion Guaranty.** In order to induce Buyer to enter into this Agreement, Guarantor hereby irrevocably, unconditionally and absolutely guarantees to Buyer the obligations of Seller under this Agreement to include without limitation to complete the Parking Garage in accordance with this Agreement (the "Guaranteed Obligations"). In furtherance of the Guaranteed Obligations of the Guarantor, the Guarantor hereby irrevocably, unconditionally and absolutely guarantees that if Seller fails to complete the Parking Garage in accordance with the Agreement, Guarantor will, at Buyers option, in its sole discretion and without waiving any other rights or remedies as to Seller or Guarantor, within thirty (30) days after notice from Buyer, assume all responsibility for completion in accordance with the Agreement at the Guarantor's own cost and expense; provided that Buyer shall continue to make Progress Payments in accordance with this Agreement. Guarantor shall not be deemed to be in breach of this Guaranty if it is contesting in good faith any matter related to the Agreement.

Guarantor unconditionally waives the following defenses to the enforcement of this Guaranty: (a) except as expressly otherwise provided, all presentments, demands for performance, notices of nonperformance, protests, notices of protest, notices of dishonor, and notices of acceptance of this Guaranty; (b) any right to require Buyer to proceed against the general contractor or Seller, or to pursue any other remedy whatsoever at any time; (c) any bankruptcy, insolvency, reorganization, composition, adjustment, dissolution, liquidation or other like proceeding relating to the Seller's general contractor, any of its subcontractors or suppliers or Seller, or any action taken with respect to this Guaranty by any court, in any such proceeding, whether or not Guarantor shall have had notice or knowledge of any of the foregoing; and (d) any right the Guarantor might have, under North Carolina law, to revoke this Guaranty, it being the intention of the Guarantor that this Guaranty remain in full force and effect until termination, as provided herein.

If any one or more of the provisions of this Guaranty should be determined to be illegal or unenforceable, all other provisions shall remain effective. No delay or failure by Buyer to exercise any remedy against the Guarantor will be construed as a waiver of that right or remedy. When the context in which they are used in this Guaranty indicates that such is the intent, words in the singular number shall include the plural and vice-versa. This Guaranty shall be governed by and construed in accordance with the laws of the State of North Carolina applicable to contracts entered into and entirely to be performed therein. Each demand by the Lender for performance hereunder shall be in writing. All remedies of the Lender are cumulative. The obligations of Guarantor under this Guaranty shall continue in full force and effect until the Guarantor has fully performed all of the Guaranteed Obligations in accordance with the terms of this Guaranty or Buyer has purchased

the Project. This Guaranty supersedes any prior negotiations, discussions or communications between Guarantor and Buyer and constitutes the entire agreement between the Buyer and Guarantor with respect to the Guaranteed Obligations.

26. **Buyer Contribution Limitation.** Buyer funding of the Parking Garage shall not constitute more than fifty percent (50%) of the total costs of the downtown development project on the Land in accordance with N.C.G.S. § 160A-458.3, including all the private development on the Land.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed on its behalf by an officer thereunto duly authorized as of the Effective Date.

SELLER:

Hay Street Development Pad, LLC

By: Michael Lemanski (seal)
Name: Michael Lemanski
Title: Manager

BUYER:

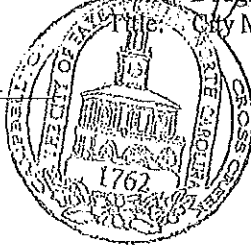
[SEAL]

CITY OF FAYETTEVILLE NORTH CAROLINA

ATTEST:

Pamela Megill
Pamela Megill, City Clerk

Douglas J. Hewett
Name: Douglas J. Hewett
Title: City Manager



Approved as to form:

H. Terry Hutchens
H. Terry Hutchens, Attorney

GUARANTOR (signing for the sole purpose of guaranteeing the Guaranteed Obligations):

PCH Development Co. LLC

By: Michael Lemanski (seal)
Name: Michael Lemanski
Title: Manager

THIS INSTRUMENT HAS BEEN PREAUDITED IN
THE MANNER REQUIRED BY THE LOCAL
GOVERNMENT BUDGET AND FISCAL CONTROL ACT.
Not to exceed \$14,845,000

Cheryl Espino

EXHIBIT B
Work Letter

This Work Letter is an integral part of that certain Agreement for Development and Sale of Real Estate between Hay Street Development Pad, LLC and the City of Fayetteville (the "Agreement") to which it is attached.

1. Seller's Work. Subject to the terms of the Agreement which is incorporated herein by reference, Seller shall perform, or cause to be performed under its direct supervision, the work required to complete the Parking Garage on the Land pursuant to the Agreement and in substantial compliance with the Plans and Specifications and the construction drawings (the "Seller's Work"), to the extent any provisions of this Work Letter conflict with terms of the Agreement, the terms of the Agreement will control.

2. Project Schedule. Seller will begin the physical construction of the Parking Garage by April 30, 2018 subject to Force Majeure and finalization of the Brownfields Agreement. Buyer will achieve Substantial Completion of the Parking Garage by March 15, 2019, time being of the essence (the "Completion Date"). The Completion Date shall be extended by (a) a number of days equal to any extension of time in a Change Order approved by Buyer and Seller (b) by the time period Seller's Work cannot be performed because of matters of Force Majeure, (c) by the number of days of Buyer delay as set forth in Section 5 of this Work Letter, and (d) in the event of a casualty as set forth in Section 14 of this Work Letter.

3. Plans and Specifications. The current Plans and Specifications for the Parking Garage are attached to the Agreement, marked as Exhibit A and are incorporated into both the Agreement and this Work Letter. Buyer has approved the attached Plans and Specifications. Further work is required to develop the Plans and Specifications into construction drawings. Seller will provide the proposed construction drawings to Buyer when completed. The proposed construction plans will not be complete until approved by Buyer.

4. Approval Process. When Seller submits proposed modifications to the Plans and Specifications or other change orders to the Buyer (each a "Proposal"), Buyer will have ten (10) days to review the Proposal and respond to Seller in writing, either approving (referred to herein as "Approved") the Proposal or rejecting the Proposal providing detailed reasons for the rejection. Upon any rejection, Seller will revise the Proposal as reasonably necessary and resubmit the Proposal to Buyer, and Buyer will have ten (10) days to review the revised Proposal, either Approving or rejecting the Proposal providing detailed reasons for the rejection, and any further rejection shall be treated as set forth herein. Each time a Proposal is Approved that modifies the Plans and Specifications, such modified and Approved Plans and Specifications shall be deemed to be substituted for the Exhibit A incorporated herein. If Buyer fails to respond to any Proposal within the initial ten (10) day period or any subsequent ten (10) day period, as applicable, then the Proposal will be deemed approved by Buyer. This process is referred to herein as the "Approval Process" and the period is referred to herein as the "Approval Period". Notwithstanding the foregoing, in order to avoid delays in the Construction Schedule, the parties agree that the Proposal for the construction drawings prepared for purposes of obtaining a building permit for the Parking Garage (the "Permit Set") will be deemed approved if the Permit Set is in material conformance

with the Plans and Specifications attached hereto as Exhibit A, and are delivered to Buyer at least five (5) days before Seller applies for the Permit(s). Except as set forth above with respect to the Permit Set, there shall be no material change to the Plans and Specifications without the prior written consent of Buyer as set forth in below Section 7 of this Work Letter. Seller will be responsible for the cost (including all related hard and soft costs) of Seller requested changes to the Plans and Specifications previously approved by Buyer that exclusively benefit the private development and that cause an increase in the contract sum under the Parking Garage Construction Contract. Buyer will be responsible for the cost (including all related hard and soft costs) of Buyer requested change to the Plans and Specifications previously approved by Buyer (a "Buyer Change Order"). The parties agree that any such cost increase resulting from a Buyer Change Order will not diminish any benefit realized by Seller under Section 2 of the Agreement and the cost share provisions of the Third Amendment to the DDA. In reviewing Proposals, Buyer's approval shall not be unreasonably withheld, conditioned or delayed.

5. Buyer's Cooperation: Seller's Work. Buyer acknowledges that Substantial Completion of Seller's Work by the Completion Date will require Buyer's cooperation and prompt response to all requests made by Seller under and pursuant to the Agreement, and so pledges to give such cooperation throughout the course of Seller's Work. Buyer further acknowledges that delay on Buyer's part when Buyer's approval or input is required may result in delay of the Completion Date, therefore Buyer agrees that for every day of Buyer delay, as determined by agreement of Architect and Buyers Project Agent, beyond the applicable Approval Period, the Completion Date will be extended by a day. For purposes of this Agreement, delay imposed on Seller's Work by delays in the construction of the Stadium will be deemed Buyer delay.

6. Construction Schedule. On or before April 1, 2018 Buyer will deliver to Seller a list of milestone events in the construction of the Parking Garage (the "Construction Milestones"). On or before April 30, 2018 Seller will prepare and deliver to Buyer a construction schedule showing the expected timing for completion of the Construction Milestones. Seller may revise this construction schedule from time to time in cases of Buyer delay, Force Majeure and for Buyer Approved change orders that extend the contract time under the Parking Garage Construction Contract.

7. Buyer Changes; Other Changes. Buyer reserves the right under this Agreement to request modifications to the previously Approved Plans and Specifications, so long as Buyer remains responsible for all hard and soft cost attributable to such modifications. If Seller's contract(s) with its consultants and contractors require payment for modifications prior to performing the work that is the subject of such change orders, then Buyer will pay for such modifications prior to Seller completing the Seller's Work that is the subject of Buyer's requested modification.

Seller will not make material changes to the Plans and Specifications by change order or otherwise without the prior written consent of Buyer, which shall not be unreasonably withheld, conditioned or delayed. For purposes of this Agreement, the term "material changes" shall mean changes to any portion of the Parking Garage Building as identified in paragraph 1.(a)-(i) of the Second Amendment to the Downtown Development Agreement (which is incorporated herein by reference) or that modify size or footprint of the Parking Garage, that reduce the number of parking

spaces or quality of materials, that increase the contract sum or extend the contract time under Parking Garage Construction Contract, that change the exterior appearance of the Parking Garage, or can be reasonably calculated to impair or diminish the use of the Parking Garage for its intended use as a parking garage.

8. Punch List. Within ten (10) days following Substantial Completion, Buyer shall deliver to Seller a "Punch List" of items that Buyer reasonably deems necessary for Seller to complete or correct based on the Plans and Specifications. Seller shall promptly commence to complete or correct the Punch List items. Punch List work shall be completed prior to Closing.

9. Failure to Meet Construction Milestone. Seller's failure to meet a Construction Milestone when such failure is not the result of Buyer's delay or Force Majeure will constitute a default under the terms of this Agreement entitling Buyer at its option and in its sole discretion, following notice to Seller of the default and thirty (30) days within which to cure the default, to "Take Over" the Seller's work and seek Substantial Completion, the effective day of Take Over being referred to as the "Take Over Date". Upon Take Over the Seller will assign its interests in all Plans and Specifications, contracts, permits and any and all documents, contracts, licenses, permits, materials and equipment related to and necessary for Seller's Work at no cost to the Buyer. From and after the Take Over Date, Buyer will be responsible for, and will pay, all costs and expenses incurred in completion of the Parking Garage and Seller will have no further responsibility for completion of the construction of the Parking Garage. Seller will not be entitled to any further payment until Substantial Completion of construction and Closing at which time Seller will be paid such sums as are due to Seller following adjustments to any money due to Seller and as described in this Agreement and including any damages, loss, additional costs or fees, penalties, or costs of remediation or reconstruction of unacceptable work.

The Seller, upon receipt of the notice of default and intention to Take Over will notify the General Contractor and all persons, companies, entities or sureties under all payment and performance bonds as well as any Guarantor of this Agreement, the Construction Agreement with the General Contractors or otherwise. Seller will cooperate with and cause the General Contractor with whom it contracted for construction of the Parking Garage to cooperate with all parties necessary for Buyer to obtain relief, benefit and action from and under all bonds, sureties and guarantors. Any action taken or benefits received by Buyer in connection with any bonds, sureties or guarantors will be without prejudice to any and all claims Buyer has against Seller and will not release Seller in whole or part from Buyer's claims.

After Take Over, Buyer will not change the Plans and Specifications in any way that has an adverse effect on the future private development on the Land without Seller's prior written consent, including without limitation impairing the access to the future private development or impairing the structural support for the future private development. Seller will have the right to enter the Land after Take Over, with reasonable coordination with Buyer, for the purposes of inspecting the construction of the Parking Garage to ensure that such construction is in compliance with the Plans and Specifications and remains suitable for the future private development. Provided, buyer may require Seller to take such action as is necessary in Buyer's discretion to ensure that Seller pays or is able to pay for any costs, fees or expenses incurred in construction of the Parking Garage and not for the sole benefit of Buyer.

10. Selection of General Contractor and Architect. Buyer hereby approves (i) Built Form, PLLC as the architect for the Parking Garage (the "Architect"), and (ii) Kimley Horn and Associates, Inc. as a design and architectural engineer consultant. Seller's selection of the General Contractor is subject to Buyer's prior approval which will not be unreasonably withheld, conditioned or delayed.

11. Buyer's Review; Status Meetings. Buyer at any time, upon reasonable advance notice to the Seller and subject to safety protocol, shall be entitled to review the construction of the Parking Garage as the work progresses, so long as Seller's progress is not in any manner impeded thereby. Seller and Buyer shall also establish regular, periodic meetings to review and discuss the progress of Seller's Work.

12. Insurance. During construction, Seller shall maintain, or cause to be maintained, builder's risk, general liability and, as required by law, worker's compensation insurance, and shall cause the general contractor to carry commercially reasonable liability insurance having coverage limits similar to those on similar commercial construction projects in the Fayetteville, NC market. No later than five (5) days before the commencement of physical construction, Seller shall furnish Buyer with certificates of insurance ("Seller's Certificate of Insurance") for the coverages to be carried by Seller and for the coverages to be carried by the general contractor, including in each instance Buyer as additional named insured or loss payee, as appropriate. The Seller's Certificate of Insurance shall set forth the location of the Land, insuring companies, deductibles, coverages, policy number, policy period and limits of liability. The Seller's Certificate of Insurance shall also provide that in the event of cancellation or material change in the coverage provided, at least thirty (30) days prior written notice will be given to all insureds and loss payees named in the policy. Seller shall, upon request, provide to Buyer a true copy of any insurance policy required under this Agreement. The liability insurance of the Seller and general contractor, shall name the Buyer as an additional insured with a waiver of subrogation in favor of the Buyer. After any Take Over Date, Buyer will provide insurance materially similar to that herein described, and will add Seller and Seller's lender as an additional insured; provided, that City may use a municipal self-insurance program to cover these insurance obligations.

