

**STATE OF FLORIDA
FLORIDA HOUSING FINANCE CORPORATION**

CITY VISTA ASSOCIATES, LLC,

FHFC Case No. 2014-049BP

Petitioner,

vs.

APPLICATION NO: 2014-185C
REQUEST FOR APPLICATIONS: 2013-003

FLORIDA HOUSING FINANCE
CORPORATION,

Respondent.

_____ /

FORMAL WRITTEN PROTEST OF AWARD

Pursuant to sections 120.569 and 120.57(3), Florida Statutes, and Chapter 28-110 and rule 28-106.201, Florida Administrative Code, Petitioner, City Vista Associates, LLC (“City Vista”), files this Formal Written Protest of Award and states:

Affected Agency

1. The agency affected is the Florida Housing Finance Corporation (“Florida Housing”), 227 N. Bronough Street, Suite 5000, Tallahassee, Florida 32301-1329. The telephone number is 850-488-4197.

Petitioner

2. The Petitioner is City Vista Associates, LLC. Petitioner’s address is 1666 Kennedy Causeway, Suite 505, North Bay Village, Florida 33141. Petitioner’s telephone number is 305-538-9552.

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FLORIDA HOUSING
FINANCE CORPORATION

Petitioner's Counsel

3. Counsel for City Vista and Petitioner's address for this proceeding is:

Douglas Manson, Esq.
Craig Varn, Esq.
Manson & Bolves, P.A.
1101 West Swan Avenue
Tampa, Florida 33606
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Facsimile: 813-514-4701
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Michael G. Maida, P.A.
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Tallahassee, Florida 32308
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Background

4. Florida Housing administers various affordable housing programs including the Housing Credit (HC) Program pursuant to Section 42 of the Internal Revenue Code and section 420.5099, Florida Statutes, under which Florida Housing is designated as the Housing Credit agency for the state of Florida within the meaning of section 42(h)(7)(A) of the Internal Revenue Code, and Chapters 67-48 and 67-60, Florida Administrative Code.

5. Florida Housing administers a competitive solicitation processes to implement the provisions of the housing credit program under which developers apply for funding. Chapter 67-60, Florida Administrative Code.

6. The failure of an application to be completed in accordance with the competitive solicitation shall be grounds for a determination of no responsiveness and the application will not be considered for funding. Rule 67-60.006, Florida Administrative Code.

7. Furthermore, by submitting an application, each applicant certifies that:

Proposed Developments funded with Housing Credits will be subject to the requirements of the RFA, the Application requirements outlined in Rule Chapter 67-60, F.A.C., the credit underwriting and HC Program requirements outlined in

Rule Chapter 67-48, F.A.C. and the Compliance requirements of Rule Chapter 67-53, F.A.C.

(RFA 2013-003 at Pg. 3).

8. Because the demand for HC funding exceeds that which is available under the HC Program, qualified affordable housing developments must compete for this funding. To assess the relative merits of proposed developments, Florida Housing has established a competitive solicitation process known as the Request for Applications (“RFA”) pursuant to Chapters 67-48 and 67-60, Florida Administrative Code.

9. Specifically, Florida Housing’s solicitation process for the 2013-003 RFA, as set forth in rules 67-60.001 - .009, Florida Administrative Code, involves the following:

- a) Florida Housing publishes its competitive solicitation (RFA) in the Florida Administrative Register;
- b) applicants prepare and submit their response to the competitive solicitation;
- c) Florida Housing appoints a scoring committee to evaluate the applications;
- d) the scoring committee makes recommendations to Florida Housing’s Board, which are then voted on by the Board; and,
- e) applicants not selected for funding may protest the results of the competitive solicitation process.

Notice of Agency Action

10. City Vista received notice of Florida Housing’s Final Agency Action entitled “RFA 2013-003 for Affordable Housing Developments Located in Broward, Miami-Dade and Palm Beach Counties” dated January 31, 2014 (“Corporation’s Notice”), on or about January 31, 2014. See attached Exhibit A.

Notice of Protest

11. On February 4, 2014, City Vista timely filed its Notice of Protest in which it challenged the selection of the applications in the Corporation's Notice. See attached Exhibit B.

Substantial Interests

12. City Vista timely submitted an application in response to RFA 2013-003. Pursuant to Application #2014-185C ("Application"), Petitioner applied for an allocation of \$2,561,000 in annual federal tax credits¹ to help finance the development of its project, a 127-unit high-rise apartment complex. Florida Housing scored City Vista as ineligible for funding due to Florida Housing's erroneous scoring decision that City Vista failed to provide adequate evidence of site control of the property to be developed.

13. As discussed below, City Vista provided sufficient information in its Application demonstrating site control over the development property. But for Florida Housing's error in its scoring and award decision, City Vista would have been ranked in the funded range and would have been entitled to an allocation of housing credits from the 2013-003 RFA.

¹ The United States Congress has created a program, governed by Section 42 of the IRC, by which federal income tax credits are allotted annually to each state on a per capita basis to help facilitate private development of affordable low-income housing for families. These tax credits entitle the holder to a dollar-for-dollar reduction in the holder's federal tax liability, which can be taken for up to ten years if the project continues to satisfy IRC requirements. The tax credits allocated annually to each state are awarded by state "housing credit agencies" to single-purpose applicant entities created by real estate developers to construct and operate specific multi-family housing projects. The applicant entity then sells this ten-year stream of tax credits, typically to a syndicator, with the sale proceeds generating much of the funding necessary for development and construction of the project. The equity produced by this sale of tax credits in turn reduces the amount of long-term debt required for the project, making it possible to operate the project at below-market-rate rents that are affordable to low-income and very-low-income tenants. Pursuant to section 420.5099, F.S., Florida Housing is the designated "housing credit agency" for the state of Florida and administers Florida's tax credit program under its Housing Credit (HC) Program. Through the HC Program, Florida Housing allocates Florida's annual fixed pool of federal tax credits to developers of affordable housing.

Site Control

14. Section 4.A.7 of RFA 2013-003, lists the requirements for Site Control. The instructions provide, in relevant part:

(7) Site Control:

The Applicant must demonstrate site control by providing, as Attachment 7 to Exhibit A, the documentation required in Items a., b., and/or c., as indicated below.

- a) Eligible Contract - For purposes of the RFA, an eligible contract is one that has a term that does not expire before a date that is six (6) months after the Application Deadline or that contains extension options exercisable by the purchaser and conditioned solely upon payment of additional monies which, if exercised, would extend the term to a date that is not earlier than six (6) months after the Application Deadline; specifically states that the buyer's remedy for default on the part of the seller includes or is specific performance; and the buyer MUST be the Applicant unless an assignment of the eligible contract which assigns all of the buyer's rights, title and interests in the eligible contract to the Applicant, is provided.

15. At Attachment 7 (Site Control) of its Application, City Vista included an Agreement for Sale and Purchase ("Agreement") that was entered between Pompano Beach Community Redevelopment Agency and Landmark Development Corp. ("Landmark"). See attached Exhibit C. Landmark is identified in the Application as City Vista's Developer. See pg. 2 and Attachment 3 of the Application.

16. Robert Saland and Francisco Rojo are the only officers, directors and shareholders of Landmark Development Corp., City Vista's Developer.

17. Robert Saland and/or Francisco Rojo are also the only Members, Managing Member, Officers, Managers that compromise City Vista, and its Managing Member, City Vista Associates GP, LLC. See Application Attachment 3, attached hereto as Exhibit D.

18. As City Vista's Developer, Landmark is City Vista's agent whenever Landmark acts on behalf or for the benefit of City Vista.

19. City Vista and its agent, Landmark at all times were owned and controlled by Francisco Rojo and Robert Saland.

20. Florida Housing has taken the position that City Vista is not the buyer under the contract and therefore an assignment between Landmark and City Vista is necessary to demonstrate site control. However, as the principal of Landmark, City Vista, as a matter of law, is a party to all contracts made by Landmark on City Vista's behalf. In addition, the Agreement for Sale and Purchase contemplates an undisclosed party to the agreement, provided Francisco Rojo and Robert Saland own a controlling interest in the other party.

21. The constructive buyer under the Agreement for Sale and Purchase is City Vista and no assignment is necessary in order for City Vista to enforce its rights under the Agreement for Sale and Purchase.

22. Because City Vista could, at all times, enforce the Agreement for Sale and Purchase against Pompano Beach Community Redevelopment Agency, City Vista demonstrated sufficient site control.

23. Even if Florida Housing takes the incorrect position that an assignment agreement is required, under these circumstances, where agency and control of the sale and purchase agreement are clearly held by City Vista, the inclusion of an assignment agreement was unnecessary and would be, at most, a minor irregularity Florida Housing should have waived.

Disputed Issues of Material Fact

24. Disputed issues of material fact include those matters pled in this petition, and include but are not limited to the following:

- a) Landmark was acting as the agent for City Vista when it entered into the Agreement for Sale and Purchase;
- b) Robert Saland and Francisco Rojo are the only officers, directors and shareholders of Landmark Development Corp., City Vista's Developer;
- c) Robert Saland and/or Francisco Rojo are also the only Members, Managing Member, Officers, Managers that compromise City Vista, and its Managing Member, City Vista Associates GP, LLC;
- d) City Vista could, at all times, enforce the Agreement for Sale and Purchase against Pompano Beach Community Redevelopment Agency;
- e) City Vista demonstrated site control in accordance with RFA 2013-003;
- f) As a result of the information supplied by City Vista, its application was responsive to RFA 2013-003;
- g) City Vista gained no competitive advantage over other applicants nor restricted or stifled competition in any way by not attaching a redundant assignment of contract to its application; and,
- h) Since agency is established by City Vista, no assignment of contract document was necessary and the lack of attaching such document does not deprive Florida Housing of any material information it needed to evaluate and compare the applications.

Statement of Ultimate Facts and Law

25. As a matter of ultimate fact City Vista completed its application in accordance with the competitive solicitation; its application was responsive to and complied with RFA 2013-003; and, therefore, its application should have been considered for funding.

26. As a matter of ultimate fact Florida Housing improperly determined that City Vista's application was not completed in accordance with the competitive solicitation; was not responsive to the RFA; and, was ineligible for funding under the RFA;

27. As a matter of ultimate fact and law, Florida Housing improperly determined that City Vista was ineligible for funding and, but for this error, City Vista would have been entitled to an allocation of its requested tax credit funding.

28. Alternatively, assuming arguendo that City Vista failed to properly include an assignment of contract, as a matter of ultimate fact and law, Florida Housing failed to waive this as a minor irregularity.

Statutes and Rules

29. Statutes and rules governing this proceeding are sections 120.569 and 120.57(3), and Chapter 420, Florida Statutes, and Chapters 28-106, 67-48 and 67-60, Florida Administrative Code.