13. Damage or Destruction. If, at any time prior to Substantial Completion, the Premises or any portion thereof, are damaged by fire or any other casualty, Seller shall repair the damage promptly to the extent insurance proceeds are made available to Seller unless such funds are not available due to fault of the Seller. Appropriate extension of the Completion Date shall be memorialized in a revised Construction Schedule. The repairs shall be made in a good and workmanlike manner, the repairs shall restore the Premises to a condition substantially in accordance with the Plans and Specifications. Seller shall consult with Buyer and keep Buyer fully informed of all aspects of the repairs. As appropriate, the Approval Process shall be followed by Seller and Buyer.

14. Quality of Seller's Work. In addition, all covenants and warranties set out in any construction contract between Seller and General Contractor, subcontractors, suppliers and materialmen with respect to such warranties as are described hereafter will name Buyer as a party in addition to Seller. Seller's Work shall be performed in a good and workmanlike manner and in

full compliance with all applicable law and the Plans and Specifications. Without limiting the foregoing but in furtherance thereof, Seller shall use and Seller shall cause its general contractor and all subcontractors to use industry standard commercial building techniques and processes, and new, high-quality building equipment, materials and products.

15. Warranty; Correction of Defects. In addition to such warranties as will be included in the Construction Contract between the Seller, General Contractor, subcontractors, suppliers and materialmen, all of which will name Buyer a party in addition to Seller covered by and entitled to the benefits of such warranties, Seller warrants to Buyer that the Parking Garage will be constructed in substantial accordance with the Plans and Specifications. In furtherance of the foregoing, but not in limitation, Seller warrants to Buyer that all materials, products and equipment used in or which are a part of the Parking Garage shall be new and high quality, unless otherwise specified, that all construction work will be of high quality, free from improper workmanship and defective materials, parts and equipment, and that all construction work will be performed using industry standard commercial building techniques and processes. This warranty does not include defects caused by modifications made or requested to be made by Buyer and defects caused by Buyer's abuse, improper maintenance or improper operation of the Parking Garage. Seller covenants that any warranties for workmanship and of materials, parts and equipment incorporated into the Parking Garage which may be acquired by Seller through Seller's Work or otherwise shall be reassigned to Buyer or, if not assignable, shall be diligently enforced by Seller on Buyer's behalf. Provided Seller can obtain consent for the assignment of its warranty from its general contractor, Seller will assign such warranty to Buyer.

Seller agrees to correct at its sole cost and expense all of Seller's Work which proves to be defective in materials, parts, quality or workmanship within a period of one (1) year from the date of Substantial Completion (or such longer period of time as provided for by statute, administrative code or the terms of the Parking Garage Construction Contract). All warranty work performed by or on behalf of Seller shall be performed to the standards set forth in this Section; it shall be performed promptly after receipt of notice from Buyer of the defect or other noncompliance or nonconformity; it shall be performed after consultation with Buyer regarding Seller's plans and processes for correcting the defect, or other noncompliance or nonconformity.

Notwithstanding the foregoing, provided Seller obtains an assignment from its general contractor the standard general contractor's warranty to owners set forth in the form language of the AIA contract(s) used for the Parking Garage Construction Contract, then Seller's warranty to Buyer hereunder shall not extend beyond any applicable warranty period given by Seller's general contractor, and shall not exceed the scope of any warranty given by Seller's general contractor, it being the intent of the parties that Seller's warranty from its general contractor shall be "pass-through" to Buyer, without Seller incurring warranty risk that is not covered by Seller's warranty from its general contractor. Provided, however, these limitations on Seller's warranty set forth in the paragraph shall not apply in the event of Seller's negligence or willful misconduct.

16. Force Majeure. The term "Force Majeure" used herein means any cause beyond the reasonable control of the affected party, such as: slowdown, work stoppage, strike, lockout and other labor dispute by third parties; breakdown; fire or other casualty; accident; law, order, directive, boycotts and moratoriums; failure of supply and inability, without the fault of Seller or

its contractor and by the exercise of reasonable diligence, to obtain supplies, parts necessary to furnish services or otherwise perform; war (declared and undeclared) or other emergency, peace keeping activities, riot and other civil insurrection or disobedience, terrorist threats and acts, quarantine and biological, chemical, nuclear and other contamination; water shortages, power failure and other long lasting disruptions in utilities or utility services; inclement weather in excess of 5 year average at or near the construction site and any "Act of God"; any material delay due to any act or neglect of the other party hereto, or any of its shareholders, directors, officers, partners, managers, members, employees, agents, independent contractors, guests and invitees, or any assignee, and successor in interest to such other party; delay caused by the municipal approval authority's failure to grant the approvals and permits for the Parking Garage so long as Seller continues to make commercially reasonable efforts to obtain such approvals and permits; or delay imposed or caused by the construction on the baseball stadium or related off-site improvements.

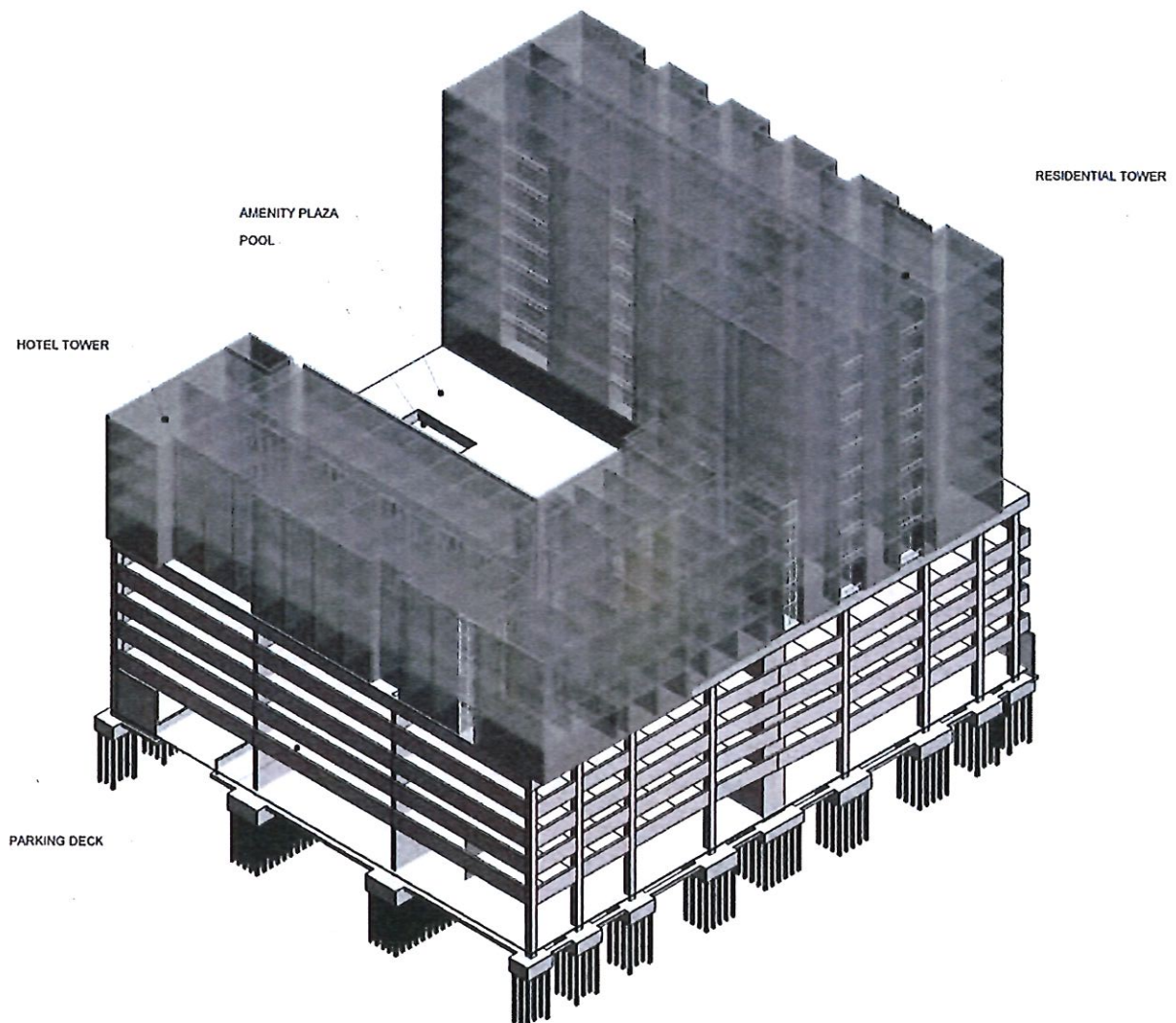
Exhibit A
Plans and Specifications

The attached Plans and Specifications are based on preliminary design specifications used for pricing presented to Fayetteville City Council on December 11, 2017, and will be modified with the consent of Buyer in accordance with this Agreement as the design process for the Parking Garage progresses.

[See following pages.]

Garage Contract
Schedule 1

Hay Street Parking Garage
Structural and Foundation Plans and Specifications used for Pricing
Five Story with 492 Spaces



FAYETTEVILLE MIXED-USE DEVELOPMENT

500 Hay Street, Fayetteville, NC 28301



ISSUED FOR PARKING DECK PRICING
10-31-17

DRAWING LIST

ARCHITECTURE

- G-001 COVER SHEET
- A-001 ARCHITECTURAL SITE PLAN
- A-101 OVERALL FLOOR PLANS - LEVELS 1 & 2
- A-102 OVERALL FLOOR PLANS - LEVELS 3 & 4
- A-103 OVERALL FLOOR PLANS - LEVELS 5 & TYPICAL HOTEL AND RESIDENTIAL
- A-201 BUILDING ELEVATIONS
- A-202 BUILDING ELEVATIONS
- A-203 BUILDING SECTIONS
- A-204 BUILDING SECTIONS
- A-401 ENLARGED ELEVATIONS & WALL SECTIONS
- A-402 ENLARGED ELEVATIONS & WALL SECTIONS

STRUCTURE

- S-100A C/P OPTION - FOUNDATION PLAN
- S-101A C/P OPTION - SLAB ON GRADE PLAN
- S-102A C/P OPTION - TYPICAL FRAMING PLAN
- S-103A C/P OPTION - AVENUE LEVEL FRAMING PLAN
- S-104A C/P OPTION - STREET LEVEL SECTION
- S-105A PRECAST OPTION - FOUNDATION PLAN
- S-106A PRECAST OPTION - SLAB ON GRADE PLAN
- S-107A PRECAST OPTION - TYPICAL FRAMING PLAN
- S-108A PRECAST OPTION - AVENUE LEVEL FRAMING PLAN
- S-109A PRECAST OPTION - STRUCTURAL SECTION

PROJECT TEAM

OWNER:
PENCE CHARLES HOLDINGS, LLC
PO BOX 600
Durham, NC 27702

ARCHITECT:
BULLY PUPP ARCHITECTURE, LLC
500 W. Charlotte Street, Suite 100
Charlotte, NC 28202

STRUCTURAL ENGINEER:
PARKLEY ENGINEERING
471 Fayetteville St., Suite 400
Fayetteville, NC 27301

CIVIL ENGINEER:
STONER
420 Fayetteville St., Suite 400
Fayetteville, NC 27301

MEP ENGINEER:
ADVANCED CONSULTING GROUP INTERNATIONAL
20 West Adams St., Suite 400
Chicago, IL 60604