WHEREFORE, City Vista requests that:

A. Florida Housing refer this Formal Written Protest to the Division of Administrative Hearings for a formal administrative hearing and the assignment of an Administrative Law Judge pursuant to section 120.57(3), Florida Statutes;

B. The Administrative Law Judge enter a Recommended Order determining that:

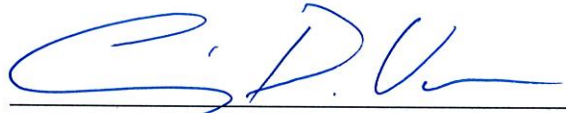
- a) City Vista completed its application in accordance with the competitive solicitation; that its application was responsive to and complied with RFA 2013-003, or alternatively, that any discrepancies were minor irregularities, and that its application should have been considered for funding;
- b) Florida Housing improperly determined that City Vista's application was not completed in accordance with the competitive solicitation;
- c) Florida Housing improperly determined that City Vista's application was not responsive to the RFA; and,
- d) Florida Housing improperly determined that City Vista's application was ineligible for funding under the RFA 2013-003;

C. The Administrative Law Judge enter a Recommended Order recommending Florida Housing award City Vista its requested tax credit funding;

D. Florida Housing enter a Final Order awarding City Vista its requested tax credit funding; and,

E. It be granted such other relief as may be deemed appropriate.

Respectfully submitted this 14th day of February, 2014.



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850-681-6788 (fax)

CERTIFICATE OF SERVICE

I certify that the original of the foregoing has been filed by Hand Delivery with the Agency Clerk, Florida Housing Finance Corporation, 227 N. Bronough Street, Suite 5000, Tallahassee, Florida 32301 this 14th day of February, 2014.



Craig Varn

RFA 2013-003 – Review Committee Recommendations

Total HC Available for RFA	10,052,825
Total HC Allocated	9,694,881
Total HC Remaining	357,944

Application Number	Name of Development	County	Name of Contact Person	Name of Developers	HC Request Amount	Eligible For Funding?	Total Points	Development Category Funding Preference	Per Unit Construction Funding Preference	Leveraging Classification	Florida Job Creation Preference	Lottery Number
First Miami-Dade Application Recommended												
2014-239C	Wagner Creek	Miami-Dade	Matthew Rieger	HTG Miami-Dade 5 Developer, LLC	\$1,601,881.00	Y	27	Y	Y	A	Y	3
First Broward Application Recommended												
2014-241C	Oakland Preserve	Broward	David O. Deutch	Pinnacle Housing Group, LLC; Building	\$1,435,000.00	Y	27	Y	Y	A	Y	12
Palm Beach Application Recommended												
2014-201C	Silver Palm Place	Palm Beach	Francisco A. Rojo	Landmark Development Corp.;	\$2,110,000.00	Y	27	Y	Y	A	Y	78
Second Miami-Dade Application Recommended												
2014-184C	Allapattah Trace	Miami-Dade	William T. Fabbri	The Richman Group of Florida, Inc.	\$1,987,000.00	Y	27	Y	Y	A	Y	6
Second Broward Application Recommended												
2014-242C	Wisdom Village Crossing	Broward	Bill Schneider	Turnstone Development	\$2,561,000.00	Y	27	Y	Y	A	Y	20

On January 31, 2014, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion to select the above Applications for funding and invite the Applicants to enter credit underwriting.

Any unsuccessful Applicant may file a notice of protest and a formal written protest in accordance with Section 120.57(3), Fla. Stat., Rule Chapter 28-110, F.A.C., and Rule 67-60.009, F.A.C. Failure to file a protest within the time prescribed in Section 120.57(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 120, Fla. Stat.

MANSON BOLVES

ATTORNEYS AT LAW

February 4, 2013

Ms. Ashley Black
Corporation Clerk
Florida Housing Finance Corporation
227 N. Bronough St., Ste. 5000
Tallahassee, FL 32301

VIA HAND DELIVERY

14 FEB 11 10:05

RE: RFA 2013-003 Affordable Housing Developments Located in Broward, Miami-Dade and Palm Beach Counties - Notice of Protest

Dear Ms. Black:

Please accept this letter as a Notice of Protest filed pursuant to sections 120.569 and 120.57(3), Florida Statutes, on behalf of applicant City Vista Associates, LLC ("City Vista") and developer Landmark Development Corp. ("Landmark"). City Vista and Landmark protest Florida Housing Finance Corporation's decision in selecting the applications for funding as identified in the Corporation's Notice of applications selected for funding, attached as Attachment "A," including, Florida Housing's decision regarding their Application No. 2014-185C.

City Vista and Landmark reserve the right to file a formal written protest within ten (10) days of the filing of this Notice of Protest pursuant to section 120.57(3), Florida Statutes.

MANSON BOLVES, P.A.



Craig D. Varn

cc: Mike Maida
Francisco Rojo

Attachment

Tampa Office
1101 W. Swann Avenue, Tampa, Florida 33606
Phone 813.514.4700 | Fax 813.514.4701

Tallahassee Office
201 East Park Ave., 2nd Floor, Tallahassee,
Florida 32301 | Phone 850.583.0007

Orlando Office
7479 Conroy Windmere Rd., Ste. B, Orlando
Florida 32835 | Phone 408.392.2207

www.MansonBolves.com

Exhibit B

RFA 2013-003 – Review Committee Recommendations

Total HC Available for RFA	10,052,825
Total HC Allocated	9,694,881
Total HC Remaining	357,944

Application Number	Name of Development	County	Name of Contact Person	Name of Developers	HC Request Amount	Eligible For Funding?	Total Points	Development Category Funding Preference	Per Unit Construction Funding Preference	Leveraging Classification	Florida Job Creation Preference	Lottery Number
First Miami-Dade Application Recommended												
2014-239C	Wagner Creek	Miami-Dade	Matthew Ringer	M/G Viam Dade's Developer, LLC	\$1,601,881.00	Y	27	Y	Y	A	Y	3
First Broward Application Recommended												
2014-241C	Oakland Preserve	Broward	David D. Deutch	Pinnacle Housing Group, L.C. Building	\$1,415,000.00	Y	27	Y	Y	A	Y	12
Palm Beach Application Recommended												
2014-201C	Silver Palm Place	Palm Beach	Francisco A. Robo	Landmark Development Corp.	\$2,110,000.00	Y	27	Y	Y	A	Y	78
Second Miami-Dade Application Recommended												
2014-184C	Alapattah Trace	Miami-Dade	William T. Fabbr	The Richman Group of Florida, Inc.	\$1,987,000.00	Y	27	Y	Y	A	Y	6
Second Broward Application Recommended												
2014-242C	Wisdom Yaggs Crossing	Broward	Bill Schneider	Yurstone Development	\$2,561,000.00	Y	27	Y	Y	A	Y	20

On January 31, 2014, the Board of Directors of Florida Housing Finance Corporation approved the Review Committee's motion to select the above Applications for funding and invite the Applicants to enter credit underwriting. Any unsuccessful Applicants may file a notice of protest and a formal written protest in accordance with Section 220.27(3), Fla. Stat., Rule Chapter 28-110, F.A.C. and Rule 67.60(2)(b), F.A.C. Failure to file a protest within the time prescribed in Section 220.27(3), Fla. Stat., shall constitute a waiver of proceedings under Chapter 220, Fla. Stat.

AGREEMENT FOR SALE AND PURCHASE

THIS AGREEMENT FOR SALE AND PURCHASE (the "*Agreement*") is made and entered into as of October 17 2013 ("*Effective Date*") by and between POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY (hereinafter referred to as "*Seller*"), and LANDMARK DEVELOPMENT CORP., a Florida corporation, or its designee or assigns (hereinafter referred to as "*Purchaser*").

1. **Property.** Subject to the terms and conditions set forth below, Seller shall sell and convey to Purchaser and Purchaser shall purchase and acquire from Seller the real property which is described on *Exhibit "A"* attached hereto and made a part hereof, together with any and all easements, rights of way, privileges, benefits, contract rights, development rights, permits, licenses, approvals, improvements or appurtenances arising from, pertaining to or associated with said real estate (collectively, the "*Property*"). Purchaser has responded to Seller's RFP #03-2013 ("*RFP*"), and has deposited a good faith deposit in the amount of \$65,000 with the Seller as part of its response to the RFP (the "*Bid Deposit*").

2. **Purchase Price.** One Million Three Hundred Thousand Dollars (\$1,300,000), subject to adjustments, credits and prorations, as set forth herein below (the "*Purchase Price*"), to be paid as follows:

(a) **Deposit in Escrow.** Within thirty (30) days following the Effective Date, Seller shall refund the Bid Deposit to Purchaser, and Purchaser shall deposit with Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. ("*Escrow Agent*") the sum of Fifty Thousand Dollars (\$50,000) as a good faith deposit ("*Deposit*"). The Deposit shall be placed by the Escrow Agent in an interest bearing money market account, with any and all interest accruing thereon to be the property of Purchaser. The Deposit shall be applicable to, and credited against, the Purchase Price at Closing (as defined in Section 12 below).

(b) **Refund of Deposit; Tax Credit Contingency and Financing Requirements.**

(i) The Deposit shall be refunded to Purchaser within two (2) days following Purchaser's termination of this Agreement, in the event Purchaser terminates this Agreement on or prior to the expiration of the Feasibility Study Period (as defined in Section 3(a) below).

(ii) In the event (1) of a default by Seller hereunder, or (2) Seller is unable to convey marketable title to the Property to Purchaser, Purchaser, at its option, may either (A) terminate this Agreement upon written notice delivered to Seller within thirty (30) days after either of said conditions becomes applicable and the Deposit shall be remitted to Purchaser or (B) proceed to Closing in accordance with the terms of this Agreement. Purchaser shall also have the right to receive a refund of the Deposit in accordance with the provisions of Section 9, below.

(iii) In the event that Purchaser does not receive or determines, in its sole discretion, that it is unlikely to receive a final, non-appealable allocation of Federal Housing Tax Credits ("*Tax Credits*") from the Florida Housing Finance Corporation ("*FHFC*"), that in Purchaser's sole discretion would allow the development of the Property for Purchaser's

Intended Use (the "*Tax Credit Contingency*") on or prior to October 31, 2014 ("*Tax Credit Contingency Deadline*"), Purchaser shall have the right to request an extension of the Tax Credit Contingency Deadline to October 31, 2015 (the "*Extended Tax Credit Contingency Deadline*"), which request may be granted or refused in Seller's sole discretion. If Seller refuses to allow the extension, then this Agreement shall be terminated upon written notice of such refusal delivered by Seller to Purchaser, and the Deposit shall be remitted to Purchaser.

(iv) In the event the Tax Credit Contingency Deadline is extended to the Extended Tax Credit Contingency Deadline, and Purchaser then fails to obtain a final, non-applicable allocation of Tax Credits from the FHFC as contemplated in Subsection (iii), above prior to the Extended Tax Credit Contingency Deadline, this Agreement shall automatically terminate and the Deposit shall be remitted to Purchaser.

(v) Purchaser shall provide to Seller copies of commitments from lenders and equity investors which will provide financing and equity for the Purchaser's construction of the Purchaser's Intended Use of the Property, which letters may be subject to usual and customary conditions for funding consistent with industry standards. In the event the Purchaser has obtained the Tax Credits but not obtained commitments for aggregate debt and equity funds which are adequate to construct the Purchaser's Intended Use of the Property by October 31, 2014, this Agreement shall automatically terminate, the parties shall be thenceforth released of all further obligations and liabilities to one another and the Deposit shall be remitted to Purchaser.