PLANNING CONSULTANT:
THE BUCKLE DESIGN
10220 Silver Park Rd.
Miami, FL 33156

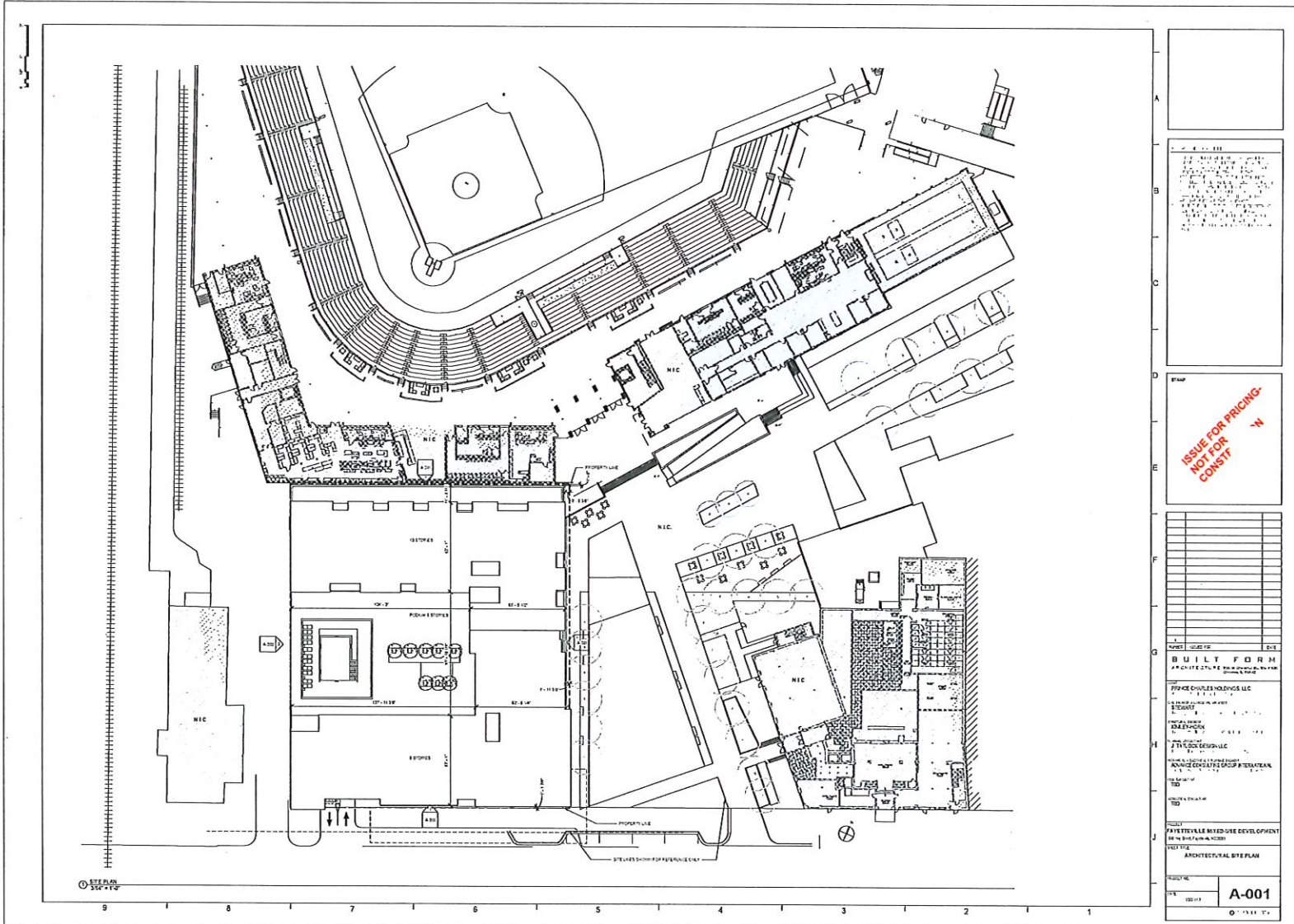
VICINITY MAP



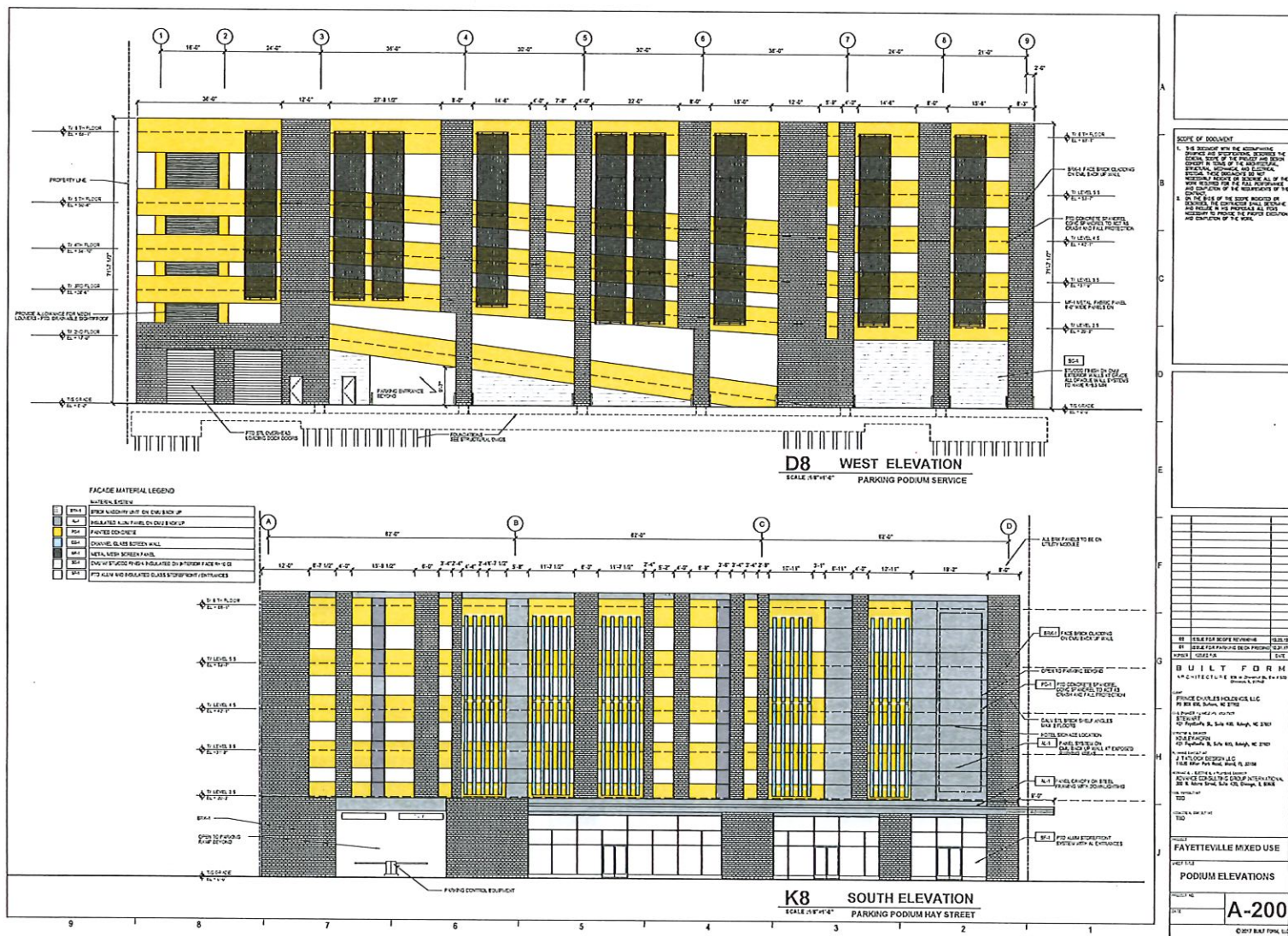
FAYETTEVILLE, NORTH CAROLINA

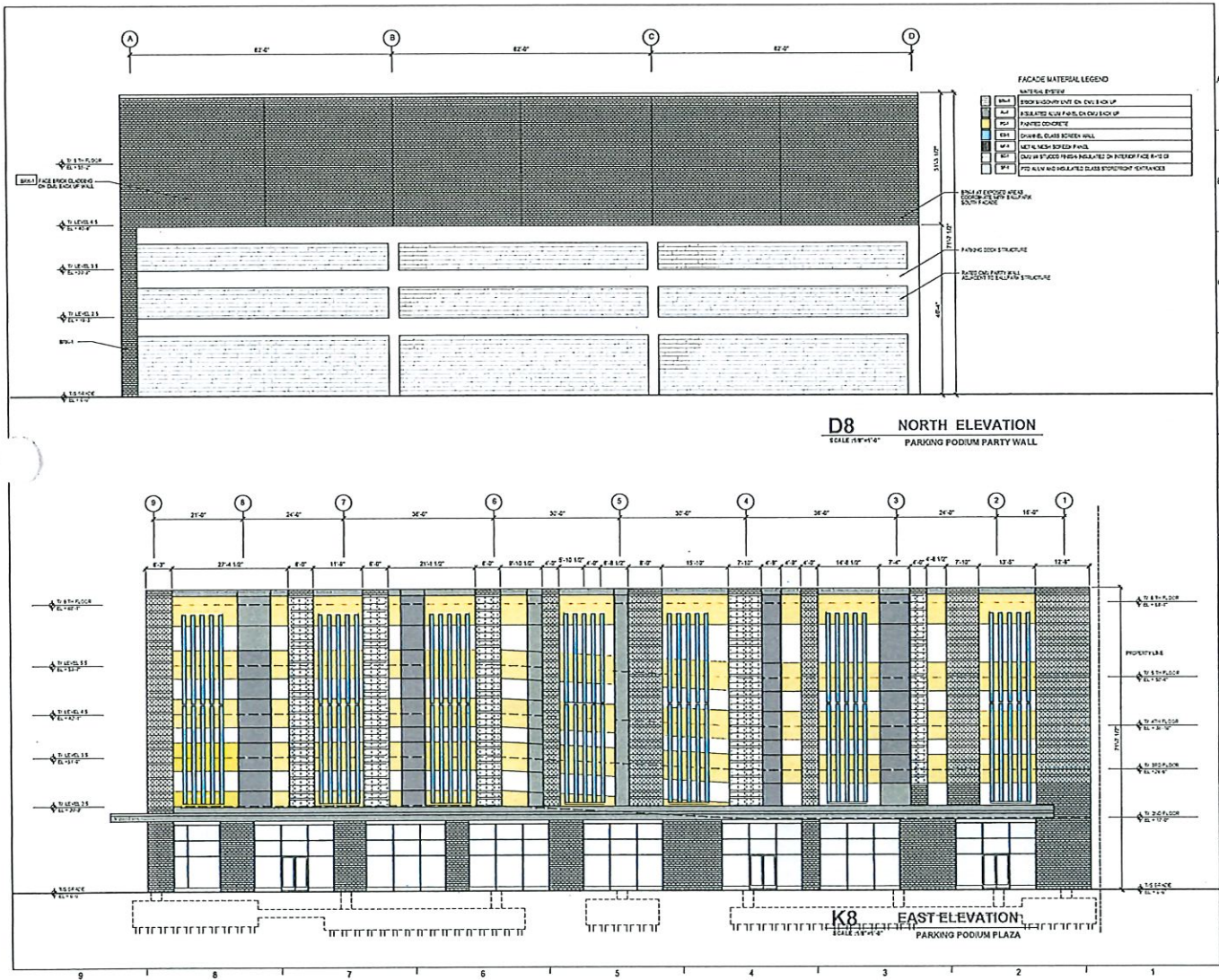


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SCOPE OF DOCUMENT			
A. THE DOCUMENT WITH THE accompanying drawings, specifications, conditions, general notes, and program, including but not limited to, program, program, program, and program			

Kimley»Horn

NC LICENSE # 41212 25.17.07

8177 R02
 434 PATTERSON STREET
 RALEIGH, NC 27617
 PHONE: 919.877.2020

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SCOPE OF DOCUMENT

1. PREPARE A PRELIMINARY ENGINEERING DESIGN FOR THE CONSTRUCTION OF A 1.5 MGD WASTEWATER TREATMENT PLANT TO BE LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF STATE ROUTE 100 AND STATE ROUTE 100A IN THE TOWN OF PATTERSON, NC. THE PLANT IS TO BE DESIGNED TO TREAT WASTEWATER FROM THE TOWN OF PATTERSON AND TO DISCHARGE TO THE PATTERSON RIVER. THE PLANT IS TO BE DESIGNED TO TREAT WASTEWATER FROM THE TOWN OF PATTERSON AND TO DISCHARGE TO THE PATTERSON RIVER. THE PLANT IS TO BE DESIGNED TO TREAT WASTEWATER FROM THE TOWN OF PATTERSON AND TO DISCHARGE TO THE PATTERSON RIVER.
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PROJECT

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NOT FOR
CONSTRUCTION

NO.	DESCRIPTION	DATE
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2	PRELIMINARY ENGINEERING DESIGN FOR THE CONSTRUCTION OF A 1.5 MGD WASTEWATER TREATMENT PLANT TO BE LOCATED ON THE SOUTHWEST CORNER OF THE INTERSECTION OF STATE ROUTE 100 AND STATE ROUTE 100A IN THE TOWN OF PATTERSON, NC. THE PLANT IS TO BE DESIGNED TO TREAT WASTEWATER FROM THE TOWN OF PATTERSON AND TO DISCHARGE TO THE PATTERSON RIVER. THE PLANT IS TO BE DESIGNED TO TREAT WASTEWATER FROM THE TOWN OF PATTERSON AND TO DISCHARGE TO THE PATTERSON RIVER. THE PLANT IS TO BE DESIGNED TO TREAT WASTEWATER FROM THE TOWN OF PATTERSON AND TO DISCHARGE TO THE PATTERSON RIVER.	10/1/07

BUILT FORM

ARCHITECTURE

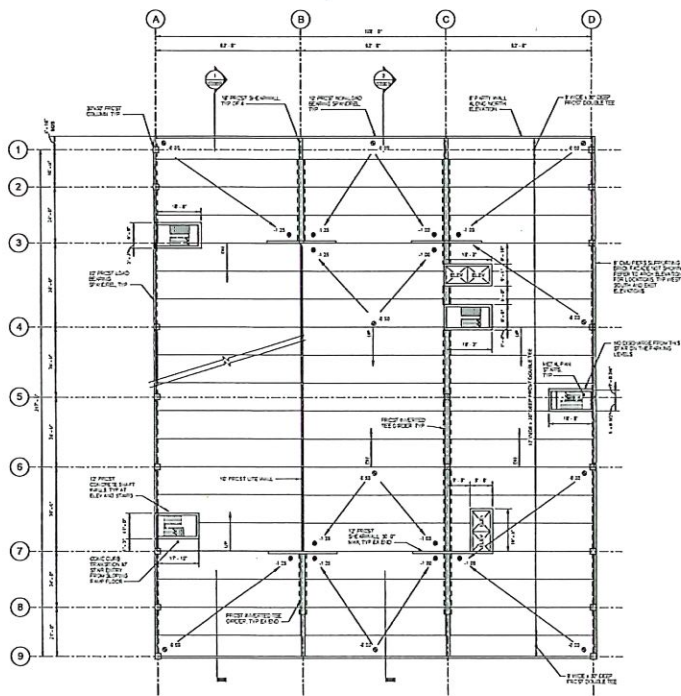
1. POWER DISTRIBUTION SYSTEMS
 2. ELECTRICAL SYSTEMS
 3. COMMUNICATIONS SYSTEMS
 4. SECURITY SYSTEMS
 5. FIRE ALARM SYSTEMS
 6. ELEVATOR SYSTEMS
 7. PNEUMATIC SYSTEMS
 8. THERMAL SYSTEMS
 9. HYDRAULIC SYSTEMS
 10. MECHANICAL SYSTEMS
 11. PLUMBING SYSTEMS
 12. ROOFING SYSTEMS
 13. EXTERIOR FINISHES
 14. INTERIOR FINISHES
 15. PAINTS AND COATINGS
 16. FLOORING SYSTEMS
 17. CEILING SYSTEMS
 18. WALL SYSTEMS
 19. DOOR SYSTEMS
 20. WINDOW SYSTEMS
 21. GLAZING SYSTEMS
 22. INSULATION SYSTEMS
 23. VENTILATION SYSTEMS
 24. CLIMATE CONTROL SYSTEMS
 25. LIGHTING SYSTEMS
 26. SOUND SYSTEMS
 27. HEATING SYSTEMS
 28. COOLING SYSTEMS
 29. AIR CONDITIONING SYSTEMS
 30. FURNACE SYSTEMS
 31. BOILER SYSTEMS
 32. RADIANT HEATING SYSTEMS
 33. RADIANT COOLING SYSTEMS
 34. ZONE CONTROL SYSTEMS
 35. ENERGY MANAGEMENT SYSTEMS
 36. BUILDING INFORMATION SYSTEMS
 37. FACILITY MANAGEMENT SYSTEMS
 38. MAINTENANCE SYSTEMS
 39. SAFETY SYSTEMS
 40. SECURITY SYSTEMS
 41. ACCESS CONTROL SYSTEMS
 42. VIDEO SURVEILLANCE SYSTEMS
 43. ALARM SYSTEMS
 44. FIRE DETECTION SYSTEMS
 45. SMOKE DETECTION SYSTEMS
 46. GAS DETECTION SYSTEMS
 47. VIBRATION DETECTION SYSTEMS
 48. ACoustic DETECTION SYSTEMS
 49. THERMAL DETECTION SYSTEMS
 50. HUMIDITY DETECTION SYSTEMS
 51. AIR QUALITY DETECTION SYSTEMS
 52. PARTICULATE DETECTION SYSTEMS
 53. OZONE DETECTION SYSTEMS
 54. CARBON DIOXIDE DETECTION SYSTEMS
 55. NITROGEN DIOXIDE DETECTION SYSTEMS
 56. SULFUR DIOXIDE DETECTION SYSTEMS
 57. AMMONIA DETECTION SYSTEMS
 58. HYDROGEN DETECTION SYSTEMS
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 60. ETHYLENE DETECTION SYSTEMS
 61. PROPYLENE DETECTION SYSTEMS
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NOTES:

1. REFER TO ARCH PLANS FOR EXTERIOR ELEVATIONS AND FINISHES.
2. EXISTING WALLS AND PARTS OF THE WALLS ARE TO REMAIN EXCEPT FOR REMOVAL OF THE EXISTING WALLS TO THE EXISTING FOUNDATION FOR EXTERIOR ELEVATIONS.
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LEGEND:

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NOTE:
TRANSFERRED TO LEVEL P2
FROM LEVEL P3

FRAMING PLAN - LEVELS P2-P4
SCALE: 1/8" = 1'-0"

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SCOPE OF DOCUMENT
1. DESIGN AND CONSTRUCTION OF THE EXISTING WALLS AND PARTS OF THE WALLS ARE TO REMAIN EXCEPT FOR REMOVAL OF THE EXISTING WALLS TO THE EXISTING FOUNDATION FOR EXTERIOR ELEVATIONS.

DRAFT - NOT FOR CONSTRUCTION

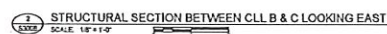
NO.	REVISION	DATE
1	ISSUED FOR PERMIT	01/11/17

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FOR: J. H. HOOKER & ASSOCIATES, P.A.
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FAIRVIEW, NC 27033

DATE: 01/11/17
PROJECT: FAIRVIEW MARKET DEVELOPMENT
SHEET: S102B

SCALE: 1/8" = 1'-0"
SHEET: S102B





FAYETTEVILLE MIXED-USE DEVELOPMENT – PARKING GARAGE**ISSUE FOR PRICING NARRATIVE**

- The proposed parking structure is a 6-level (ground plus 4 elevated parking levels and a Terrace level), precast concrete parking structure, containing approximately 498 total parking spaces. The Terrace Level will serve as an open plaza space as well as a transfer slab for the two buildings above.
- The parking structure plan dimensions are approximately 225' x 186'. The residential and hotel structures as well as open plaza space are generally situated within this footprint above the 6th floor (Terrace Level).
- The parking structure is bound by the following:
 - New minor-league baseball stadium to the north,
 - Existing Amtrak station and railroad to the west (access easement),
 - Hay Street to the south (public right of way),
 - New plaza serving the baseball stadium to the east (public easement).
- Due to the property line on the north side of this parcel, towards the new stadium, the northernmost column line has been recessed into the footprint of the parking garage in an effort to allow the foundations to be more concentric on the column while not extending beyond the property line. The framing on the northern side of each level cantilevers out approximately 5' to create the slab edge with the recessed column. The columns are in the exterior plane of the structure along the other three elevations.
- The parking structure is a 3-bay structure utilizing long-span concrete construction with center-to-center bay spacings of approximately 62' in the long-span direction.
- At least 9 accessible spaces will be required if the total parking count remains below 500 spaces, 2 of these must be van accessible both with the access aisle as well as the vertical headroom.
- There are approximately 25 reserved spaces and 12 spaces dedicated to Amtrak proposed on the ground level and the remaining spaces are on the three elevated parking levels directly above.
- The structure will use an express ramp between ground the second floor. The express ramp has a transition slope at the beginning and end of the ramp. The express ramp will be slab-on-grade supported by cast-in-place concrete retaining walls through approximately half its length at which point it will transition to elevated framing.
- Between the typical levels, the western bay will ramp up to the north and the eastern two bays will ramp up to the south. The western bay may ramp over a longer length in an effort to facilitate having shorter ramps on the eastern bays which may allow for additional flat bays to facilitate accessible pathways to the stair and elevator cores from the parking areas on the north and south ends. The north and south end bays will be sloping only for drainage purposes.
- The first-floor story height is anticipated to be higher than the typical levels to accommodate the retail space as well as the overhead clearance at the loading dock in the northwest corner. The second-floor story height is approximately 11'-4" to accommodate van parking. The third and fourth floor story heights are approximately 10'-5" while the fifth-floor story height is approximately 14'-6" to maintain the typical minimum clearance beneath the structure at each level. The structure supporting the Terrace level is significantly deeper than the typical elevated floor due to the loads being transferred, thus the increase story height at the top level.
- 7'-2" minimum vertical clear on all levels (7'-0" code minimum with 2" construction tolerance) except where ADA Van spaces are located which requires 8'-4" minimum

clear (8'-2" code minimum with 2" construction tolerance) from the entrance to those spaces.

- Access control equipment is anticipated at the main vehicular entry along Hay Street. Nesting of user groups within the facility is not anticipated.
- Parking counts in the current design are based on the use of an 8'-6" wide x 18'-0" long parking stall. This will require approval from the City as it is a reduction in size from the published Design Standards.
- Three sides of the parking garage are anticipated to have enough openings to allow the parking garage to be classified as an open structure. The north wall is anticipated to be a firewall as the building abuts the lot line to the ballpark. The west wall is anticipated to be open due to the 24' wide easement towards the Amtrak station. The south wall is anticipated to be open due to the public right of way in Hay Street. The east wall is anticipated to be open due to the public right of way in the City plaza area.
- Dedicated electric vehicle charging stations/spaces may be incorporated on the first elevated parking level during design development.

SCHEMATIC FRAMING OPTIONS

- Two framing options for the parking levels were reviewed during Schematic Design; cast-in-place post-tensioned concrete and precast concrete. The Precast Concrete option was selected as the preferred alternative.
- Precast Concrete
 - This option will utilize conventional precast framing elements – double tees, spandrel panels, L-beams, inverted-tee beams, lite walls, shearwalls and columns – on the typical parking levels.
 - The amenity level will be a combination of specialty deep beams, flat slabs, and composite cast-in-place topping slabs.
 - The stair and elevator cores, which are anticipated to be precast, are anticipated to be utilized as the lateral force resisting system for the towers and parking garage. Additional shearwalls and lite walls will also be used to supplement the lateral resistance provided by the stair and elevator cores.

DESIGN LOADS AND SERVICEABILITY CRITERIA

Expected loads for the parking garage structural system and assumed loads for the residential and hotel towers above are summarized below per the 2012 North Carolina Building Code:

STRUCTURE DEAD LOADS

- Parking Levels – Self-weight of concrete
- Amenity Level – Self-weight of concrete
- Hotel/Residential Levels – Assumed 65 psf (structural steel frame with 6¼" LWC on 3" metal deck)
- Hotel/Residential Exterior Walls – Assumed 30 psf (metal stud wall and cladding)

SUPERIMPOSED DEAD LOADS

- Parking Levels – 5 psf
- Amenity Level – 50 psf + localized increases for items such as large planters
- Hotel/Residential Floors – Assumed 20 psf (stud walls, finishes and MEP)
- Hotel Roof – Assumed 20 psf (insulation, roofing and MEP)

- Residential Roof – Assumed 30 psf (insulation, roofing and MEP)

FLOOR AND ROOF LIVE LOADS

- Retail – 100 psf
- Mechanical – 150 psf
- Parking Levels – 40 psf (reducible, up to 20% for columns and foundations only)
- Amenity Level, First Level Hotel/Residential – 100 psf (reducible)
- Amenity Level Pool – 250 psf (assumed 4' pool depth, unreducible)
- Hotel/Residential Floors and Upper Level Corridors – 40 psf (reducible)
- Stair and Elevator Lobbies – 100 psf (reducible)
- Hotel/Residential Roof – 20 psf (reducible)

SNOW LOADS

- Ground snow load – 10 psf

WIND LOADS

- Basic Wind Speed: 100 mph (3-second gust)
- Occupancy Category: II
- Exposure Category: B
- Building Enclosure: Enclosed

SEISMIC LOADS

- $S_s = 0.291$; $S_1 = 0.101$
- Seismic Site Class: C
- Occupancy Category: II
- Seismic Design Category: B

SERVICEABILITY

The structural components of the parking structure will be designed for strength and also the following serviceability requirements:

- Live Load: $L/360$
- Dead Load + Live Load (long-term): $L/480$
- Dead Load: $L/600$ (to prevent ponding)
- Wind Drift: $H/600$ (H = building height)
- Seismic Drift: $0.025h$ (h = story height)

The amenity level will be designed for strength and also the following serviceability requirements:

- Live Load: $L/360$
- Superimposed Dead Load + Live Load (long-term and instantaneous): $L/480$
- Dead Load: $L/600$

The parking garage is designed for a 50-year design life. This is accomplished by considering long-term durability at each level of design. Therefore, the following concrete criteria are included as a minimum:

- Concrete cover requirements of IBC 2009, and ACI 318 will be followed considering all above grade elements as exposed to weather.
- Durability requirements of the ACI Design Guide for the Design of Durable Parking Structures (ACI 362). Requirements for a project located in central North Carolina will be followed as a minimum standard.
- A maximum water-to-cementitious material ratio of 0.40 is required for all exposed concrete.
- Air entrained concrete shall be used for all concrete above grade except vertical elements such as walls and columns for added freeze / thaw protection.
- Use a minimum of 10 percent fly-ash in the cementitious material for added durability and sustainability.
- Concrete will be wet-cured, providing proper density and durability.
- Use concrete admixtures, such as corrosion inhibitors, to enhance durability.
- Floor slopes will be a minimum of 1.25% to facilitate drainage, measured from the high point to the drain.
-

SUSTAINABILITY

At this time, no ParkSmart or LEED Certifications are being pursued.

DIVISION 01 – GENERAL REQUIREMENTS

TESTING AND INSPECTIONS

- Materials testing and special inspections will be required for earthwork, pile installation, concrete placement, precast concrete erection (if utilized), and steel erection. These services will be paid for by the Owner and the Contractor shall coordinate with the Owner's representatives to allow the services to be completed.

TEMPORARY FACILITIES AND UTILITIES

- Temporary facilities and utilities shall be provided by the Contractor.

DIVISION 03 - CONCRETE

CAST-IN-PLACE CONCRETE

- Footings, pile cap, retaining walls, and slab on grade: 4000 psi.
- Core/Shaft Walls (if cast-in-place): 12" thickness, 5000 – 7000 psi minimum
- All elevated concrete flatwork for parking garage:
 - 6% air entrainment
 - 2-3 gal/cy corrosion-inhibiting admixture, to achieve 50-yr design life
 - Wet-cured
- Medium broom finish on driving and walking surfaces to provide a non-slip surface throughout.
- Class B interior finish on formed surfaces

- Reinforcing requirements:
 - Rebar: ASTM A615, Grade 60 typical. ASTM A706 Grade 60 if welding required.
 - Welded Wire Fabric used in slab on grade construction: ASTM A185
- Retaining walls will be required around the express ramp. No significant site walls are anticipated.
 - Retaining wall will be pile supported to eliminate differential settlement at joint in express ramp.
 - Retaining wall will have foundation drain encased in free-draining stone and wrapped in filter fabric connected to storm system to eliminate hydrostatic pressure behind walls.
- Foundations:
 - Refer to Division 31 for pile foundations
 - Pile cap at each column location
 - Mat foundation beneath each stair and elevator shaft as well as below shear walls
 - Grade beams will be used as drag struts to distribute lateral loads to multiple pile caps from the mat foundations
 - Strip footings along perimeter will be pile-supported to support the weight of the masonry piers.
- Slab-on-grade:
 - 5" thick for parking and retail
 - 6" thick in loading dock
 - WWF reinforcement with deformed bars at edges and joints
 - Saw-cut control joints at 15' on center, max
 - 4" of #57 stone base on top of compacted subgrade
 - 10-mil vapor barrier beneath occupied/conditioned areas
 - Thickened edges along perimeter
 - Isolation joints at all columns

ALLOWANCES

- 500 linear feet of epoxy injection for repair of concrete cracks
- 5,000 lbs of reinforcement for use at engineer's discretion

PRECAST CONCRETE

- Precast components anticipated to be at a minimum are as follows (to be confirmed by precast manufacturer):
 - Double Tees: 12' wide x 30" deep
 - Spandrels: 8"-10" thick
 - Inverted Tees: 24"/42" x 36"
 - Columns: 24"
 - Lite Walls: 10" thick
 - Shearwalls: 12" thick
 - Amenity level flat slabs and composite CIP topping slab: 12" thick
- Double tees, inverted tees, flat slabs, and wash pours on the parking levels to include corrosion inhibitor admixture; 2-3 gal/cy, to achieve 50-yr design life.
- Precast beams and tees on interior shall have sleeve openings at 1/3 points for conduit installation.
- Precast connections shall all be galvanized, except for double tee flange-to-flange connections which shall be stainless steel.
- Double tees shall be field-topped above all rooms and occupied spaces to eliminate the wide joint between flanges and allow application of traffic coating.

- Precast Specialty Structural Engineer shall be responsible for global stability and lateral loads, individual component design for gravity and lateral loads, connection design and design and detailing of chord and collector reinforcing steel.
- With the precast concrete framing system option, all of the cast-in-place concrete work at and below grade (slab-on-grade, retaining walls, foundations, grade beams and piles) will follow the specifications outlined above.

DIVISION 04: MASONRY

UNIT MASONRY

Wall types shall be as follows:

- Exterior Walls at Parking Garage, Ground Floor, BRK-1:
 - 8 inch reinforced CMU backup with clay face brick veneer
 - Brick: Utility size.
 - Air barrier coating applied on backup wythe, see Division 07
 - Rigid mineral fiberboard insulation, see Division 07
 - Cavity drainage material, weep vents and flashing
- Exterior Walls at Parking Garage, Upper Floors, BRK-2:
 - 8 inch reinforced CMU backup with clay face brick veneer
 - Brick: utility size.
 - Air barrier coating applied on backup wythe, see Division 07
 - Cavity drainage material, weep vents and flashing
- Interior Masonry Walls (where exposed to vehicular traffic and not cast-in-place concrete):
 - 8 inch reinforced single-wythe CMU walls
- Exterior Party Walls (North Elevation, Adjacent to Baseball Stadium):
 - 8 inch reinforced single-wythe CMU walls
 - Direct-applied exterior finish system (DEFS): Textured stucco finish over base coat, reinforcing mesh and tinted primer.

All CMU shall be non-load bearing and shall be constructed as follows:

- Units conforming to ASTM C90. Light-weight units shall be used on elevated slabs.
- Minimum compressive strength of masonry assemblage of 1500 psi.
- Type S mortar, conforming to ASTM C270.
- Minimum compressive strength of grout = 3,000 psi, conforming to ASTM C476.

DIVISION 05: STEEL

MISC STEEL

- Use galvanized and/or stainless steel for connections and exposed metals as noted elsewhere. Avoid combinations of dissimilar metals in any connection, joint, or member.
- Provide structural members required by the elevator, including hoist beam, lifeline frame, counterweight guides, pit ladder and sump grate. Fabrications to be hot-dip galvanized.
- Misc steel as required for façade support, misc steel, bollards and vehicular guards for piping:
 - Structural steel W-shapes shall conform to ASTM A-992, finish galvanized.

- Structural steel channels and angles shall conform to ASTM A-36, finish galvanized.
- Structural steel cold-formed hollow tubes shall conform to ASTM A-500, Grade B, finish galvanized.
- Structural steel pipe shall conform to ASTM A53, Grade B, finish galvanized.
- Misc plate shall conform to ASTM A36, finish galvanized.
- Structural bolts, nuts, and washers shall conform to ASTM A-325, finish galvanized.
- Structural welds shall be E70XX and comply with AWS D1 documents for welding procedure specifications, tolerances, appearances, and quality of welds.

STAIRS

- Interior Stair Construction:
 - Steel framing with steel pan, concrete-filled treads
 - Steel tube railings with picket infill, painted.

EXTERIOR FACADE

- Metal Mesh Wall Panels, MF-1:
 - Woven wire fabric parking façade system
 - Basis of Design is GKD Metal Fabrics, WIB Series hooks and eyebolts with Helix 24 fabric.

BARRIER CABLE / PIPE PROTECTION

- Barrier cable (11 cables) along interior ramp on both sides of CLL-B
 - Barrier cable will be ½" diameter 250 ksi galvanized prestressed concrete strand, and provided along interior ramp split at a vertical spacing of 4 inches max. Zinc coating shall conform to ASTM A-475, Class A. Barrier cable shall be designed to resist a vehicular impact load of 6 kips (resisted by 3 strands) applied up to a height of 18 and 27 inches (non-concurrent). Intermediate supports may be required to limit barrier cable spans to a maximum of 18'.
- Fabricated steel vehicular guards for piping where adjacent to parking stalls

DIVISION 07: THERMAL & MOISTURE

TRAFFIC COATING

Traffic bearing membranes (traffic coatings) will be applied to concrete surfaces directly over any rooms or occupied space and shall conform to ASTM C-957. Membranes will be specifically applicable to vehicular and pedestrian traffic, have a minimum of 60 dry mils, and provide a slip resistive surface. Membranes will also extend a minimum of 2-ft past the extents of the room footprint. In addition, all vertical terminations will be a minimum of 6-inches up the wall or curb surface.

A 5-year warranty is required for all traffic coatings.

Basis of Design Product: LymTal International, Inc.; Iso-Flex 760U-HL Low Odor.

WATER REPELLENTS

Penetrating silane sealer will be an add alternate for all "horizontal" elevated parking surfaces (including vehicular ramps) in the parking deck. The penetrating silane sealer shall be a



minimum of 100% solids with 400-g/L or less VOCs and not result in any film on the concrete surfaces.

Basis of Design: 5-year warranty is required for all penetrating sealers.

JOINT SEALANTS

Traffic grade polyurethane joint sealant will be provided at each double tee joint (for precast framing Option B), concrete control, and construction joint within the garage. A 10-year warranty is required for all joint sealants.

Basis of Design Product: Iso-flex 880GB; LymTal International or a multi-component pourable urethane sealant.

Furnish/install all exterior pavement and sidewalk joint sealants, concrete construction joints, and all interior and exterior caulking or sealants required between dissimilar and similar type materials as indicated. Provide all back-up fillers and primers required. Generally, two-part silicone sealants are used on exterior and acrylic type on interior.

EXPANSION JOINTS

An expansion joint shall be provided between concrete slab-on-grade and the structural framing system. Total structural movement of these elements, including at a minimum thermal movements, shrinkage, elastic shortening and creep, shall be utilized in sizing the joint openings. Basis of Design Product: MM Systems EBS-250.

AMENITY-LEVEL PLAZA:

Hot fluid-applied rubberized asphalt roofing membrane system with SBS-modified bitumen flashing under Type VII extruded-polystyrene board insulation under pedestals and 24-inch by 24-inch by 2-inch thick concrete roof plaza pavers.

BELOW GRADE WATERPROOFING

Bituthene 3000 by Grace Construction Products should be used for basis of design – self-adhesive, rubberized asphalt / polyethylene waterproofing with primer, reinforcement at foundations with Hydroduct 220 drainage system by Grace Construction Products.

EXTERIOR WALL CONSTRUCTION

- Air Barrier:
 - Fluid-applied, 40 mil minimum dry film thickness, vapor-retarding.
- Insulation:
 - Exterior Wall Insulation: Mineral-wool board, unfaced, Minimum total R-9.5
 - Blanket Insulation: For filling miscellaneous voids, mineral-wool blanket insulation.
 - Insulation at underside of roof slab, below future occupied space: self-supported spray-applied cellulosic insulation, Minimum R-10.
- Exterior Insulation and Finish System, EIFS
 - Drainage System:
 - EIFS finish over 2 inches expanded polystyrene insulation board adhesively attached to glass-mat-faced gypsum sheathing with fluid-applied air barrier
 - Cold-formed metal framing
- Exterior Insulation and Finish System, ALT-EIFS

- Drainage System:
- Dryvit Custom Brick finish system over 1 inch thick expanded polystyrene insulation board adhesively attached to glass-mat-faced gypsum sheathing with fluid-applied air barrier
- Cold-formed metal framing
- Metal Wall Panels, AP-1:
 - Aluminum-faced metal composite material with fire retardant cores, two-coat fluoropolymer finish.
 - Extruded aluminum attachment assembly
 - Rainscreen system application.
- Sheet Metal Flashing and Trim: .040-inch-thick aluminum sheet, coil coated with two-coat fluoropolymer finish.

DIVISION 08: OPENINGS

HOLLOW METAL DOORS AND FRAMES

- Galvanized, factory-primed, field painted.
- Fire rated at stair entries.

OVERHEAD DOORS

- Insulated, motor-operated steel-faced, coiling doors, at loading dock
- Powder coat finish.

STOREFRONT ASSEMBLIES, SF-1

- Thermally broken aluminum storefront glazing system at exterior glazed openings, with insulating clear glass.
- Medium-stile aluminum doors with insulating clear glass
- Two-coat fluoropolymer finish.

CHANNEL GLASS STOREFRONT, GL-2

- Linear translucent channel glass cast units with extruded aluminum framing system.
- Basis of Design: Bendheim Frame System SF60 with Lamberts LINIT fully tempered channel glass.

DOOR HARDWARE

- ANSI/BHMA A156 Series, Grade 1.

GLASS

- Insulating Glass: Clear glass, sputter low-E coating on #2 surface, two minimum 6 mm lites with 1/2 inch air space.
- Comply with North Carolina Energy Code

DIVISION 09 – FINISHES

PAVEMENT MARKINGS

Two coats of a traffic and zone marking paint shall be used for all parking stall striping and pavement markings. Glass beads shall be used in arrows and stop bars. Beads shall be applied to the striping immediately after the striping paint has been laid down. A one year warranty shall be provided for all striping and pavement markings.

Thermoplastic pavement markings for stop bars and arrows are not allowed on elevated concrete surfaces.

GYPSUM BOARD PARTITIONS

- 5/8 inch type X gypsum board over light gauge metal framing system.
- Provide acoustical blankets.

TILE FLOORING

- Porcelain tile flooring in elevator lobbies.

INTERIOR PAINTING

- CMU: Acrylic latex enamel over latex block filler
- Concrete: Acrylic latex enamel over latex primer.
- Gypsum Board: Acrylic latex enamel over latex primer.
- Metal Doors and Frames: Water based acrylic-alkyd over water based epoxy primer.
- Handrails: Two-component precatalyzed water based epoxy over water based epoxy primer.

DIVISION 10 - SPECIALTIES

SIGNAGE:

- All signs provided for wayfinding and direction within the parking garage will be 0.08 inch aluminum plate metal signage with retro-reflective sheet applied lettering.
- Post installed aluminum frames shall be used for all overhead mounted signs.
 - Column and beam mounted signage shall be anchored to the structure with Hilti HIT anchors, or equivalent.
 - All overhead signage shall be mounted to the double tee flanges with the aluminum frames. (Direct connection to the double tee stems is not allowed.)
- Headache bars shall consist of black, 8-inch diameter PVC pipe hanging from stainless steel chains and capped on each end to prevent debris buildup.
- Code required interior stair signage, room identification signage, fire department signs, and elevator signage will be acrylic panels with raised letters and Braille copy.

FIRE EXTINGUISHERS

Fire extinguishers within metal cabinets will be provided at each parking garage level, one per stair/elevator tower. Fire extinguisher cabinets shall be stainless steel surface-mounted types.

DIVISION 11 - EQUIPMENT

PARKING EQUIPMENT

It is anticipated that the users of this facility will be residents of the residential tower, guests of the hotel tower, and hourly public users.

There will be on-grade parking accessed from the service drive on the western side of the site. No access controls are anticipated for the parking on grade. It is anticipated that parking in these areas will be controlled through signage, permitting and enforcement.

Access to the elevated parking levels will be along Hay Street. Access and revenue controls are anticipated to be located in the drive aisle immediately after turning off of Hay Street, but under

the footprint of the elevated structure above. There will be one entrance lane and one exit lane. The entrance lane will contain one AVI card reader (for residents) and a ticket dispenser (for hotel guests and public users). The exit lane will contain one AVI card reader (for residents) and an exit verifier. The exit verifier equipment will process paid or validated tickets and allow patrons to pay with a credit card in-lane.

One pay-on-foot station accepting credit cards will be provided on ground level along the pedestrian pathways to the vertical circulation to facilitate faster exiting from public events. No attendant or cashier booths will be provided.

DIVISION 12 – FURNISHINGS

BOLLARDS / PIPE PROTECTION:

- Metal traffic bollards will be provided, as necessary, to ensure proper pedestrian protection.
 - Bollards shall be 6" diameter galvanized steel, filled with concrete, and painted yellow.
- All pipes (standpipes, risers, water, etc.), where exposed to vehicular impact, will be protected with metal pipe guards.
 - Pipe protection is provided by bent steel plates and anchored to concrete columns or walls with post-installed anchors.

DIVISION 14 – CONVEYING EQUIPMENT

ELEVATORS

- Elevators R1 and R2: Machine-Room-less traction elevators, 2,500 lb capacity, 350 fpm.
 - Operation system: Group automatic.
 - Standby power operation.
 - Interior finishes:
 - Walls and Ceiling: #4 stainless steel
 - Doors and frames: #4 stainless steel
 - Floors: prep for porcelain tile.
 - Hoistway finishes:
 - Doors and Frames: #4 stainless steel
- Elevators R3: Machine-Room-less traction Service elevators, 4,500 lb capacity, 350 fpm.
 - Operation system: Simplex.
 - Standby power operation.
 - Interior finishes:
 - Walls and Ceiling: #4 stainless steel.
 - Doors and frames: #4 stainless steel.
 - Floors: prep for porcelain tile.
 - Hoistway finishes:
 - Doors and Frames: #4 stainless steel.
- Elevators H1 and H2: Machine-Room-less traction elevators, 3,500 lb capacity, 350 fpm.
 - Operation system: Group automatic.
 - Standby power operation.
 - Interior finishes:
 - Walls and Ceiling: #4 stainless steel.
 - Doors and frames: #4 stainless steel.
 - Floors: prep for porcelain tile.

- Hoistway finishes:
 - Doors and Frames: #4 stainless steel.

DIVISION 21 – FIRE SUPPRESSION

FIRE PROTECTION SYSTEM CLASSIFICATION

- The water supply to the garage building will be provided by a combination fire/domestic water service connected to the municipal water main. The fire protection water service will be protected by a double detector check valve assembly inside the garage building basement water meter room.
- The fire supply main will feed the dry pipe valves for each garage level zone.
- The open parking garage is to be provided with a dry type automatic sprinkler system, with separate dry systems for each of the garage levels.
- The parking garage, storage, and mechanical spaces will be designed to provide 0.15 gallons per sq. ft. for the most hydraulically remote 1,500 sq. ft. plus 250 GPM for hose streams.
- Minimum density for dry pipe sprinkler systems shall be per wet-pipe sprinkler density with 30% larger area of application

STANDPIPES

- Standpipes with fire hose valve shall be provided in each stairwell landing so that all areas can be reached with 100 feet of hose, with 30 feet of spray.

DIVISION 22 – PLUMBING

DOMESTIC COLD WATER

- Provide wall hydrants in a locked box with code required testable double check valve backflow preventers (minimum two (2) per floor of parking or at every 100 feet).