(c) **Purchase Price.** The balance of the Purchase Price ("*Cash to Close*") shall be paid by Purchaser to Seller by wire transfer at Closing. Purchaser shall receive a credit at Closing for the amount of the Deposit and for the interest earned on any portion of the Deposit held in escrow pending Closing.

3. **Investigations.**

(a) **Purchaser's Inspection of the Property.** Commencing on the Effective Date and continuing for a period of ninety (90) calendar days thereafter, or until the Downtown Pompano Transit Oriented Corridor ("*DPTOC*") Zoning District Regulations have received final un-appealable adoption by all applicable governmental agencies and other applicable regulatory bodies, whichever date is later (such period referred to hereinafter as the "*Feasibility Study Period*"), Purchaser, at its expense, shall have the right, but not the obligation, to enter upon the Property to conduct various inspections, investigations and tests thereon including but not limited to, soil borings, percolation tests, engineering and topographical studies, environmental audits, wetland jurisdictional surveys, and investigations of the availability of utilities. Purchaser shall indemnify and hold Seller harmless from and against any and all claims, costs, expenses and damages to persons and/or Property incurred by, though, or out of the exercise of such privilege. Purchaser's obligation to indemnify Seller set forth herein shall survive the Closing of this Agreement or the termination of this Agreement. Prior to performing any inspections on the Property, Purchaser shall obtain and provide to Seller evidence of commercial general liability insurance acceptable to the Seller's acting Risk Manager insuring the activities of Purchaser's consultants and contractors conducting inspections on the Property, with coverage in an amount not less than \$1,000,000.00 per occurrence, and all such policies shall name Seller as an

additional insured, and such coverage shall be kept in place until the Closing or earlier termination of this Agreement.

(b) **Property Records.** Seller agrees to deliver copies of the documents referred to in Section 5(d) below and a copy of its most recent title insurance policy on the Property to Purchaser within seven (7) days from the Effective Date ("*Seller's Property Records*").

(c) **Purchaser's Right to Terminate.** If Purchaser determines, in its sole discretion at any time on or before the expiration of the Feasibility Study Period, that the Property is not suitable for its needs as a mixed-use residential development of a height and density which are to be determined by Purchaser in its sole discretion, subject to any variances, exceptions or waivers sought by Purchaser from the City of Pompano Beach and/or Broward County ("*Purchaser's Intended Use*" or the "*Project*"), Purchaser shall have the right to cancel and terminate this Agreement on or prior to the expiration of the Feasibility Study Period and to receive a refund in full of the Deposit, in accordance with Section 2(b). Purchaser's failure to deliver a termination notice on or prior to the expiration of the Feasibility Study Period shall be deemed an election to waive the right terminate this Agreement pursuant to this Section. Purchaser shall also have the right to cancel and terminate this Agreement pursuant to the provisions of Section 9 of this Agreement.

(d) **Purchaser's Reinspection of the Property.** Seller covenants, that Seller shall maintain the Property in its current condition until the Closing Date (as defined in Section 12 below). Purchaser shall have the right to enter upon the Property at any time prior to Closing to confirm that the Property has been maintained in the manner covenanted by Seller. In the event that the condition of the Property is materially different so as to inhibit the use of the Property for Purchaser's Intended Use of the Property, at such time prior to Closing, than it was at the time of the performance of the Purchaser's inspections as contemplated herein, Purchaser shall have the right to terminate this Agreement by written notice to Seller and to Escrow Agent, whereupon the Deposit shall be refunded to Purchaser, and neither Purchaser nor Seller shall have further rights or obligations hereunder. Further, if the material difference in the Property is due to the affirmative act of Seller, or act of a third party affirmatively consented to by Seller, Seller shall reimburse Purchaser for Purchaser's costs associated with the inspection of the Property and any attorney fees incurred by Purchaser.

4. **Title Insurance/Survey.**

(a) **Marketable Title.** Seller shall convey to Purchaser marketable title to the Property, subject only to those exceptions which remain on the Title Commitment following the cure of Objectionable Exceptions, as described below. Marketable title shall be determined according to the Title Standards adopted by the authority of the Florida Bar and in accordance with law.

(b) **Title Commitment.** At Purchaser's expense, Purchaser's attorney shall obtain a title commitment for the Property (the "*Title Commitment*") and Purchaser shall have until the date which ninety (90) days is following the Effective Date (the "*Title Review Period*") to examine the Title Commitment and to notify Seller as to any exception which is unacceptable to Purchaser or Purchaser's attorney (the "*Objectionable Exceptions*"). If the Title Commitment

reflects any Objectionable Exceptions, or at any time after delivery of the Title Commitment and prior to Closing, Purchaser receives notice of or otherwise discovers that title to the Property is subject to any additional exceptions which Purchaser finds unacceptable, Purchaser shall notify Seller in writing of the Objectionable Exceptions to which Purchaser objects within ten days after Purchaser receives notice of such Objectionable Exceptions. Purchaser's failure to notify Seller as to any Objectionable Exceptions shall be deemed a waiver of such Objectionable Exceptions.

(c) **Objectionable Exceptions.**

(i) **Mandatory Exceptions:** After Purchaser has notified Seller of any Objectionable Exceptions, if the Objectionable Exceptions are liquidated claims, outstanding mortgages, judgments, taxes (other than taxes which are subject to adjustment pursuant to this Agreement), or are otherwise curable by the payment of money, without resort to litigation, Seller shall be required to remove such Objectionable Exceptions (the "*Mandatory Exceptions*") from the Property by taking the actions necessary to have the Mandatory Exceptions deleted or insured over by the Title Company, or transferred to bond so that the Mandatory Exceptions are removed from the Title Commitment; alternatively, Seller may allocate proceeds of the sale for the purpose of satisfying the Mandatory Exceptions, in which case such proceeds shall be withheld from Seller and applied as may be required.

(ii) **Optional Exceptions:** With respect to Objectionable Exceptions which are not Mandatory Exceptions (the "*Optional Exceptions*"), Seller shall have the right, but not the obligation, to take the actions necessary to have the Optional Exceptions deleted or insured over by the Title Company, or transferred to bond so that the Optional Exceptions are removed from the Title Commitment. If Purchaser has timely notified Seller of any Optional Exceptions, Seller shall provide Purchaser with written notice of its election as to whether or not it will cure the Optional Exceptions within fifteen (15) days after Seller's receipt of Purchaser's notice of any Optional Exceptions. If Seller notifies Purchaser that it is unwilling or unable to cure the Optional Exceptions, Purchaser shall have the option to either (a) proceed to Closing and accept title in its existing condition without adjustment to the Purchase Price, or (b) terminate this Agreement by sending written notice of termination to Seller and Escrow Agent within thirty (30) days following receipt of Seller's notice that it is unable or unwilling to cure an Optional Exception, whereupon the Deposit shall be refunded to the Purchaser. Notwithstanding the foregoing, Seller shall be required to cure any Objectionable Exceptions which are caused by Seller during the period of time commencing with the date of the Title Commitment through the Closing Date, regardless of the cost to cure such Objectionable Exceptions.

(d) **Survey.** Purchaser may, at its expense, obtain a survey (the "*Survey*") of the Property. Purchaser shall have until the expiration of the Title Review Period to examine the Survey. If the Survey shows any encroachment on the Property, or that any improvement located on the Property encroaches on the land of others, or if the Survey shows any other defect which would affect either the marketability of title to the Property or Purchaser's use of the Property, Purchaser shall notify Seller of such encroachment or defect prior to the expiration of the Title Review Period, and such encroachment or defect shall be treated in the same manner as title defects are treated under this Agreement. Purchaser's failure to timely notify Seller of

Survey defects shall be deemed a waiver of such defects.

5. **Seller's Documents.** Seller shall execute and deliver to Purchaser at Closing, the following (collectively, "*Seller's Documents*"):

(a) **Deed and Authorizing Resolutions.** A general warranty deed (the "*Deed*") duly executed and acknowledged by Seller, conveying to Purchaser fee simple marketable title to the Property, subject only to the exceptions set forth in the Title Commitment, in form satisfactory to the Purchaser and the title insurance company that issues the Title Commitment ("*Title Insurance Company*"), together with sufficient authorizing resolutions approved by the City's Board of Commissioners or other applicable municipal body;

(b) **Seller's No Lien, Gap and FIRPTA Affidavit.** An affidavit from Seller attesting that (i) no individual, entity or Governmental Authority (as defined below) has any claim against the Property under the applicable contractor's lien law, (ii) except for Seller, no individual, entity or Governmental Authority is either in possession of the Property or has a possessory interest or claim in the Property and (iii) no improvements to the Property have been made for which payment has not been made. The Seller's affidavit shall include language sufficient to enable the Title Company to insure the "gap", i.e., delete as an exception to the Title Commitment any matters appearing between the effective date of the Title Commitment and the effective date of the Title Policy. The affidavit shall also include the certification of non-foreign status required under Section 1445 of the Internal Revenue Code to avoid the withholding of income tax by the Purchaser. For purposes of this Agreement "*Governmental Authority*" shall be defined as, any federal, state, county, municipal or other governmental department, entity, authority, commission, board, bureau, court, agency or any instrumentality of any of them.

(c) **Assignments.** A general assignment by Seller to Purchaser of all service contracts, licenses, permits, etc., if any.

(d) **Property Records.** The originals of all development rights, permits, licenses, benefits, consents or approvals, surveys, soil tests, water, sewer, or other utility capacity verification or reservation, development plans, engineering plans or specifications, tests, reports, studies, appraisals, analyses and similar documents or information in the possession of Seller pertaining to the Property, together with an assignment of all of Seller's right, title and interest with regard thereto.

(e) **Closing Statement.** A Closing Statement.

(f) **Documents to Close.** Such other Closing documents as reasonably may be required to consummate the transaction contemplated by this Agreement, or which may be required by the Title Insurance Company in order to issue the Title Policy, as required by the Title Commitment.

6. **Expense Provisions.** The cost and expenses of any corrective instruments or actions shall be paid by Seller at Closing. The cost of State documentary stamps and County surtax (if any) required on the Deed, recording the Deed, the title insurance premium and the cost of the Survey shall be paid by the Purchaser at Closing (and if the sale does not close, Purchaser shall

pay any title insurance cancellation fees). Each party shall bear and pay its own attorneys' fees and expenses.

7. **Representations, Warranties and Covenants of Seller.** The Seller hereby represents, warrants and covenants to and with the Purchaser as follows:

(a) **Seller's Existence and Authority.** The person executing this Agreement on behalf of the Seller is fully and duly authorized to do so by Seller, and any and all actions required to make this Agreement and the performance thereof legally binding obligations of Seller, have been duly and legally taken. No further consent, authorization or approval of any person or entity is required for Seller to enter into or perform this transaction.

(b) **Existence of Liens.** Except for the liens, encumbrances or charges against the Property specifically disclosed in this Agreement, there are no other liens, encumbrances, unpaid bills or vendors, outstanding obligations or charges (contingent or absolute) in existence against such Seller or any business conducted thereon, or any existing undisclosed or unrecorded liens, encumbrances or charges which could adversely affect title to the Property, or in any way substantially adversely affect title to the Property. Seller is the owner of marketable title to the Property.