SANITARY SEWER

- Provide area floor drains at all levels of parking garage.
- Provide minimum one (1) floor drain in each mechanical room.
- Furnish 50 gpm elevator pit pumps at the lowest elevator pit with discharge piping, and pipe discharge indirect to a remote sanitary hub drain.

STORM SEWER

- Provide roof drains at all flat roofs or (as noted on architect's drawings), with interior drainage system, downspouts, and gravity storm piping connected to the exterior storm system as required and sized per code and for a complete operable storm water system.
- Roof drain and building storm drain sizing shall be based on a 4" per hour rainfall.
- Collect roof drains and route to downspouts.
- Furnish and install deck drains and connect to interior storm drainage system.
 - Area drains will be cast iron traffic rated construction. All piping will be cast iron Schedule 40 hub less piping with extra-heavy-duty no-hub clamps. Area drains will be located at all levels of the structure.
- Provide a perimeter subsoil drainage system of basement garage level below grade, complete with drain tile and filter fabric, cleanouts, within the pea gravel drainage course provided by the general contractor and a cast iron or approved settling basin.

- All area drains shall be hard piped into the settling basin and not tied into the drain tile system.

DIVISION 23 – HEATING, VENTILATING & AIR CONDITIONING

VENTILATION

Because the garage is considered open and naturally ventilated, mechanical ventilation will not be needed. Refer to the Architectural building elevations for additional information. Should the Architect state that the garage wall openings do not meet the minimum area needed for natural ventilation, a mechanical ventilation system will be needed for the garage.

ELEVATOR MACHINE ROOM

The Elevator Machine Room shall be provided with a ductless split system heat pump unit to maintain the temperature range for the elevator equipment.

DIVISION 26 – ELECTRICAL

DISTRIBUTION SYSTEM

- Electric utility service shall be rated for 3000A, 120/208V Volt, 3 Phase, 4 Wire. (For parking garage, retail and building common spaces)
- The utility transformer will be located outside the building. Refer to civil plans for high voltage switchgear location and pad mounted transformer.
- Building electrical distribution equipment shall be metered for all loads in accordance with local electric utility company standards.
- Provide electrical weatherproof receptacles at each stair/elevator tower, minimum two locations per floor.
- Conduit shall not be placed within expansion joints.

DISTRIBUTION

- Distribution at 208/120 volts, 3 phase, 4 wire will provide power to mechanical equipment and all required major loads in the building.
- The building will be provided with a main electrical room strategically located to provide an efficient and economical distribution of wiring systems throughout the building.

EMERGENCY POWER/GENERATOR

- A complete emergency distribution system will be provided for the building. The system will include exit signs, and emergency served from building emergency generator.

GROUNDING

- System and equipment grounding shall be provided. All motor starters, panelboards, wiring systems, etc. will be effectively grounded. Extend ground conductor from grounding riser to service equipment in each floor electrical closets.

RACEWAYS/WIRING/WIRING DEVICES

- Service shall be provided to all elevators, electrically operated doors, drinking fountains, trash compactors, etc., including furnishing of all electrically associated devices such as disconnect switches, lock-out switches, etc.

LIGHTING

- Provide lighting levels to meet or exceed minimum IES standards. Provide photometrics to match the typical garage lighting levels shown below:

Parking Garages:

Area		Minimum Horizontal Illuminance ² - lux (fc)	Maximum Max-to-Min Ratio	Minimum Vertical Illuminance ³ - lux (fc)
Basic ¹		10 (1.0)	10:1	5 (0.5)
Ramps ⁴	Day ⁵	20 (2.0)	10:1	10 (1.0)
	Night	10 (1.0)	10:1	5 (0.5)
Entrance Areas	Day ⁵	500 (50)		250 (25)
	Night	10 (1.0)	10:1	5 (0.5)
Stairways		20 (2.0)		10 (1.0)
1 = For typical conditions				
2 = Measured on the parking surface without any shadowing effects.				
3 = Measured 1.5m above parking surface at point of lowest horizontal illuminance (not including points on the boundaries facing outward.)				
4 = Applies to clearway ramps (no adjacent parking) but not to sloping floor designs				
5 = Daylight may be considered in the design calculation				

- Provide LED fixtures with a programmable lighting control system with occupancy sensors, daylighting sensors and photocells for the parking lot lighting. Standard occupancy sensor(s) will control enclosed rooms.
- Provide LED lighting systems in all interior and exterior areas of the building including: parking garage, parking garage entrances, elevator lobby, entrance lobby, electrical, telephone, mechanical room, service areas, corridors, stairways, storage rooms, elevator pits, exit signs, etc. Lighting system shall be complete with LED fixtures, drivers, lamps and accessories and branch circuits.

FIRE ALARM

- The building shall be equipped with a comprehensive fire alarm/life safety system that will handle all developments in the site including residential building and retail spaces. The system shall be designed to satisfy all applicable codes and standards.
- The equipment shall employ distributed multiplexed microprocessor based technology with individual analog addressable detection and addressable notification devices.
- The building fire alarm system shall be a distributed solid state microprocessor based, addressable system which shall consist of:
 - Fire detection, complete with ceiling mounted analog addressable photoelectric type smoke detectors, duct mounted products of combustion type smoke detectors, thermal detectors and manual pull stations where required by local authority.
 - Fire protection system water flow detection and valve position indication.
 - Voice communication speakers/visual strobes to provide audible and visual notification throughout the building.
 - Stairwell door unlocking system.
 - 2-way communication system shall be provided in areas to be determined part of this development.

LIGHTNING PROTECTION

- A complete lightning protection system will be provided for the buildings.

DIVISION 27 – COMMUNICATIONS

Additional telecommunications and emergency blue light phone requirements will be coordinated with the Owner as part of the design development.

- Extend conduit from the property line to the telephone room. Conduits, pull boxes, outlet boxes, telephone terminal boards, etc. shall be provided for the communications systems in accordance with the utility company standards and/or requirements.
- Public addressable system shall be provided for all common spaces.

DIVISION 28 – SECURITY

Power and conduit infrastructure will be provided to support security systems for the parking garage.

Final security requirements will be provided by the Owner in future design phases and is likely to include the following: fixed digital cameras at each level at each stair and elevator lobby, fixed digital cameras at each vehicular entry and exit lane, emergency call stations at each level at each stair, digital video recorder, computer server, and all required design, installation, and conduit/cabling. It is assumed the Owner desires digital recording and not full-time monitoring. It is unknown where the security system will connect at this point. The system is likely not to include card access controls at doors for pedestrians. Also, the parking access and revenue control system is being provided under separate heading.

DIVISION 31 - EARTHWORK

FOUNDATIONS:

- Basis-of-Design: Steel H-piles, HP12x53 (from F&R report dated 9/18/17)
 - 60' approximate length
 - 120k allowable axial compression load
 - Refer to foundation plan for pile count
- Alternative: Auger-cast piles (from F&R report dated 9/18/17):
 - 16" diameter
 - 50' approximate length
 - 120k allowable axial compression load
 - Due to larger pile diameter, the pile caps would be anticipated to be approximately 60% larger in plan view (area) to maintain 3D pile spacing

Exhibit B
Form of AIA G702-1992



AIA[®] Document G702[™] - 1992

Application and Certificate for Payment

TO OWNER:

PROJECT:

APPLICATION NO:

Distribution to:

FROM CONTRACTOR:

VIA ARCHITECT:

PERIOD TO:

☐ OWNER

CONTRACT FOR:

☐ ARCHITECT

CONTRACT DATE:

☐ CONTRACTOR

PROJECT NOS:

☐ FIELD

☐ OTHER

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. AIA Document G703[™], Continuation Sheet, is attached.

1. ORIGINAL CONTRACT SUM..... \$

2. NET CHANGE BY CHANGE ORDERS..... \$

3. CONTRACT SUM TO DATE (Line 1 + 2)..... \$

4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)..... \$

5. RETAINAGE:

a. % of Completed Work

(Columns D + E on G703)

b. % of Stored Material

(Column F on G703)

Total Retainage (Lines 5a + 5b, or Total in Column I of G703)..... \$

6. TOTAL EARNED LESS RETAINAGE..... \$

(Line 4 minus Line 5 Total)

7. LESS PREVIOUS CERTIFICATES FOR PAYMENT..... \$

(Line 6 from prior Certificate)

8. CURRENT PAYMENT DUE..... \$

9. BALANCE TO FINISH, INCLUDING RETAINAGE

(Line 3 minus Line 6)

CHANGE ORDER SUMMARY

Total changes approved in previous months by Owner..... \$

Total approved this month..... \$

TOTAL..... \$

NET CHANGES by Change Order..... \$

CAUTION: You should sign an original AIA Contract Document, on which this text appears in RED. An original assures that changes will not be obscured.

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:

By:

Date:

State of:

County of:

Subscribed and sworn to before

me this

day of

Notary Public:

My commission expires:

ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED..... \$

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:

By:

Date:

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

Exhibit C
Form of AIA 102-2017



AIA® Document A102™ – 2017

Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the _____ day of _____ in the year _____
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

and the Contractor:
(Name, legal status, address and other information)

for the following Project:
(Name, location and detailed description)

The Architect:
(Name, legal status, address and other information)

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A102™–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement.

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

The Owner and Contractor agree as follows.

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AIA Document A102™ – 2017. Copyright © 1920, 1926, 1951, 1958, 1961, 1963, 1967, 1974, 1978, 1987, 1997, 2007 and 2017 by The American Institute of Architects. All rights reserved. WARNING: This AIA® Document is protected by U.S. Copyright Law and International Treaties. Unauthorized reproduction or distribution of this AIA® Document, or any portion of it, may result in severe civil and criminal penalties, and will be prosecuted to the maximum extent possible under the law. To report copyright violations of AIA Contract Documents, e-mail The American Institute of Architects' legal counsel, copyright@ala.org.

TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 RELATIONSHIP OF THE PARTIES
- 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 5 CONTRACT SUM
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- 7 COSTS TO BE REIMBURSED
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- 15 MISCELLANEOUS PROVISIONS
- 16 ENUMERATION OF CONTRACT DOCUMENTS

EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 16.

ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 3 RELATIONSHIP OF THE PARTIES

The Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 4 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 4.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- ☐ The date of this Agreement.
- ☐ A date set forth in a notice to proceed issued by the Owner.
- ☐ Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 4.2 The Contract Time shall be measured from the date of commencement of the Work.

§ 4.3 Substantial Completion

§ 4.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

- ☐ Not later than _____ () calendar days from the date of commencement of the Work.
- ☐ By the following date:

§ 4.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

Substantial Completion Date

§ 4.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 4.3, liquidated damages, if any, shall be assessed as set forth in Section 5.1.6.

ARTICLE 5 CONTRACT SUM

§ 5.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Contractor's Fee.

§ 5.1.1 The Contractor's Fee

(State a lump sum, percentage of Cost of the Work, or other provision for determining the Contractor's Fee.)

§ 5.1.2 The method of adjustment of the Contractor's Fee for changes in the Work:

§ 5.1.3 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

§ 5.1.4 Rental rates for Contractor-owned equipment shall not exceed _____ percent () of the standard rental rate paid at the place of the Project.

§ 5.1.5 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price Per Unit (\$0.00)
------	-----------------------	-------------------------

§ 5.1.6 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

§ 5.1.7 Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

§ 5.2 Guaranteed Maximum Price

§ 5.2.1 The Contract Sum is guaranteed by the Contractor not to exceed _____ (\$ _____), subject to additions and deductions by Change Order as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.

§ 5.2.2 Alternates

§ 5.2.2.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
------	-------

§ 5.2.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement.
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
------	-------	---------------------------

§ 5.2.3 Allowances, if any, included in the Guaranteed Maximum Price:
(Identify each allowance.)

Item	Price
------	-------

§ 5.2.4 Assumptions, if any, upon which the Guaranteed Maximum Price is based:
(Identify each assumption.)

§ 5.2.5 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 5.2.6 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 5.2.4. The Owner shall promptly furnish such revised Contract Documents to the

Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 5.2.4 and the revised Contract Documents.

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 Adjustments to the Guaranteed Maximum Price on account of changes in the Work may be determined by any of the methods listed in Article 7 of AIA Document A201™-2017, General Conditions of the Contract for Construction.

§ 6.2 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201-2017, as they refer to "cost" and "fee," and not by Articles 5, 7 and 8 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201-2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Contractor's Fee as defined in Section 5.1.1 of this Agreement.

§ 6.4 If no specific provision is made in Article 5 for adjustment of the Contractor's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Article 5 will cause substantial inequity to the Owner or Contractor, the Contractor's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COSTS TO BE REIMBURSED

§ 7.1 Cost of the Work

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. The Cost of the Work shall include only the items set forth in this Article 7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Contractor shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Contractor's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Contractor's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

§ 7.2.3 Wages or salaries of the Contractor's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Contractor, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments, and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

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§ 7.3 Subcontract Costs

Payments made by the Contractor to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Contractor shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Contractor at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Contractor, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Contractor's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Contractor, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Contractor is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Contractor is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201-2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Contractor resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Contractor had reason to believe that the required design, process or product was an infringement of a copyright or a patent, and the Contractor failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201-2017. The costs of legal defenses, judgments, and settlements, shall not be included in the Cost of the Work used to calculate the Contractor's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Contractor, reasonably incurred by the Contractor after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Contractor's standard written personnel policy for relocation and temporary living allowances of the Contractor's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Contractor's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201-2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Contractor, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Contractor, and only to the extent that the cost of repair or correction is not recovered by the Contractor from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Contractor; (2) any entity in which any stockholder in, or management employee of, the Contractor holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Contractor; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Contractor.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 10. If the Owner fails to authorize the transaction in writing, the Contractor shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 10.

ARTICLE 8 COSTS NOT TO BE REIMBURSED

§ 8.1 The Cost of the Work shall not include the items listed below:

- 1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 15;

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- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Contractor or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Contractor's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Article 7;
- .5 The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Contractor, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Article 7; and
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

ARTICLE 9 DISCOUNTS, REBATES AND REFUNDS

§ 9.1 Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be obtained.