(c) **Modification to the Property.** From and after the Effective Date, Seller will not cause, permit, suffer or allow any change, modification or alteration to be made to the Property, or any part or portion thereof, or its physical condition, without the prior written consent of Purchaser.

(d) **No Default.** Seller is not in default under any indenture, mortgage, loan agreement, or other agreement to which Seller is a party and which affects any portion of the Property.

(e) **Compliance with Governmental Requirements.** The Property is in compliance with all governmental requirements.

(f) **Vacant Land; No Parties in Possession.** The Property is vacant land, free of any tenancies or parties in possession and will be delivered to Purchaser at Closing, free of any tenancies or leases.

(g) **Environmental Hazards.** Other than the information contained within the March 4, 2011 Report from E Sciences, Inc. provided by the Seller, Seller is not aware that any portion of the Property has ever been used for the dumping, disposal, manufacture, handling, transportation, storage, or usage of any toxic or hazardous wastes or materials, and no such toxic or hazardous waste or materials are present on, in or under the Property. As used herein, hazardous or toxic wastes or materials shall mean and refer to any substance or matter giving rise to liability or regulation under any federal, state or local law, statute, regulation, rule or ordinance. Seller is not aware of any petroleum storage tanks located on or under the Property.

(h) **No Special Assessments or Impact Fees.** Seller has not received any notice, and has no knowledge, that the Property or any portion thereof, is or will be subject to or affected by

(i) any special assessments, whether or not presently a lien thereon, or (ii) any condemnation, eminent domain, change in grade of public streets, or similar proceeding.

(i) **Litigation.** There are no actions, suits or proceedings of any kind or nature whatsoever, legal or equitable, to which Seller is a party, affecting the Property, or any portion thereof, or relating to, or arising out of the ownership of the Property, in any court or before or by any Federal, state, county or municipal department, commission, board, bureau, or agency, or other Governmental Authority.

(j) **Access.** The Property has legal access to publicly dedicated road right of way.

All of the representations of Seller set forth in this Agreement shall be true upon the execution of this Agreement, shall be deemed to be repeated at and as of the Closing Date, and shall be true as of the Closing Date. All of the representations, warranties and agreements of Seller set forth in this Agreement shall survive Closing.

8. **Representations and Warranties of the Purchaser.** Purchaser hereby represents and warrants to Seller as follows:

(a) **Purchaser's Existence and Authority.** The person executing this Agreement on behalf of the Purchaser is fully and duly authorized to do so by Purchaser, and any and all actions required to make this Agreement and the performance thereof legally binding obligations of Purchaser, have been duly and legally taken. No further consent, authorization or approval of any person or entity is required for Purchaser to enter into or perform this transaction.

(b) **Purchaser's Truthfulness.** No representation, warranty or covenant in this Agreement, nor any document, certificate or exhibit given or delivered to Seller pursuant to this Agreement, when read singularly or together, as a whole, contains any untrue statement of material fact or omits a material fact necessary to make the statements contained therein true, in light of circumstances under which they were made.

(c) **No Building Over Easements.** No building or other vertical improvement shall be constructed on, over, or within the boundary lines of any rights-of-way, easement for public utilities, or any additional dedicated rights-of-ways or easements unless such construction has been approved by the holder or owner of such easements. Regardless of whether such construction has been approved, the Purchaser shall be responsible for any damage to buildings, structures, or other improvements constructed on, under, over or within, such rights-of-way, easements for public utilities or restrictions relating thereto or any additional dedicated rights-of-way or easements.

All of the representations of Purchaser set forth in this Agreement shall be true upon the execution of this Agreement, shall be deemed to be repeated at and as of the Closing Date, and shall be true as of the Closing Date. All of the representations, warranties and agreements of Purchaser set forth in this Agreement shall survive Closing.

9. **General Conditions to Obligations of the Purchaser.** The obligations of Purchaser are, at the option of Purchaser, contingent upon the following conditions:

(a) **Seller's Representations and Warranties.** The representations and warranties made by Seller herein shall be correct statements of fact as said facts exist as of the Closing Date, and at all times between the Effective Date and the Closing Date;

(b) **Compliance with Covenants.** All terms, covenants, agreements and provisions of this Agreement to be complied with and performed by Seller on or before the Closing Date, shall have been duly complied with or performed; an

(c) **Development Rights/Purchaser's Intended Use.**

1. The Property shall have received:

a. At Purchaser's expense, approval and recording of an amendment to the notation on that certain plat titled Blanche Ely Commercial Redevelopment Plat, permitting the development of no less than 127 residential units on the Property, subject to restrictions that are acceptable to Purchaser in its sole discretion.

b. DPTOC Zoning District designation by all applicable governmental agencies and other applicable regulatory bodies, including expiration of all appeal rights.

2. In addition, the following conditions shall be applicable:

a. Other than the DPTOC Guidelines which are awaiting final approval, no moratorium, lack of concurrency, change in ordinance or other condition that is outside of Purchaser's control, shall exist which would prevent or delay Purchaser's development and construction of Purchaser's Intended Use of the Property.

b. All costs associated with remediation, insuring or monitoring related to any of the existing environmental conditions of the Property to the full satisfaction of any Federal, State or local governmental agency, and/or requirements of any lender or investor, shall not render the Purchaser's Intended Use financially unfeasible, in the Purchaser's sole discretion.

If any of the conditions in Section 9 hereto are not met, then at Purchaser's option, notwithstanding anything contained herein to the contrary, the Deposit and any other moneys paid pursuant to the terms hereof shall be returned to Purchaser upon Purchaser's notice of termination of this Agreement given prior to Closing.

10. **Approvals.** Seller hereby authorizes Purchaser, at Purchaser's expense, to make any applications, petitions or submissions as may be required to obtain any and all permits, licenses, consents or approvals which may be required to allow the development of the Property for Purchaser's Intended Use, including the submission of any applications for site plan approval, platting, variances, exceptions or waivers sought by Purchaser from the City of Pompano Beach, Broward County and/or any other applicable permitting agencies. To the extent required, Seller agrees to execute or join in any such applications, petitions or submissions or similar documentation within three (3) business days of Purchaser's request to Seller.

11. **Brokers.** Purchaser and Seller hereby represents and warrant to each other that they have

not engaged or dealt with any agent, broker or finder with regard to this Agreement or to the sale and purchase of the Property contemplated hereby. Purchaser and Seller hereby indemnify each other and agree to hold each other free and harmless from and against any and all liability, loss, cost, damage and expense that either party shall ever suffer or incur, because of any claim by any agent, broker or finder who was engaged by either party, for any fee, commission or other compensation with respect to this Agreement or to the sale and purchase of the Property contemplated hereby.

12. **Closing.** Subject to the terms and conditions hereof, the delivery of the deed for the Property to Purchaser and the delivery of the Purchase Price to Seller ("*Closing*") of this transaction shall be on December 31, 2014 ("*Closing Date*"). At Purchaser's option, the Closing may be held sooner than the foregoing date, so long as Purchaser gives Seller not less than five (5) days' notice of the Closing Date. If the Tax Credit Contingency Deadline is extended to the Extended Tax Credit Contingency Deadline pursuant to Section 2 (b), the Closing Date shall be extended to December 31, 2015. Seller shall deliver Seller's Documents and possession of the Property to Purchaser on the Closing Date. The Closing shall take place at the office of Purchaser's Attorney or such other location as may be designated by the lender providing Purchaser's acquisition financing. Seller may deliver the Seller's Documents to the Closing Agent prior to Closing, with escrow instructions for the release of the Seller's Documents and the disbursement of the Seller's proceeds.

13. **Intentionally Deleted.**

14. **Costs of Document Preparation and Attorney's Fees.** With regard to Closing, each party shall pay the fees of its attorney and the costs of preparing all documents which this Agreement requires such party to furnish.

15. **LBE Subcontractors.** Purchaser agrees to use reasonable effort to comply with the terms of the Local Business Enterprise Utilization Plan attached hereto as Exhibit "B" in order to ensure the equitable participation of local, qualified Local Business Enterprises in the development of the Property.

16. **Marketing; No Recording of Agreement.** From and after the Effective Date and prior to the Closing Date, the Seller shall not market or enter into any contracts with third parties for the sale of the Property. Purchaser shall not record this Agreement or any memorandum thereof in the public records.

17. **Default.** If the sale contemplated by this Agreement is not consummated through default of Purchaser, Seller's sole and exclusive remedy shall be to retain the Deposit, as full liquidated damages for such default by Purchaser, and the parties shall have no further rights or liabilities under this Agreement. If the sale contemplated by this Agreement is not consummated through default of Seller, Purchaser may elect to (i) terminate this Agreement and demand and receive a refund of the Deposit and a refund of all of Purchaser's documented third party expenses, which include but are not limited to Purchaser's costs for any investigations under Section 3, attorneys' fees incurred by Purchaser for the acquisition of the Property and negotiation of this Agreement, costs from the Title Company, costs for the obtaining of required approvals and any and all costs associated with Purchaser's attempts to obtain Federal Housing Tax Credits, or (ii) demand and

receive specific performance of this Agreement. Prior to either Purchaser or Seller declaring a default under this Agreement (other than a default in the nature of the failure of a party to close covered by the two preceding sentences, for which no cure period shall apply), the non-defaulting party shall send written notice of the default to the defaulting party and to the Escrow Agent. The defaulting party shall have a period of ten (10) days after receipt of the notice of default to cure such default. Except as otherwise provided in this Section 17, neither Purchaser nor Seller shall be entitled to any of the remedies set forth in this Agreement prior to the sending of a notice of default to the defaulting party and the allowance of an opportunity to cure such default within ten (10) days after the receipt of the notice by the defaulting party.

18. **Condemnation.** If, prior to Closing, the Property or any material portion thereof, is condemned or taken under power of eminent domain, or if Seller receives any notice or knowledge that any such taking is threatened or contemplated by any Governmental Authority or entity or any other entity having the power of eminent domain, then, in any such event, Seller shall promptly give notice thereof to Purchaser in writing. Purchaser shall then have the option of either (a) terminating this Agreement and receiving a refund of its Deposit, with neither party thereafter having any further obligations to the other hereunder, or (b) waiving such matters and proceeding to close this transaction without reduction in the Purchase Price, but with the right to receive any and all awards or monies payable as a result of any such taking. Purchaser shall make such election by giving written notice thereof to Seller prior to Closing.

19. **Right of Way Improvements.**

(a) **Road Improvements.** It is acknowledged that development of the Property will require that certain right of way improvements be made as follows (the "*Road Improvements*"):

(i) Extension of existing NW 4th Avenue along the eastern boundary of the Property, from its current point of terminus, for an additional distance of approximately 320 feet, in a southerly direction to intersect with existing Martin Luther King Boulevard;

(ii) Construction of a new right of way adjacent to the north boundary of the Property, to be known as NW 4th Street, for a distance of approximately 700 feet and lying between NW 6th Avenue and NW 4th Avenue; and

(iii) Closing of the existing curb cut on NW 6th Avenue at the western boundary of the Property, and installation of new sidewalk connecting the exiting sidewalk lying on either side of the existing curb cut to be closed.