§ 9.2 Amounts that accrue to the Owner in accordance with the provisions of Section 9.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 10 SUBCONTRACTS AND OTHER AGREEMENTS

§ 10.1 Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or other appropriate agreements with the Contractor. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Contractor shall deliver such bids to the Architect and Owner with an indication as to which bids the Contractor intends to accept. The Owner then has the right to review the Contractor's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 10.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Contractor of its responsibility to perform the Work in accordance with the Contract Documents. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

§ 10.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Contractor may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 10.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Contractor shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Contractor in Article 11.

ARTICLE 11 ACCOUNTING RECORDS

The Contractor shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Contractor's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Contractor shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 12 PAYMENTS

§ 12.1 Progress Payments

§ 12.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Contractor, as provided below and elsewhere in the Contract Documents.

§ 12.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 12.1.3 Provided that an Application for Payment is received by the Architect not later than the _____ day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the _____ day of the _____ month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than _____ (_____) days after the Architect receives the Application for Payment.

(Federal, state or local laws may require payment within a certain period of time.)

§ 12.1.4 With each Application for Payment, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 12.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Contractor's Fee.

§ 12.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 12.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 12.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 12.1.5.3 When the Contractor allocates costs from a contingency to another line item in the schedule of values, the Contractor shall submit supporting documentation to the Architect.

§ 12.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed; or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Contractor on account of that portion of the Work and for which the Contractor has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 12.1.7 In accordance with AIA Document A201-2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 12.1.7.1 The amount of each progress payment shall first include:

- 1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- 2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Contractor's Fee, computed upon the Cost of the Work described in the preceding Sections 12.1.7.1.1 and 12.1.7.1.2 at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 12.1.7.1.1 and 12.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 12.1.7.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201-2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201-2017;
- .5 The shortfall, if any, indicated by the Contractor in the documentation required by Section 12.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 12.1.8.

§ 12.1.8 Retainage

§ 12.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

§ 12.1.8.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

§ 12.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 12.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

§ 12.1.8.3 Except as set forth in this Section 12.1.8.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 12.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

§ 12.1.9 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201-2017.

§ 12.1.10 Except with the Owner's prior written approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 12.1.11 The Owner and the Contractor shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Contractor shall execute subcontracts in accordance with those agreements.

§ 12.1.12 In taking action on the Contractor's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Contractor, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 12.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Contractor has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 12.2 Final Payment

§ 12.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- 1 the Contractor has fully performed the Contract, except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201-2017, and to satisfy other requirements, if any, which extend beyond final payment;
- 2 the Contractor has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- 3 a final Certificate for Payment has been issued by the Architect in accordance with Section 12.2.2.

§ 12.2.2 Within 30 days of the Owner's receipt of the Contractor's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 12.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 12.2.2.2 Within seven days after receipt of the written report described in Section 12.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 12.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201-2017. The time periods stated in this Section 12.2.2 supersede those stated in Article 9 of AIA Document A201-2017. The Architect is not responsible for verifying the accuracy of the Contractor's final accounting.

§ 12.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Contractor's final accounting, is less than claimed by the Contractor, the Contractor shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201-2017. A request for mediation shall be made by the Contractor within 30 days after the Contractor's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Contractor. Pending a final resolution of the disputed amount, the Owner shall pay the Contractor the amount certified in the Architect's final Certificate for Payment.

§ 12.2.3 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 12.2.4 If, subsequent to final payment, and at the Owner's request, the Contractor incurs costs, described in Article 7 and not excluded by Article 8, to correct defective or nonconforming Work, the Owner shall reimburse the Contractor for such costs, and the Contractor's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 5.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 12.2.4 in determining the net amount to be paid by the Owner to the Contractor.

§ 12.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

_____ % _____

ARTICLE 13 DISPUTE RESOLUTION

§ 13.1 Initial Decision Maker

The Architect will serve as Initial Decision Maker pursuant to Article 15 of AIA Document A201-2017, unless the parties appoint below another individual, not a party to the Agreement, to serve as Initial Decision Maker.

(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 13.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201-2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- ☐ Arbitration pursuant to Section 15 of AIA Document A201-2017
- ☐ Litigation in a court of competent jurisdiction
- ☐ Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 14 TERMINATION OR SUSPENSION

§ 14.1 Termination

§ 14.1.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201-2017.

§ 14.1.2 Termination by the Owner for Cause

§ 14.1.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201-2017, the amount, if any, to be paid to the Contractor under Article 14 of AIA Document A201-2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

1. Take the Cost of the Work incurred by the Contractor to the date of termination;
2. Add the Contractor's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 5.1.1 or, if the Contractor's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
3. Subtract the aggregate of previous payments made by the Owner; and
4. Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201-2017.

§ 14.1.2.2 The Owner shall also pay the Contractor fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Contractor that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 14.1.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Contractor shall, as a condition of receiving the payments referred to in this Article 14, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Contractor, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Contractor under such subcontracts or purchase orders.

§ 14.1.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

(Insert the amount of or method for determining the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)

§ 14.2 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term “profit” shall be understood to mean the Contractor’s Fee as described in Article 5 and Section 6.4 of this Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 15.2 The Owner’s representative:

(Name, address, email address and other information)

§ 15.3 The Contractor’s representative:

(Name, address, email address and other information)

§ 15.4 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days’ prior notice to the other party.

§ 15.5 Insurance and Bonds

§ 15.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A102™–2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 15.5.2 The Contractor shall provide bonds as set forth in AIA Document A102™–2017 Exhibit A, and elsewhere in the Contract Documents.

§ 15.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 15.7 Other provisions:

ARTICLE 16 ENUMERATION OF CONTRACT DOCUMENTS

§ 16.1 This Agreement is comprised of the following documents:

- .1 AIA Document A102™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A102™-2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

.5 Drawings

Number	Title	Date
--------	-------	------

.6 Specifications

Section	Title	Date	Pages
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.7 Addenda, if any:

Number	Date	Pages
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Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 16.

.8 Other Exhibits:

(Check all boxes that apply)

- ☐ AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this Agreement.)

- ☐ The Sustainability Plan:

Title	Date	Pages
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- ☐ Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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.9 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

This Agreement entered into as of the day and year first written above.

OWNER (Signature)

(Printed name and title)

CONTRACTOR (Signature)

(Printed name and title)

Init.
/

FIRST AMENDMENT TO AGREEMENT FOR DEVELOPMENT AND SALE OF REAL ESTATE "GARAGE CONTRACT"

This **FIRST AMENDMENT TO AGREEMENT FOR DEVELOPMENT AND SALE OF REAL ESTATE "GARAGE CONTRACT,"** made and entered into as of this 20th day of February, 2019 ("Execution Date"), by and between HAY STREET DEVELOPMENT PAD, LLC, a North Carolina limited liability company ("Seller") having an address of 200 N. Mangum St., Ste. 202, Durham, NC 27701, THE CITY OF FAYETTEVILLE, a North Carolina municipal corporation ("Buyer" or "City"), having an address of 433 Hay Street, Fayetteville, NC 28301 (Seller and Buyer are sometimes collectively referred to herein as the "Parties"), and is joined by PCH DEVELOPMENT CO., LLC, a North Carolina limited liability company ("Guarantor"), having an address of 200 N. Mangum St., Ste. 202, Durham, NC 27701, for the sole purpose of guaranteeing the Guaranteed Obligations (as defined in paragraph 25 of the Agreement).

WHEREAS the parties desire to amend this Agreement to clarify the distribution of the sales tax rebate received by the City, the parties do hereby covenant, promise and agree as follows:

2. **Purchase Price.** The purchases prices ("Purchase Price") for the Property shall be an amount equal to:

(e) Less any sales tax rebate or rebates the City may receive on the project, to be disbursed to the Seller as a lump sum no greater than thirty (30) days after Substantial Completion or the City's receipt of the rebate or rebates, if receipt occurs subsequent to Substantial Completion.

All other provisions of the Agreement not amended herein shall remain the same and unchanged and in full force and effect.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed on its behalf by an officer thereunto duly authorized as of the Execution Date.

SELLER:

Hay Street Development Pad, LLC

By: Michael Lemanski (seal)
Name: Michael Lemanski
Title: Manager

BUYER:

THE CITY OF FAYETTEVILLE NORTH CAROLINA

By: Douglas J. Hewett
Name: Douglas J. Hewett, ICMA-CM
Title: City Manager

ATTEST:

Pamela J. Megill 2/15/2019
Pamela Megill, City Clerk



This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Chief Financial Officer

CITY OF FAYETTEVILLE

This instrument has been pre-audited in the manner
Required by the Local Government Budget and Fiscal
Control Act.

Jay Roland
Jay Roland, Special Assistant to CFO

GUARANTOR (signing for the sole purpose of guaranteeing the Guaranteed Obligations):

PCH Development Co. LLC

By: Michael Lemanski (seal)
Name: Michael Lemanski
Title: Manager

**FIRST AMENDMENT TO THE AGREEMENT FOR DEVELOPMENT AND SALE OF
REAL ESTATE "GARAGE CONTRACT"**

This First Amendment to the Agreement for Development and Sale of Real Estate "Garage Contract" ("First Amendment to Garage Contract") is made and entered into as of the 10th day of June, 2019 by and between Hay Street Development Pad, LLC, a North Carolina limited liability company ("Seller"), the City of Fayetteville, a North Carolina municipal corporation ("Buyer") and is joined in by PCH Development Company, LLC, a North Carolina limited liability company ("Guarantor") for the sole purpose of guaranteeing the guaranteed obligations (as defined in paragraph 25 hereof). Seller and Buyer are sometimes referred to herein as the "Parties".

WITNESSETH:

The Parties entered into the Agreement for Development and Sale of Real Estate "Garage Contract" (the "Agreement") as of December 28, 2017. The Parties have agreed that the Agreement should be amended as set forth herein and the Guarantor has agreed to join in this First Amendment to Garage Contract to consent to the execution of this First Amendment to Garage Contract and confirm Guarantors continuing obligations of guaranty as set forth in paragraph 25 of the Agreement.

WHEREFORE, for and in consideration of \$1.00 and other valuable consideration to include without limitation the promises and obligations made by each of the Parties and the Guarantor it is agreed by and between the Parties and the Guarantor that the Agreement is hereby amended as follows:

1. The Completion Date stated in Section 1. is amended to be October 1, 2019.
2. Section 2. (a) is deleted in its entirety and the following paragraph numbered 2. (a) is substituted in lieu thereof:
 - (a) an amount not to exceed \$15,967,833.00 subject to the conditions as set forth hereinafter.
3. Paragraph 4 is amended by including the following paragraph at the end of section 4 as a new paragraph:

The Buyer has agreed to increase the Purchase Price by an amount not exceeding \$1,500,000.00 (the "Additional Purchase Price Money"). Payments towards the Purchase Price including \$1,000,000.00 of the Additional Purchase Price Money will be paid as set forth in section 4 Payment of Purchase Price. Any and all amounts to be paid by Buyer above \$15,467,888.00 (the "Match Payments") will be paid in the following manner and notwithstanding the provisions of Payment of Purchase Price as set forth in section 4: applications and certificates for payment of any Match Payments will be submitted by the General Contractor to Seller, and by Seller to Buyer by way of AIA document

G702-1992. Each of the payment application (as defined in the Garage Contract) will have a copy of the completed application from the General Contractor. Upon receipt of the payment application the Buyer will pay to the General Contractor an amount equal to 50% of the payment application and forward a copy of the payment application to Seller. Seller will be responsible and obligated to pay to the General Contractor an amount equal to ½ of each Match Payment payment application. The Buyer will pay up to \$500,000.00 in such Match Payments to the General Contractor. Hay Street Development will not be entitled to and will not recover any of the Match Payments made by Hay Street Development to the General Contractor notwithstanding this increase in the Purchase Price. The Buyer may, in its sole discretion, withhold payment of any Match Payment in the event Seller fails to timely pay its 50% of payment due to the General Contractor and such Match Payment so withheld will not be due until Seller is current on its portion of any payment applications.

4. Paragraph 5 captioned "Retainage" on page 4 of the Garage Contract is amended by adding the following to the end of the existing paragraph 5. Retainage:

With respect to any Match Payments made by the Buyer to the General Contractor, the Buyer may withhold as Retainage (the "Match Payment Retainage") an amount equal to the Retainage as defined in the existing paragraph 5 and subject to the same terms and conditions as set forth therein.

5. Paragraph numbered 16 captioned "Liquidated Damages" is amended by adding the following language to the end of paragraph 16:

The Seller does hereby assign to the Buyer all rights, title and interest which the Seller may have or acquire to Liquidated Damages from the General Contractor, its insurers or sub-contractors arising out of any breach of the Parking Garage Construction Contract between Seller and the General Contractor in an amount up to \$1,500,000.00. Seller agrees that it will not compromise, settle, waive or release any right to seek or receive Liquidated Damages from the General Contractor without the written consent of the Buyer, and will not accept any credits against payment due to the General Contractor under the Parking Garage Construction Contract or any non-monetary or monetary benefit in lieu of Liquidated Damages without ensuring that the first \$1,500,000.00 of such credits or benefits are paid or allocated to the City (excepting any dismantling credit attributable to the tower crane being left in place for the Hotel and Office Development, 100% of such credit accruing to Seller's benefit). Subject to the consent of the General Contractor, Seller further agrees to execute an Assignment of Liquidated Damages under the terms of Seller's contract with the General Contractor and deliver such assignment to the General Contractor.

6. This Amendment, as amended, supersedes all prior discussions and agreements between the Parties with respect to the Project and contains the sole and entire understanding between the Parties with respect to this Amendment. All promises, inducements, offers, solicitations, agreements, commitments, representations and warranties heretofore made between the Parties are merged into the Garage Contract as amended by this Amendment.
7. All terms and conditions of the Garage Contract not expressly modified by this Amendment shall remain unchanged and in full force and effect and are incorporated herein by reference.
8. The construction contract, as amended by this Amendment, shall not be modified in any respect except by a written instrument executed by or on behalf of each of the Parties.
9. This First Amendment to Garage Contract may be executed in multiple counterparts and may be assembled to form one complete First Amendment to Garage Contract. Facsimile or electronic signatures on this First Amendment to Garage Contract shall be binding upon the Parties.

In witness whereof, the Parties have caused this First Amendment to Garage Contract to be duly executed under seal to be effective as of the date and year first above written. The Guarantor joins in the execution of this First Amendment to Garage Contract for the purpose of guaranteeing the guaranteed obligations as set forth in the Garage Contract, as amended.