The Road Improvements will include grading, paving, drainage, curbing, lane markings, lighting, landscaping, irrigation, water and sewer equipment, sidewalks and such other improvements as customary for comparable public rights of way in the community, generally.

(b) **Costs of Road Improvements.**

(i) Except as set forth in the following paragraph, the Road Improvements will be performed by Purchaser at Purchaser's expense as part of its construction of the Purchaser's Intended Use of the Property; provided, however, that Seller shall reimburse the

Purchaser for the construction of the Road Improvements upon completion thereof, with such reimbursement not to exceed the Purchase Price, and Purchaser will be responsible for any overage.

(ii) Purchaser shall prepare an estimate for the overall costs of the Road Improvements and submit the estimate to Seller for its approval. If Seller approves the cost estimate, then Purchaser shall proceed to perform the Road Improvements at its expense and Seller shall reimburse Purchaser as provided in Subsection (i) above, not to exceed the Purchase Price. If Seller does not approve Purchaser's estimate, Seller shall perform the Road Improvements at its expense, but in that case Seller shall only be required to perform those Road Improvements which pertain to NW 4th Avenue and NW 4th Street, and Purchaser shall remain responsible for the Road Improvements along NW 6th Avenue.

(c) **Plans for Road Improvements.** Seller has previously engaged Keith and Associates, Inc. (the "*Engineer*") to prepare plans and specifications for the design of the Road Improvements. Seller shall be responsible for the payment of the Engineer's costs for such design. Purchaser and Seller shall cooperate to ensure that the final design for the Road Improvements is reasonably acceptable to both Purchaser and Seller.

(d) **Survival.** The provisions of this Section 19 shall survive the Closing.

20. **Site Plan.** Purchaser and Seller acknowledge that Purchaser has submitted a proposed site plan for the Project as part of the RFP, a copy of which is attached hereto as Exhibit "C". The Seller has, as of the Effective Date, offered verbal comments on the proposed site plan but the Seller's final site plan comments have not yet been communicated to Purchaser. The Purchaser's development of the Property will include a mixed-use residential and retail/commercial development. Purchaser's final site plan shall be subject to the Seller's approval, which shall not be unreasonably withheld, delayed or conditioned. The parties will amend this Contract to incorporate the final approved site plan as a substitute for Exhibit "C", together with all regulatory approvals and permits. The provisions of this Section 20 shall survive the Closing.

21. **Management of Residential Portion of Project.**

(a) **Management.** The residential component of the Project (the "Housing") is to be managed by a professional property management company experienced in the maintenance and administration of affordable housing (the "Management Company"). The Housing shall be managed in a manner which is comparable to similar affordable housing communities in Broward County, Florida, but in any event subject to (i) the applicable requirements of the FHFC, (ii) the management contract to be entered into between Purchaser (or its assignee) and the Management Company and (iii) the tenant leases and rules and regulations applicable to the residents of the Housing (collectively, the "Residential Standards")

(b) **Management Company.** Seller shall have the right to approve of the Purchaser's selection of the Management Company, which shall not be unreasonably withheld, delayed or conditioned. If a Management Company is proposed by Purchaser (or its assignee) for Seller's approval and no response is received by Purchaser within thirty (30) days thereafter, the

selection of the Management Company shall be deemed approved.

(c) **Failure to Manage.** In the event the Seller reasonably believes the Management Company has failed to manage the Housing in accordance with the Residential Standards, Seller shall so notify Purchaser in writing, and Purchaser shall have a sixty (60) day period in which to (a) provide evidence to Seller that the Housing is being managed in accordance with the Residential Standards or (b) cause the Management Company to rectify the conditions giving rise to such failure. In the event the Management Company has failed to manage the Housing as provided herein and such failure is not cured within said sixty (60) day period, Seller shall have the right, at its election, to cause the Purchaser to replace the Management Company with a replacement Management Company reasonably acceptable to Seller and Purchaser, subject to the approval of all lenders and investors providing funds for the Purchaser's development and financing of the Project, which approval shall be in the sole discretion of such lenders and investors. The provisions of this Section 21 shall survive the Closing.

22. **Agreement Construction.** Purchaser and Seller acknowledge that this Agreement was prepared after substantial negotiations between the parties. This Agreement shall not be interpreted against either party solely because such party or its counsel drafted the Agreement.

23. **Encumbrance.** Purchaser agrees that Purchaser will not encumber title to the Property with any lien that is provided for security for any loan not related to the acquisition of the Property or the development, construction or long-term financing of the Project. The provisions of this Section 23 shall survive the Closing.

24. **Miscellaneous.**

(a) **Successors and Assigns.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, successors and assigns. This Agreement may be freely assigned by Purchaser to an entity in which Francisco Rojo and Robert Saland own a controlling interest in the managing general partner of the assignee, without Seller's consent and thereafter Purchaser shall be relieved of all obligation hereunder provided that Purchaser's assignee shall be obligated to close under this Agreement in the same manner as Purchaser. Any other assignment will require Seller's consent, not to be unreasonably withheld.

(b) **Amendments and Termination.** Except as otherwise provided herein, this Agreement may be amended or modified by, and only by, a written instrument executed by Seller and Purchaser, acting by their respective duly authorized agents or representatives.

(c) **Survival of Representations and Warranties.** The respective representations, warranties, covenants and agreements of Seller and Purchaser contained in this Agreement shall survive the Closing of this transaction and remain in effect for a period of one (1) year.

(d) **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

(e) **Notices.** Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given when delivered, if delivered by hand

delivery, or when transmitted by facsimile or deposited with any nationally or regionally established overnight courier service, deposited in the United States Post Office, registered or certified mail, postage prepaid, return receipt requested, if mailed. Notices shall be addressed as follows:

If to Seller: Pompano Beach Community Redevelopment Agency
Attn: Executive Director
100 W. Atlantic Boulevard, Room 276
Pompano Beach, Florida 33060
Telephone: (954) 786-5535
Fax: (954) 786-7836

If to Purchaser: Landmark Development Corp.
Attn: Francisco Rojo
1666 Kennedy Causeway, Suite 505
North Bay Village, FL 33141
Telephone: (305) 538-9552
Fax: (305) 538-9553

With a copy to: Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A.
Attn.: Patricia K. Green
150 W. Flagler Street, Suite 2200
Miami, FL 33130
Telephone: 305-789-3345
Fax: 305-789-3395

If to Escrow Agent: Stearns Weaver Miller Weissler
Alhadeff & Sitterson, P.A.
Attn.: Patricia K. Green
150 W. Flagler Street, Suite 2200
Miami, FL 33130
Telephone: 305-789-3345
Fax: 305-789-3395

or such other address either party from time to time specify in writing to the other.

(f) **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same document.

(g) **Facsimile as Writing.** The Purchaser and Seller expressly acknowledge and agree that notwithstanding any statutory or decisional law to the contrary, the printed product of a facsimile transmittal shall be deemed to be written, and a writing, and may be treated as the original document for all purposes under this Agreement.

(h) **Interpretation of Agreement.** The section and paragraph headings herein contained are for the purposes of identification only and shall not be considered in construing this Agreement. As used in this Agreement, the masculine shall include the feminine and neuter, the singular shall include the plural and the plural shall include the singular as the context may require.

(i) **Merger of Prior Agreements.** This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and both parties agree there are no commitments, agreements or understandings concerning the subject matter herein that are not contained in this Agreement. Accordingly, both parties agree no deviation from the terms herein shall be predicated upon any prior representations or agreements, whether oral or written.

(j) **Sovereign Immunity.** Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity to the extent applicable to the Seller.

(k) **Attorneys' Fees and Costs.** In any litigation arising out of or pertaining to this Agreement, the prevailing party shall be entitled to an award of its attorneys' fees whether incurred before, after or during trial, or upon any appellate level.

(l) **Time.** Time is of the essence of this Agreement. When any time period specified herein falls or ends upon a Saturday, Sunday or legal holiday, the time period shall be automatically extended through the next ensuing business day.

(m) **Bid Proposal.** The Purchaser's bid proposal submitted in response to the RFP (the "*Bid Proposal*") and all of its completed exhibits, as submitted by the Purchaser and approved by the Seller, is incorporated herein by reference. In the event of conflict between the essential terms of the Bid Proposal and related exhibits and the express terms and conditions of this Agreement, this Agreement shall prevail and supersede those inconsistent terms in the Bid Proposal and related exhibits.

(n) **Escrow Agent.** The payment of the Deposit to the Escrow Agent is for the accommodation of the parties. The duties of the Escrow Agent shall be determined solely by the express provisions of this Agreement. The parties authorize the Escrow Agent, in the event this Agreement or the Deposit becomes involved in litigation, to deposit the Deposit with the clerk of the court in which the litigation is pending and thereupon the Escrow Agent shall be fully relieved and discharged of any further responsibility hereunder. The undersigned also authorize the Escrow Agent, if it is threatened with litigation, to interplead all interested parties in any court of competent jurisdiction. The Escrow Agent shall not be liable for any mistake of fact or error of judgment or any acts or omissions of any kind unless caused by its willful misconduct or gross negligence. The Escrow Agent shall be entitled to rely on any instrument or signature believed by it to be genuine and may assume that any person purporting to give any writing, notice or instruction in connection with this Agreement is duly authorized to do by the party on whose behalf such writing, notice or instruction is given. The parties will, and hereby agree to, jointly and severally, indemnify the Escrow Agent for and hold it harmless against any loss, liability, or expense incurred without gross negligence or willful misconduct on the part of the Escrow Agent arising out of or in connection with the acceptance of, or the performance of its

duties hereunder, as well as the costs and expenses of defending against any claim or liability arising hereunder. This provision shall survive the Closing or termination of this Agreement. Seller acknowledges that the Escrow Agent is also Purchaser's Attorney in this transaction, and Seller hereby consents to the Escrow Agent's representation of Purchaser in any litigation that may arise out of this Agreement.

(o) **Performance Bond.** Purchaser shall obtain a performance bond for the completion of the development of the Project, which bond shall be obtained concurrently with the commencement of construction of the Project. The provisions of this Section 24(o) shall survive the Closing.

(p) **Completion of Project.** Purchaser agrees to complete construction of the Project within the timeframe set forth in any Carryover Allocation Agreement issued by FHFC with respect to the Project, and in the event FHFC issues an extension of the placed-in-service deadline for completion of the Project, the Seller agrees that the covenant for completion included in this Section shall be extended in commensurate fashion. The provisions of this Section 24(p) shall survive the Closing.

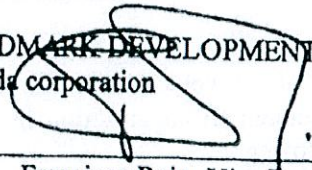
(q) **Conditions Precedent.** Notwithstanding anything to the contract herein, it shall be a condition precedent to Closing that (a) Purchaser shall have obtained a final, non-appealable allocation of Tax Credits and (b) Purchaser shall have obtained and provided to Seller copies of commitments from lenders and equity investors which will provide financing and equity for the Purchaser's construction of the Purchaser's Intended Use of the Property, which letters may be subject to usual and customary conditions for funding consistent with industry standards. It is acknowledged that the acquisition of the Property may be effected using a bridge loan, acquisition loan or Purchaser's own funds, and that the commitments from such lenders and investors may include funds for reimbursement of such acquisition.