[SIGNATURES ON FOLLOWING PAGES]

HAY STREET DEVELOPMENT PAD, LLC (seal)

By: PCH Development Co., LLC, its Manager

By: 1st and Main Development, LLC, Authorized Member

By: [Signature]
Name: Roderick Dowling
Title: Manager

STATE OF NORTH CAROLINA, COUNTY OF Wake

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Roderick Dowling

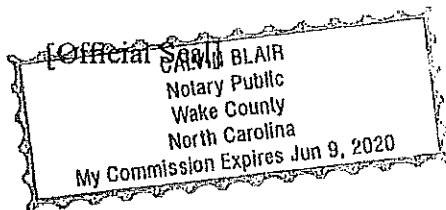
(name of person signing in blank)

Date: July 12, 2019

[Signature]
Notary Public

Print Name: Calvin Blair

My commission expires: June 9, 2020



[SEAL]



CITY OF FAYETTEVILLE

Douglas J. Hewett
Name: DOUGLAS J. HEWETT, ICMA-CM
Title: City Manager

ATTEST:

Pamela J. Megill
PAMELA J. MEGILL, City Clerk

STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I, Jennifer K. Pentfield, a Notary Public for said County and State, do hereby certify that PAMELA J. MEGILL personally appeared before me this day and acknowledged that she is the CITY CLERK for the CITY OF FAYETTEVILLE, a North Carolina Municipal Corporation, and that by authority duly given and as the act of the CITY OF FAYETTEVILLE, the foregoing instrument was signed in its name by its CITY MANAGER, DOUGLAS J. HEWETT, sealed with its corporate seal and attested by PAMELA J. MEGILL as its CITY CLERK.

WITNESS my hand and official seal, this 1st day of August, 2019.

(Official Seal)

Jennifer K. Pentfield
NOTARY PUBLIC

My commission expires:

9/28/2022

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Jay Toland
JAY TOLAND, Chief Financial Officer

APPROVED AS TO FORM:

Karen M. McDonald
KAREN M. MCDONALD, City Attorney

PCH DEVELOPMENT CO., LLC (seal)

By: 1st and Main Development, LLC, Authorized Member

By: [Signature]
Name: Roderick Dowling
Title: Manager

STATE OF NORTH CAROLINA, COUNTY OF Wake

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Roderick Dowling
(name of person signing in blank)

Date: July 12, 2019

[Signature]
Notary Public



Print Name: Calvin Blair

My commission expires: June 9, 2020

**SECOND AMENDMENT TO THE AGREEMENT FOR DEVELOPMENT AND SALE
OF REAL ESTATE "GARAGE CONTRACT"**

This Second Amendment to the Agreement for Development and Sale of Real Estate "Garage Contract" ("Second Amendment") is made and entered into as of the 7 day of August, 2020 by and between Hay Street Development Pad, LLC, a North Carolina limited liability company ("Seller"), the City of Fayetteville, a North Carolina municipal corporation ("Buyer") and is joined in by PCH Development Co., LLC, a North Carolina limited liability company ("Guarantor") for the sole purpose of evidencing its consent hereto and ratifying its obligations as Guarantor of the Agreement as amended. Seller and Buyer are sometimes referred to herein as the "Parties".

WITNESSETH:

The Parties entered into the Agreement for Development and Sale of Real Estate "Garage Contract" as of December 28, 2017, as amended by that First Amendment to the Agreement for Development and Sale of Real Estate "Garage Contract" executed on or about February 20, 2019, and by that First Amendment to the Agreement for Development and Sale of Real Estate "Garage Contract" executed on or about August 1, 2019 (collectively, the "Agreement").

The Parties have agreed to amend the Agreement to provide for the sale by Seller to Buyer of Condominium Unit R1 Stadium View Condominium in addition to Condominium Unit P-1 Stadium View Condominium (the Parking Garage) for the additional consideration, in part, of Five Hundred Fifty Thousand Dollars (\$550,000.00). The Guarantor has agreed to join in this Second Amendment to consent to the terms of this Second Amendment and to ratify its obligations as Guarantor under the Agreement, as amended.

NOW THEREFORE, for and in consideration of \$1.00 and other valuable consideration the receipt and sufficiency of which is hereby acknowledged, and to include without limitation the promises and obligations made by each of the Parties, it is agreed by and between the Parties that the Agreement is hereby amended as follows:

1. Recitals; Defined Terms. The foregoing recitals are incorporated herein by reference. Capitalized terms shall have meanings given to them in the Agreement unless otherwise specifically set forth herein.

2. Conveyance of Additional Property; Increase in Purchase Price. Seller will convey both the Property being known and designated as all Unit P1 Stadium View Condominium, all as shown on a plat thereof in Condominium Plat Book 9, Pages 54 through 65 at the Cumberland County Registry ("Condominium Plat Book") and as described and designated pursuant to the North Carolina Unit Ownership Act in the Declaration of Condominium recorded in Book 10687, Pages 447 through 474 Cumberland County Registry, ["Declaration"], and Unit R1 Stadium View Condominium (being known and designated as Unit R1 Stadium View Condominium as shown and set out on the Condominium Plat Book and Declaration described above). In consideration, in part, of the conveyance of Unit R1 Stadium

3. Liquidated Damages. Upon the consummation of Closing Buyer will be deemed to have reassigned, reconveyed and released to Seller all right, and interest which Buyer previously acquired from Seller as to any liquidated damages which may be due and collected from the General Contractor, its insurers or sub-contractors arising resulting from the alleged breach of the Parking Garage Construction Contract between Seller and the General Contractor. Further, upon the consummation of Closing, Buyer will be deemed to have waived any claim to any liquidated damages, and agreed not to pursue claims against the General Contractor or Seller for any liquidated damages.

4. Conditions Precedent. It shall be a condition precedent to the Buyer's and Seller's obligations hereunder that Seller (i) obtain a release of both the Property and Unit R1 Stadium View Condominium from the lien of the deed of trust recorded in Book 10490, Page 7, Cumberland County Registry, (ii) [intentionally deleted]; (iii) take such action as reasonably required to enable Buyer to obtain a title policy insuring that the title to the Property and Unit R1 Stadium View Condominium is free and clear of any claims, liens or encumbrances except those matters excepted in Buyer's title insurance commitment; (iv) deliver title, a special warranty deed, and possession to Unit R1 Stadium View Condominium and the Property to Buyer at closing free and clear of all liens and encumbrances except those matters excepted in Buyer's title insurance commitment; (v) together with PCH and Buyer execute this Second Amendment; (vi) execute the promissory note in the amount of \$150,000.00 as more fully described below (the "Performance Payment Note"); (vii) execute the deed of trust, as more fully described below, (the "Performance Payment Deed of Trust") by the terms of which Seller will secure:

- A. Seller's full and timely performance of its obligations under this Second Amendment,
- B. the obligations of Guarantor under the terms of the Guaranty,
- C. Seller's obligations under the Performance Payment Note more fully described below

(ix) execute the amendment to the Stadium View Condominium Declaration exhibit entitled Common Interest Allocation to Units, a copy of which is marked as Exhibit A and attached hereto;

5. Termination of Second Amendment. This Second Amendment will automatically terminate, be void, unenforceable and of no further force or effect in the event each of the Conditions Precedent are not completed by 12:00 midnight August 10, 2020.

6. Installation of Elevator. Seller agrees to purchase and install a permanent elevator as approved by Buyer for use in the Parking Garage on or before August 10, 2021. Seller agrees to pay \$150,000.00 to Buyer at Closing (the "Performance Payment"). Upon Seller's satisfactory and timely installation of the elevator, Buyer will return the Performance Payment to Seller, without interest. Buyer agrees to accept a promissory note in lieu of cash to fund the Performance Payment. In which event Seller will execute a promissory note in form and substance identical to Exhibit C by the terms of which Seller will pay One Hundred Fifty Thousand Dollars to Buyer on August 10, 2021 (the "Performance Payment Note"). In the event Seller completes the installation of the elevator on or before August 10, 2021 the Buyer will

mark the Performance Payment Note "satisfied" and return it to Seller. The Seller will secure the Performance Payment Note with a deed of trust identical in form and substance to Exhibit D attached hereto by the terms of which Seller will convey a second lien security interest in the Stadium View Condominium to Buyer (the "Performance Payment Deed of Trust").

PCH will execute a guaranty in form and substance identical to Exhibit E attached hereto by the terms of which PCH will guaranty the Performance Payment Note (the "Performance Payment Guaranty").

Seller, PCH and Buyer acknowledge and agree that the Sellers failure to complete the installation of the elevator by August 10, 2021 and/or the default in payment of the Performance Payment Note on August 10, 2021 is a default by Seller under the terms of the Agreement as amended by this Second Amendment entitling Buyer to pursue any remedies at law or equity, including without limitation foreclosing on the Performance Payment Deed of Trust securing the Performance Payment Note.

Provided, in the event Seller, its assignee or affiliates secures funding for the construction of the Office Unit and/or the Hotel Unit of the Stadium View Condominiums on or before August 10, 2021 (as those terms are defined in the Declaration) (the "Funding Date") and provides evidence reasonably satisfactory to Buyer of that event, Seller may deposit \$150,000.00 in an escrow account (the "Escrow Account") with an escrow agent selected by Buyer and subject to an escrow agreement with terms in form and substance identical to Exhibit F, attached hereto (the "Escrow Agreement").

Following Seller's deposit of \$150,000.00 into the escrow account, Buyer will cancel the Performance Payment Deed of Trust, terminate the Performance Payment Guaranty and return the Performance Payment Note to Seller. Seller will complete the installation of the elevator within 6 months of the execution of the Escrow Agreement by all Parties. In the event Seller fails to complete the elevator installation within that time the Buyer, at its sole option and discretion, may complete the installation of the elevator, present the escrow agent with the total costs of installing the elevator, whereupon the escrow agent will reimburse the Buyer for all such costs within ten (10) days. The escrow agent will refund any remaining money to the Seller

7. Release. Effective as of the consummation of Closing, each Party shall be deemed to have released each other party from claims arising out of the Agreement as amended by this Second Amendment but excluding: (A) any claims against Seller or Guarantor and pertaining to the warranty described in Section 15 of Exhibit B Work Letter attached to the Agreement, (B) post-Closing obligations of any Party under the terms of the Agreement or this Second Amendment; (C) any claims which Buyer may have against Seller and/or PCH in the event Seller fails to complete construction of the Stadium View Condominium; (D) the liability for 2020 ad valorem taxes; and (E) any claims arising out of any Parties breach of the DDA, as amended.

8. Miscellaneous. All promises, inducements, offers, solicitations, agreements, commitments, representations and warranties heretofore made between the Parties are merged into the Agreement as amended by this Second Amendment. All terms and conditions of the

Agreement not expressly modified by this Second Amendment shall remain unchanged and in full force and effect and are incorporated herein by reference. The Garage Contract, as amended by this Second Amendment, shall not be modified in any respect except by a written instrument executed by or on behalf of each of the Parties. This Second Amendment may be executed in multiple counterparts and may be assembled to form one complete Second Amendment. Facsimile or electronic signatures on this Second Amendment shall be binding upon the Parties.

In witness whereof, the Parties have caused this Second Amendment to be duly executed under seal to be effective as of the date and year first above written. The Guarantor joins in the execution of this Second Amendment as evidence of its consent to the terms hereof.

[SIGNATURES ON FOLLOWING PAGES]

SELLER:

Hay Street Development Pad, LLC (SEAL)

By: PCH Development Co., LLC, its Manager

By: 1st and Main Development, LLC, Authorized Member
Authorized Member Entity

By: [Signature]
Name: Rory Dowling
Title: Manager

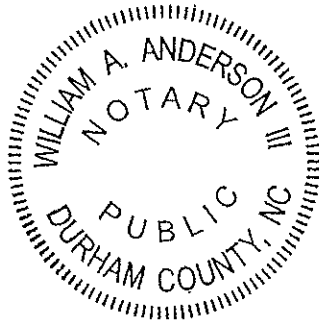
STATE OF NORTH CAROLINA, COUNTY OF Durham

I certify that the following person(s) personally appeared before me this day, acknowledging to me that he or she signed the foregoing document: Rory Dowling

Date: 08/06/2020

[Signature]
Notary Public

[Official Seal]



Print Name: William A. Anderson, III

My commission expires: 02/13/2024

BUYER:

CITY OF FAYETTEVILLE NORTH CAROLINA [SEAL]

Douglas J. Hewitt

Name: Douglas J. Hewitt
Title: City Manager

ATTEST:

Pamela J. Megill
08/07/2020, City Clerk

Approved as to form:

Ernest H. Howell
City Attorney



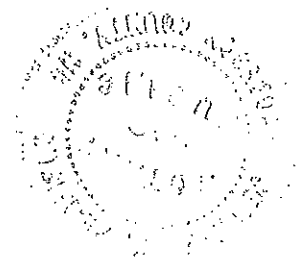
STATE OF NORTH CAROLINA
COUNTY OF CUMBERLAND

I, Jennifer K. Penfield, a Notary Public of the State and County aforesaid, certify that Pamela J. Megill personally came before me this day and acknowledged that (s)he is _____ City Clerk of the City of Fayetteville, and that by authority duly given and as the act of the Council, the foregoing instrument was signed in its name by its Mayor City Manager sealed with its corporate seal and attested by himself/herself as its _____ City Clerk.

WITNESS my hand and official seal, this 7th day of August, 2020.

Jennifer K. Penfield
Notary Public

My commission expires: 4/28/2022



CERTIFICATION

This instrument has been preaudited in the manner required by The Local Government Budget and Fiscal Control Act.

This 7th day of August, 2020.

Jay Tolson, City Finance Officer

GUARANTOR:

PCH DEVELOPMENT CO., LLC (seal)

By: 1st Agent Main Development, LLC Authorized Member

Name: Rory Dawling

Title: Manager

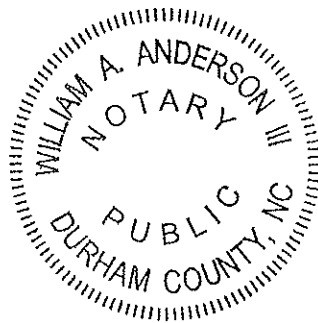
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Date: 08/06/2020

[Signature]
Notary Public

[Official Seal]



Print Name: William A. Anderson, III

My commission expires: 02/13/2024