[The remainder of this page was intentionally left blank, signature page to follow.]

In witness whereof, Seller and Purchaser have caused this Agreement to be executed as of the respective dates set forth below:

PURCHASER:

LANDMARK DEVELOPMENT CORP., a
Florida corporation

By: 
Francisco Rojo, Vice President

Date: October 4, 2013

SELLER'S SIGNATURE PAGES FOLLOW

SELLER SIGNATURE PAGES

Signed, Sealed and Witnessed
In the Presence of:

Betty J. Manes


Print Name: Betty J. Manes

Shelley R. Bartholomew

Print Name: Shelley R. Bartholomew

**POMPANO BEACH COMMUNITY
REDEVELOPMENT AGENCY**

By: 
Lamar Fisher, Chairman

ATTEST: 
Margaret Gallagher, Secretary

EXECUTIVE DIRECTOR:
Redevelopment Management Associates, LLC
a Florida limited liability company

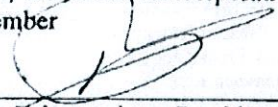
Courtney Gaskins

Print Name: Courtney Gaskins


Courtney Gaskins

Print Name: Courtney Gaskins

By: MetroStrategies, Inc., a Florida corporation
a managing member

By: 
Kim Briesemeister, President

and

By: 
Christopher J. Brown, a managing member

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 18th day of October, 2013 by LAMAR FISHER as Chairman of the Pompano Beach Community Redevelopment Agency, who is personally known to me.

NOTARY'S SEAL:



Christine Kendel
NOTARY PUBLIC, STATE OF FLORIDA

Christine Kendel
(Name of Acknowledger Typed, Printed or Stamped)

FF039122
Commission Number

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 18th day of October, 2013 by MARGARET GALLAGHER, Secretary of the Pompano Beach Community Redevelopment Agency, who is personally known to me.



Courtney Gaskins
NOTARY PUBLIC, STATE OF FLORIDA

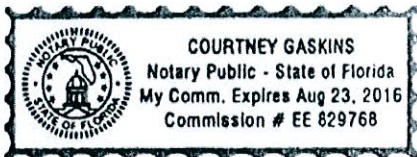
Courtney Gaskins
(Name of Acknowledger Typed, Printed or Stamped)

EE829768
Commission Number

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 18th day of October, 2013, by Kim Briesemeister, President of MetroStrategies, Inc., as Managing Member of Redevelopment Management Associates, LLC on behalf of the limited liability company. She is personally known to me or who has produced _____ (type of identification) as identification.

NOTARY'S SEAL:



Courtney Gaskins
NOTARY PUBLIC, STATE OF FLORIDA

Courtney Gaskins
(Name of Acknowledger Typed, Printed or Stamped)

EE829768
Commission Number

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 18th day of October, 2013, by Christopher J. Brown, as Managing Member of Redevelopment Management Associates, LLC, on behalf of the limited liability company. He is personally known to me or who has produced _____ (type of identification) as identification.

NOTARY'S SEAL:



Courtney Gaskins
NOTARY PUBLIC, STATE OF FLORIDA

Courtney Gaskins
(Name of Acknowledger Typed, Printed or Stamped)

EE829768
Commission Number

Exhibit "A"
Legal Description

Parcel A of BLANCHE ELY COMMERCIAL REDEVELOPMENT PLAT, as recorded in Plat Book 180, Pg. 134, of the Public Records of Broward County, Florida.

EXHIBIT "B"

Landmark Development Corp.
(Landmark)

Pompano Beach Community Redevelopment Agency
(CRA)

LOCAL BUSINESS ENTERPRISE UTILIZATION PLAN

Landmark Development Corp. ("Landmark"), recognizing Pompano Beach Community Redevelopment Agency's ("CRA") commitment to the equitable participation of local, qualified Local Business Enterprises ("LBE") in the development of the Property as per Purchaser's response to RFP #03-2013 ("Project"), presents this Local Business Enterprise Plan. This submittal reflects Landmark's projected LBE participation of the Project. However, the projected levels described herein of LBE participation may change subject to a change in conditions, and should changes occur, Landmark will submit to the CRA a revised LBE Plan for approval as the Project progresses.

SECTION 1. DESIGN AND ENGINEERING

Landmark has identified design and engineering as major potential categories for LBE utilization. The CRA shall cooperate with Landmark in creating the LBE goal for the design and engineering phase of the Project, which is twenty-five percent (25%) of the total cost of the design and engineering functions. It is anticipated that this goal could be reached using the services of certified and qualified architectural, design, engineering, landscape architecture and land surveying LBE firms.

SECTION 2. CONSTRUCTION

The construction category also affords LBEs an excellent opportunity to participate in the Project. During construction, Landmark has set a LBE participation goal of twenty percent (20%) of the total construction costs. Currently identified construction trades/crafts where LBEs have a feasible opportunity for participation are:

1. Site Work
2. Paving/Curb/Gutter
3. Concrete
4. Dry walling
5. Painting
6. Carpentry
7. Window/Door Installation
8. Metal Fabrication/Steel Reinforcement
9. Electrical
10. Mechanical

11. Plumbing
12. Asphalt Paving & Striping
13. Floor/Wall Covering
14. Others as appropriate

Landmark is intending to utilize its affiliated construction company, Landmark Construction Service, LLC as the main general contractor for the Project, and will take steps to ensure compliance with the LBE goal by seeking to contract directly with LBE contractors and by requiring, through terms of contract, that prime construction subcontractors hired to perform such services make reasonable efforts to meet LBE goal by providing opportunities for LBE participation in each trade and professional category described herein and any others as may be appropriate.

SECTION 3. LBE RETAIL TENANTS

Landmark will endeavor to identify LBE firms and businesses whose purposes and uses may be consistent with the commercial uses planned for the Project, and Landmark will use reasonable good faith efforts to lease commercial space within the Project to such LBE firms and businesses, under terms at least as favorable as those offered to other unaffiliated businesses and firms. Landmark's goal is that ten percent (10%) of the rentable and rented commercial square footage not utilized by Landmark, or its affiliate, shall be rented/leased to and occupied by LBE firms or businesses.

SECTION 4. SUPPLIES, EQUIPMENT, NON-PROFESSIONAL SERVICES

Landmark will take affirmative steps to assure that LBE firms are used to the maximum extent possible in providing supplies, equipment, and non-professional services required by the development, administration and operation of this project. By way of illustration, such items may include printing, cleaning supplies, janitorial services and so forth. The LBE goal for use of such firms during the administrative and operations phase shall be ten percent (10%) of the total costs paid during the administrative and operations phase.

SECTION 5. EFFORTS TO MAXIMIZE PARTICIPATION OF LBE FIRMS

To assure the maximum utilization of LBE in the Project, Landmark will:

1. Obtain from the CRA, the City of Pompano Beach and/or Broward County a registry of its approved/eligible businesses that do business in the City of Pompano Beach or Broward County.
2. Establish through the CRA and the Broward County Office of Economic and Small Business Development, a liaison with various public agencies and minority construction trade organizations.
3. Establish contact with various community services organizations.
4. Advertise opportunities for doing business on the Project in the various public and trade media, especially with those directed toward minority and ethnic communities.

5. Compile, with the assistance of the CRA, a listing of qualified and available LBEs interested in the Project.
6. Designate a Project Manager who will serve as liaison to work cooperatively with CRA and who will coordinate Landmark's efforts in this regard. This person will be responsible for monitoring, maintaining and ensuring compliance with this program.

SECTION 6. ASSISTANCE PROGRAM FOR LBE

Landmark, in order to encourage LBEs participation, will work with the CRA and Broward County departments and agencies, lending institutions and bonding agencies to identify and provide such agency or third-party technical assistance and bonding for LBEs where necessary, reasonable and available, and where applicable, Landmark will consider waiving such bonding requirements (subject to lender or other requirements), as may be waived without compromising the integrity of the Project. Further, Landmark will attempt to develop, through its prime contractors, a reasonable mechanism for management assistance for LBE's where such LBE firms may require. Landmark's implementation of the LBE program will be guided by the policies confirmed herein, subject to the applicable contracts, laws and Permits, as well as Landmark's overall obligation to ensure that the Project is developed and operated in an efficient, cost effective and compliant manner. If there are performance problems or material concerns relative to the qualification or performance of LBEs, Landmark will act promptly, reasonable and in good faith in an effort to identify and address such problems so that the Project may continue with the continuing participation of the subject LBE; subject to Landmark's prudent business discretion and other requirements concerning the Project. Landmark will comply with federal, state and local requirements pertaining to the utilization of minorities and women and welcome any assistance from the CRA so that it may satisfy those requirements.

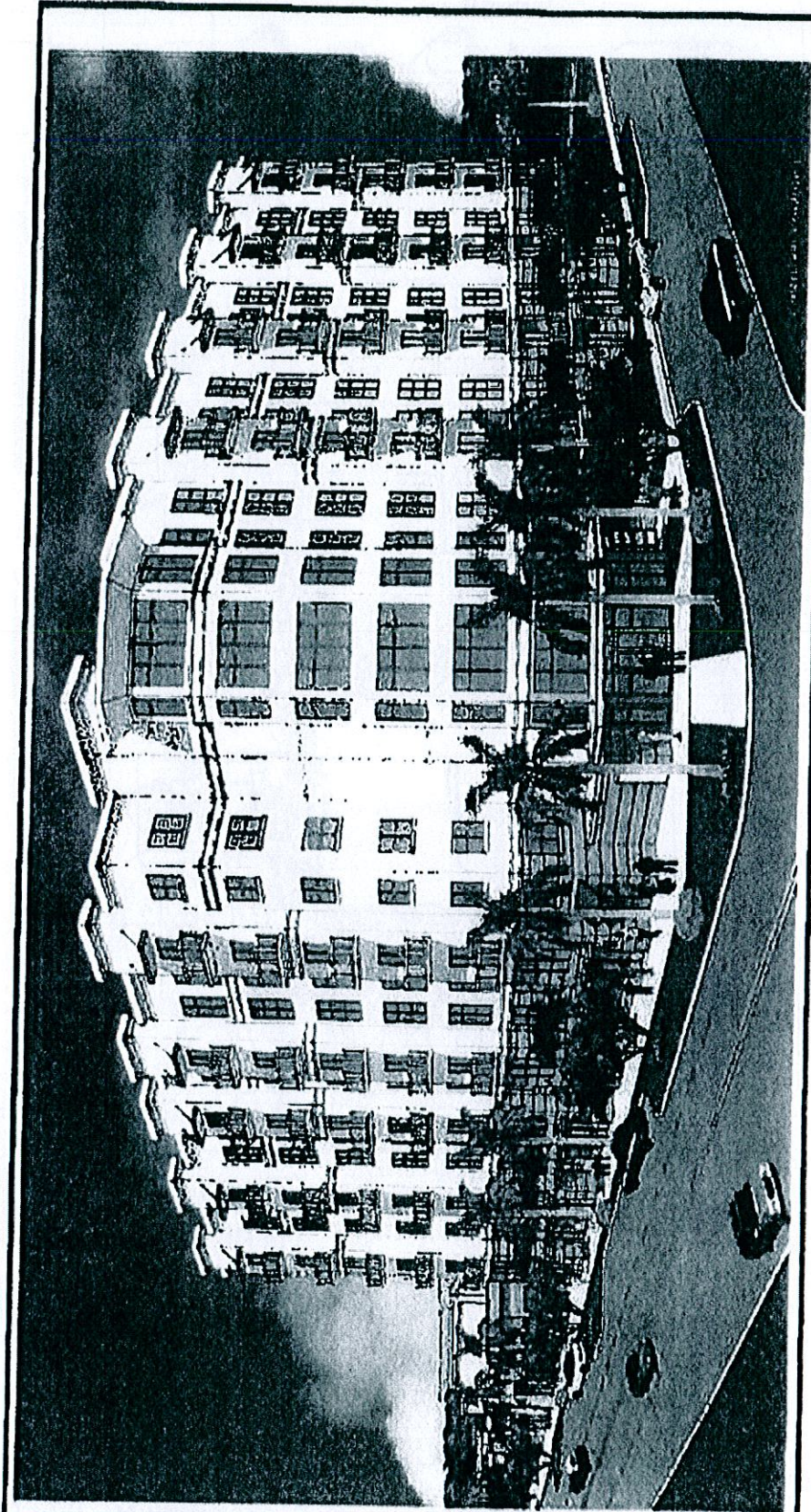
EXHIBIT "C"

TAB 4B -- SITE PLAN AND ELEVATIONS

See attached copy of the proposed project rendering, site plan, building floor plans and elevations.

Reduced 8-1/2" x 11" drawings are included behind this tab, and a separate envelope containing 11" x 17" versions of all the design drawings is also provided as an attachment.

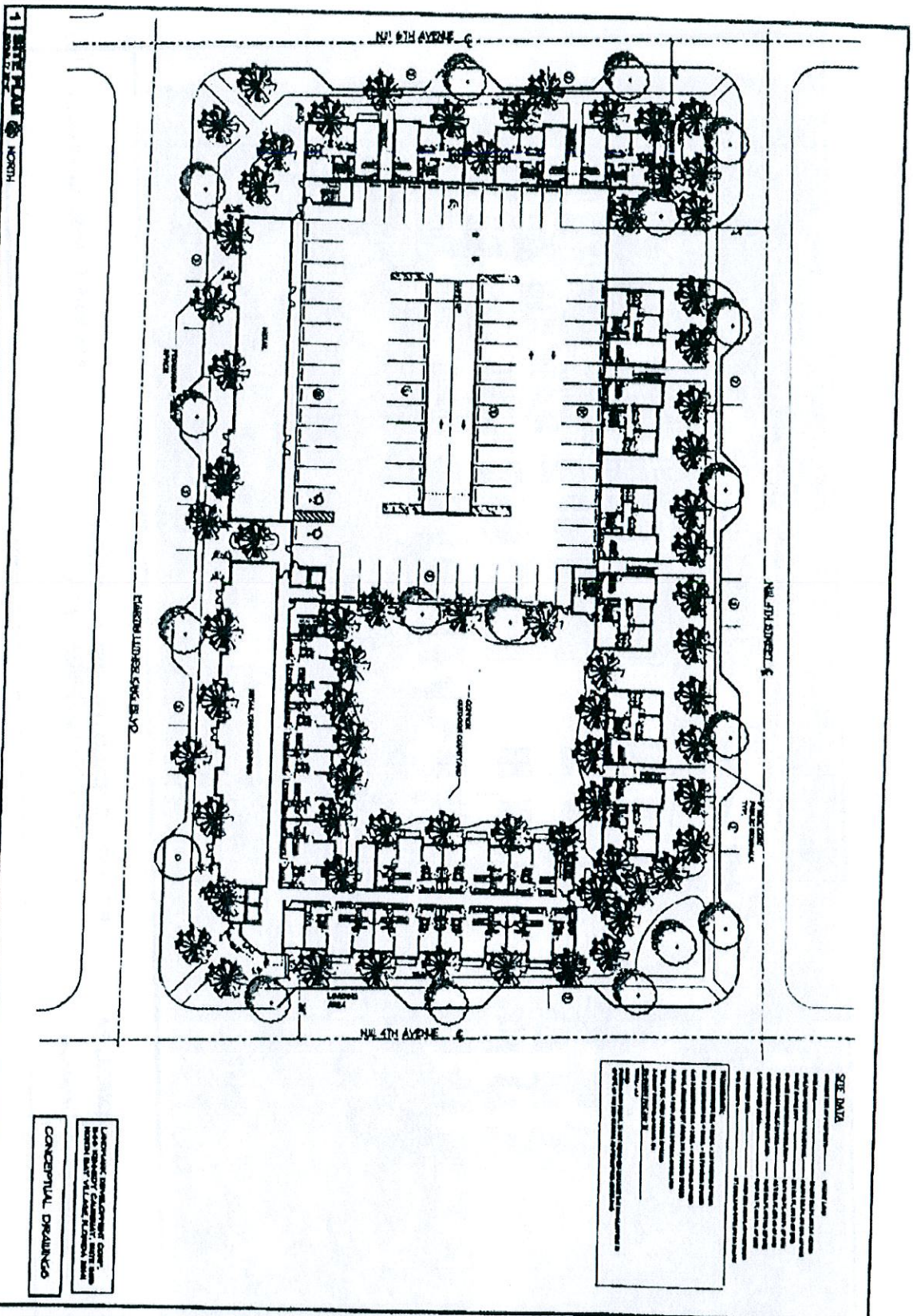
Full size 24" x 36" drawings are available upon request, and will be provided if Landmark is selected to make a presentation to the CRA.



GUSTAVO J. CARBONELL, P.A.
Architect & Planner
Member American Institute of Architects

**PROPOSED MIXED USE DEVELOPMENT
CITY OF POMPANO BEACH CRA**

Landmark Development Corp.



1 SITE PLAN NORTH

LANDSCAPE ARCHITECTURE FIRM
 1000 UNIVERSITY AVENUE, SUITE 200
 MIAMI BEACH, FLORIDA 33139

CONCEPTUAL DRAINAGE

SITE DATA

PROJECT NAME: _____

PROJECT ADDRESS: _____

PROJECT CITY: _____

PROJECT STATE: _____

PROJECT ZIP: _____

PROJECT PHONE: _____

PROJECT FAX: _____

PROJECT EMAIL: _____

PROJECT WEBSITE: _____

PROJECT CONTACT: _____

PROJECT CONTACT PHONE: _____

PROJECT CONTACT FAX: _____

PROJECT CONTACT EMAIL: _____

PROJECT CONTACT WEBSITE: _____

PROJECT CONTACT ADDRESS: _____

PROJECT CONTACT CITY: _____

PROJECT CONTACT STATE: _____

PROJECT CONTACT ZIP: _____

PROJECT CONTACT PHONE: _____

PROJECT CONTACT FAX: _____

PROJECT CONTACT EMAIL: _____

PROJECT CONTACT WEBSITE: _____

DATE	SP-1
SCALE	
PROJECT	
CLIENT	
DESIGNER	
DATE	

**PROP. MIXED USE DEVELOPMENT
 CITY OF POMPANO BEACH CRA**

BLK BLVD.
 POMPANO BEACH, FLORIDA

GUSTAVO J. CARBONELL, F.A.
 Architect and Planner

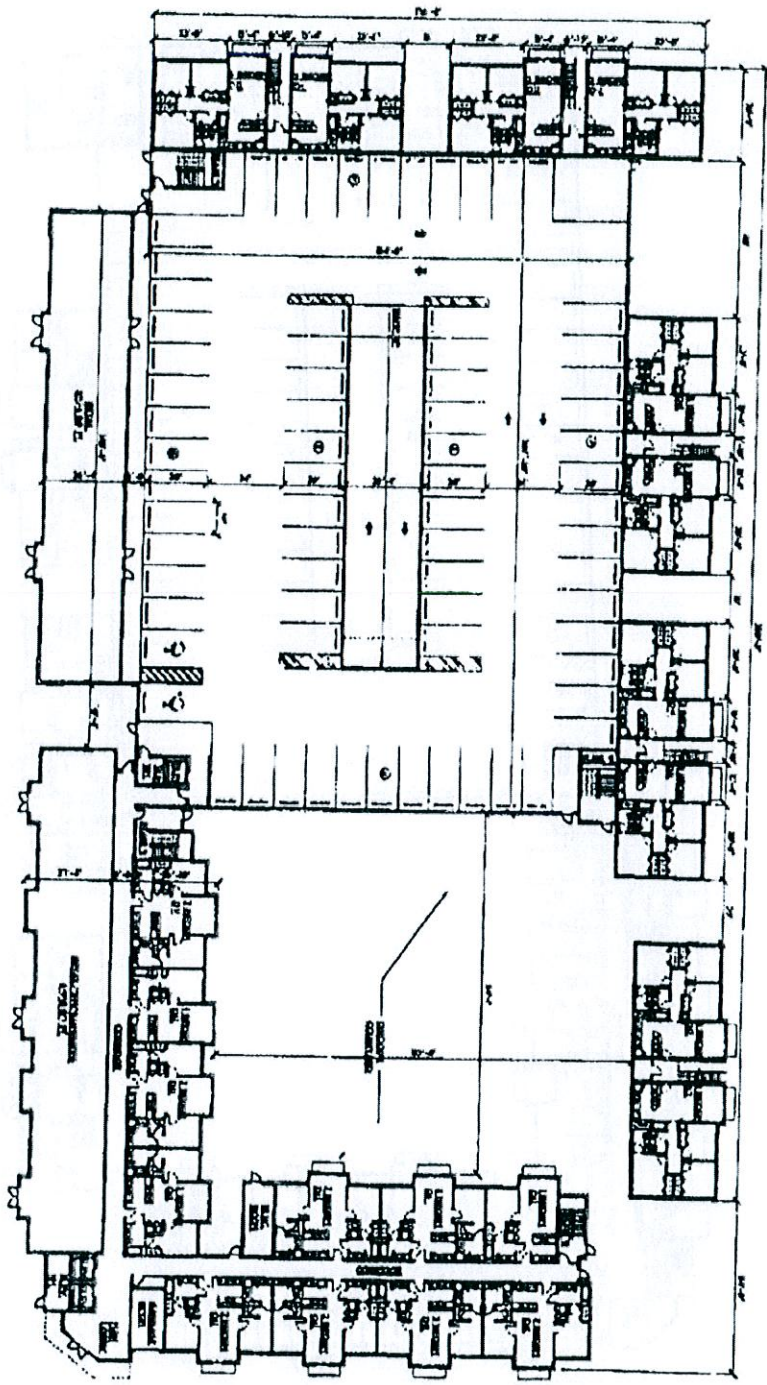
1407 N.E. 46th AVE.
 Ft. Lauderdale, Florida, 33304
 (954) 462-8888

Member American Institute of Architects

NO.	DATE	REVISION

2024-01-01: Revised Site Plan, Landscape Architecture, and Drainage Plans for the City of Pompano Beach CRA. Project No. SP-1.

1 FIRST FLOOR PLAN NORTH



CONCEPTUAL DRAWINGS
 LINDSEY CONSULTING GROUP
 1000 S.W. 10TH AVENUE, SUITE 200
 MIAMI BEACH, FLORIDA 33134

PROJECT: Proposed New Property for the City of Pompano Beach, Florida
 DATE: 10/15/2010
 DRAWING NO.: 10-10-10-001

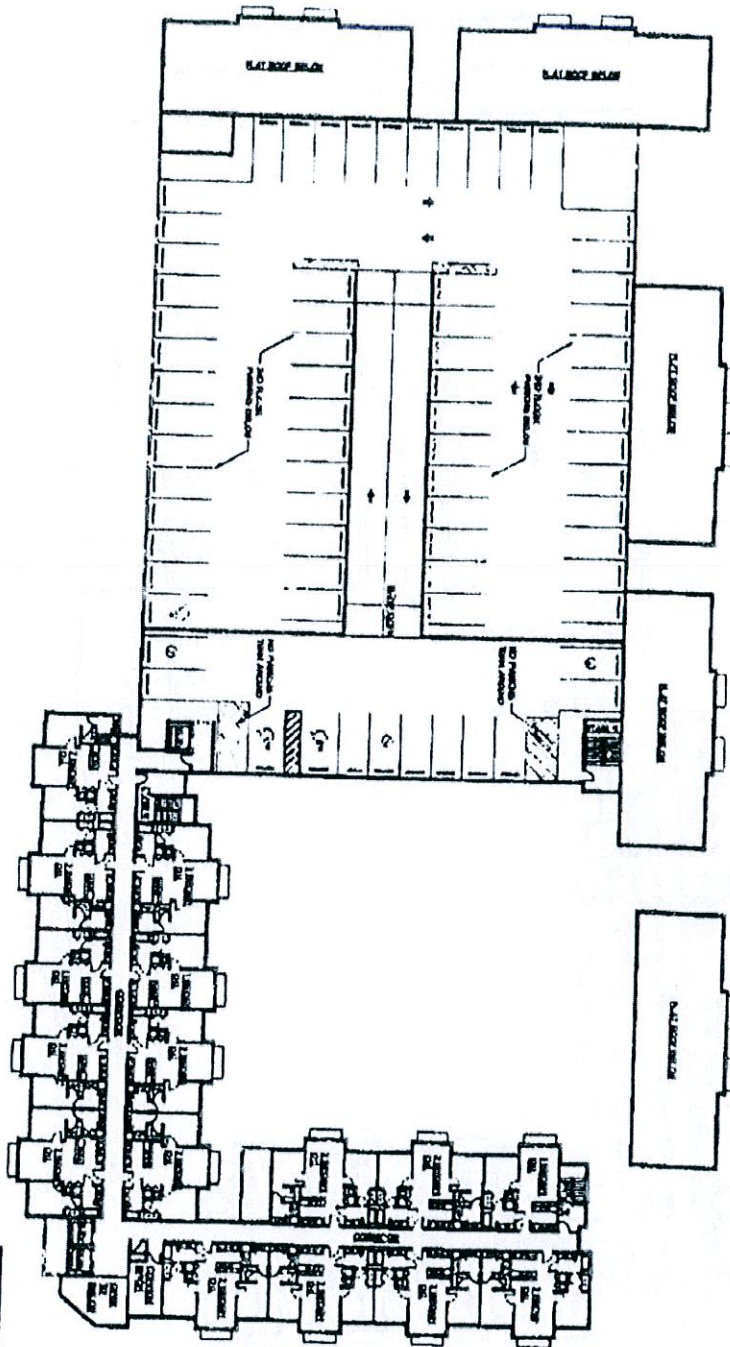
A-1	DATE	10/15/2010
	BY	LSG
	CHECKED BY	LSG
	SCALE	AS SHOWN

PROP. MIXED USE DEVELOPMENT
CITY OF POMPANO BEACH CRA
 MILK BLVD.
 POMPANO BEACH, FLORIDA

GUSTAVO J. CARBONELL, F.A.
 Architect and Planner
 1402 S.E. 4th Ave.
 Ft. Lauderdale, Florida, 33304
 (954) 482-6282
 Member American Institute of Architects

NO.	DATE	DESCRIPTION

1 3RD FLOOR PLAN NORTH



CONCEPTUAL DRAWINGS
 LINDSEY ARCHITECTURE GROUP
 1000 N. W. 10TH AVENUE, SUITE 100
 MIAMI, FLORIDA 33136

2025/01/15 10:00 AM (AutoCAD) 1000 N. W. 10TH AVENUE, SUITE 100, MIAMI, FLORIDA 33136

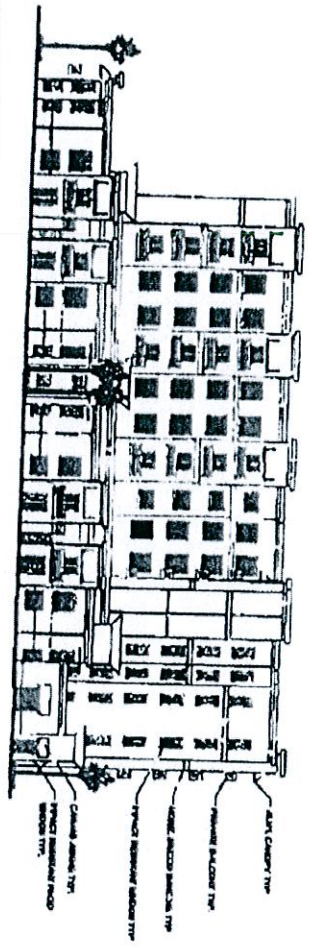
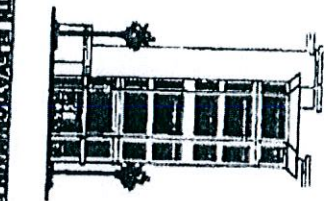
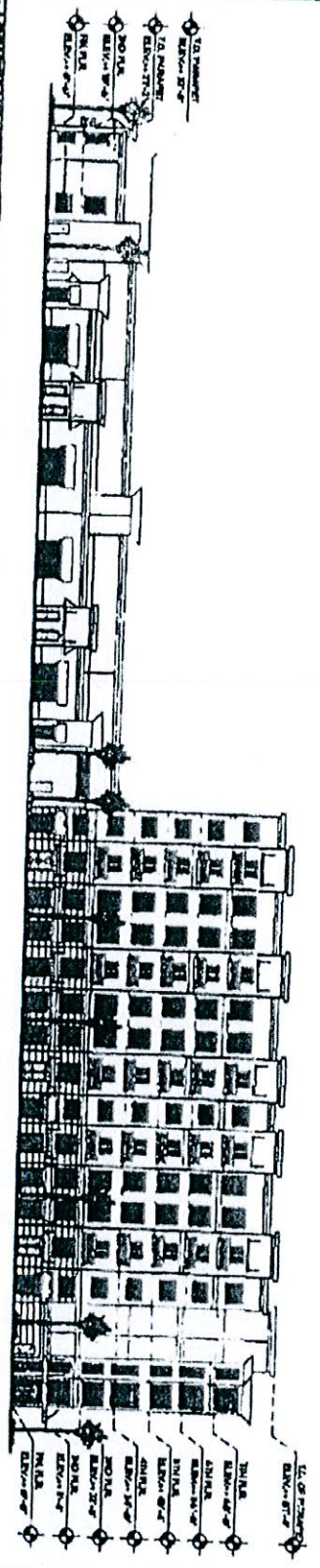
A-3	DATE	1/15/25
	BY	LSG
REVISIONS	NO.	DESCRIPTION
	1	ISSUE FOR PERMIT

**PROP. MIXED USE DEVELOPMENT
 CITY OF POMPANO BEACH CRA**
 MILK BLVD.
 POMPANO BEACH, FLORIDA



GUSTAVO J. CARBONELL, P.A.
 Architect and Planner
 1807 S.E. 86th AVE.
 Ft. Lauderdale, Florida, 33304
 (954) 463-8888
 Member American Institute of Architects

SCALE	AS SHOWN
DATE	1/15/25
BY	LSG



LANDMARK CONSULTING GROUP
 1000 N. W. 10th Ave., Suite 1000
 Fort Lauderdale, Florida 33304
 CONCEPTUAL DRAWINGS

DATE	11/11/11
BY	JAC
CHECKED BY	JAC
SCALE	AS SHOWN
TITLE	CONCEPTUAL DRAWINGS
PROJECT	PROP. MIXED USE DEVELOPMENT CITY OF POMPANO BEACH CRA
CLIENT	BLK BLVD. POMPANO BEACH, FLORIDA
ARCHITECT	GUSTAVO J. CARBONELL, P.A. Architect and Planner 140 N.E. 4th Ave. Ft. Lauderdale, Florida, 33304 (954) 463-0880 Member American Institute of Architects

**PROP. MIXED USE DEVELOPMENT
 CITY OF POMPANO BEACH CRA**
 BLK BLVD.
 POMPANO BEACH, FLORIDA

GUSTAVO J. CARBONELL, P.A.
 Architect and Planner
 140 N.E. 4th Ave.
 Ft. Lauderdale, Florida, 33304
 (954) 463-0880
 Member American Institute of Architects

NO.	1
DATE	11/11/11
BY	JAC
CHECKED BY	JAC
SCALE	AS SHOWN
TITLE	CONCEPTUAL DRAWINGS
PROJECT	PROP. MIXED USE DEVELOPMENT CITY OF POMPANO BEACH CRA
CLIENT	BLK BLVD. POMPANO BEACH, FLORIDA
ARCHITECT	GUSTAVO J. CARBONELL, P.A. Architect and Planner 140 N.E. 4th Ave. Ft. Lauderdale, Florida, 33304 (954) 463-0880 Member American Institute of Architects

Architectural rendering for Pompano Beach, Florida. Drawing No. A-6. Date: 11/11/11. Scale: As Shown. Title: Conceptual Drawings. Project: Prop. Mixed Use Development City of Pompano Beach CRA. Client: Blk Blvd. Pompano Beach, Florida. Architect: Gustavo J. Carbonell, P.A. Architect and Planner. 140 N.E. 4th Ave. Ft. Lauderdale, Florida, 33304. (954) 463-0880. Member American Institute of Architects.

City Vista Associates, LLC
1666 Kennedy Causeway, Suite 505
North Bay Village, FL 33141
(305) 538-9552 (office)
(305) 538-9553 (fax)

Approved
FHFC Advance Review
9/30/13

I. **Applicant:** City Vista Associates, LLC., a Florida limited liability company

Managing Member (.01%) City Vista Associates GP, LLC., a Florida limited liability company

Managers/Officers: Robert F. Saland, President and Treasurer
Francisco Rojo, Vice-President and Secretary

Members: Robert F. Saland - 50% owner
Francisco Rojo - 50% owner

Member (99.99%): Robert F. Saland - 99.99% owner of City Vista Associates, LLC. (to be replaced at tax credit and loan closing by tax credit investor)

II. **Developer:** Landmark Development Corp., a Florida Corporation

Officers: Robert F. Saland, President and Treasurer
Francisco Rojo, Vice-President and Secretary

Directors: Robert F. Saland
Francisco Rojo

Shareholders: Robert F. Saland - 50% owner
Francisco Rojo - 50% owner

