MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (the "**Agreement**") is entered into as of the effective date set forth below by and between the **DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF DORAVILLE**, a downtown development authority and public body corporate and politic (the "**DDA**") duly created by the Downtown Development Authorities Law, O.C.G.A. Section 36-42-1, *et seq.* (the "**Act**") and activated by resolution of the governing body of the City of Doraville, Georgia (the "**City**"), and **FRIDAY'S PLAZA PROPERTY, LLC**, a Georgia limited liability company (the "**Company**"), each a "**Party**" and collectively the "**Parties.**"

RECITALS

A. Property tax treatment of the Project (defined below) that is advantageous to the Company will result from the structure of the transaction contemplated by this Agreement (the "**Transaction**").

B. The Transaction involves the issuance by the DDA of its industrial development revenue bond (the "**Bond**") for the purposes of acquiring the Project from the Company and leasing it back to the Company under a related lease (the "**Lease**"), as more fully described below.

C. The basis for the Transaction is the public benefit that the citizens of the City, DeKalb County (the "**County**") and the State of Georgia ("**State**") will obtain from such Transaction (as more specifically described below, the "**Public Benefit**"), and the interests of the public will be protected through this Agreement that the DDA will require the Company to enter into in connection with such Transaction.

D. The Act provides, at O.C.G.A. Sec. 36-42-2, that the revitalization and redevelopment of the central business districts of the municipal corporations of this state develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities and promote the general welfare of this state by creating a climate favorable to the location of new industry, trade, and commerce and the development of existing industry, trade, and commerce within the municipal corporations of this state; revitalization and redevelopment of central business districts by financing projects under the Act will develop and promote for the public good and general welfare trade, commerce, industry, and employment opportunities and will promote the general welfare of this state; it is, therefore, in the public interest and is vital to the public welfare of the people of this state, and it is declared to be the public purpose of the Act, so to revitalize and redevelop the central business districts of the municipal corporations of this state.

E. The Company's willingness to proceed with the Project is conditioned upon the agreement of the DDA to enter into this Agreement with a view towards its providing the favorable property tax treatment described below. But for such favorable property tax treatment, the Company would not be locating the Project within the territorial boundaries of the City.

AGREEMENTS

1. THE PROJECT.

1.1. Description of the Project. The "**Project**" is a mixed-use development consisting of (i) approximately 300-320 Class A market-rate commercial multi-family units with related amenities, (ii) approximately 3,500 square feet of commercial space and (iii) surface parking with approximately 427 spaces (collectively, the "**Leased Improvements**"). Without limitation, the Project shall meet, so long as the Savings Schedule (defined below) is in effect, the quality standards (the "**Standards**"), and shall utilize the "**Hero Housing Program**", each of which is further described on Schedule 1.1 attached hereto and incorporated herein by reference. The Project includes and is located on a site (the "**Leased Land**") of approximately 9 acres that is part of an approximately 14-acre tract which contains an existing shopping center formerly known as Friday's Plaza located in the City. For purposes of the Project, the Company will, (a) demolish approximately 90,000 rentable square feet of the shopping center on the Leased Land where it fronts Tilly Mill and Van Fleet Circle, and (b) legally subdivide the Leased Land from the remainder of the 14-acre tract. For the avoidance of doubt, the existing retail facilities and any new retail facilities on such remainder are not part of the Project and shall not benefit from the Savings Schedule. In addition to the Leased Land and the Leased Improvements, the Project includes the "**Leased Equipment**", which means all items constituting building fixtures and building equipment installed in the Leased Improvements and leased by the DDA to the Company under the Lease, and all replacements and substitutions thereof. In connection with the issuance of the Bond the DDA will become the owner of the Project as it then exists, and will lease it to the Company under the Lease.

1.2. Total Project Costs. "**Total Project Costs**" include all reasonable costs, fees and expenses incurred by the Company in connection with the investment in the Project and the issuance of the Bond. The Company will be responsible for any costs of or related to the Project, including, without limitation, those related to any change orders or cost overruns, to the extent that Bond proceeds are not available or are not sufficient to pay such costs.

1.3. Closing. As used herein, the "**Closing**" is the event at which the Bond is issued and the other transactions contemplated herein are consummated. References herein to a "**Closing Condition**" are to the optional right of a Party hereto, based on a Closing Condition, to exercise a right provided herein in its favor and to avoid the Closing and terminate this Agreement as provided in Sections 5.4 and 5.5, respectively, below. In connection with the issuance of the Bond, the signatories hereto will also enter into an Economic Development Agreement (the **"EDA"**) to reflect any amendments hereto agreed to prior to Closing (or to reflect that there are no such amendments).

1.4. The Leased Land. The Leased Land is more particularly described on Schedule 1.4 attached hereto and incorporated herein by reference. It shall be a Closing Condition in favor of the DDA that it be satisfied with all matters related to the Leased Land, including, without limitation, encumbrances affecting it, the title thereto, and the DDA's acquisition thereof.

1.5. Environmental. The Company shall provide to the DDA, at its own expense, a Phase I environmental site assessment of the Leased Land, dated less than six (6) months prior to

the Closing. Such Phase I assessment shall allow both the Company and the DDA to equally rely on the assessment. The Company shall, at its own expense, conduct a Phase II environmental site assessment, if the need or recommendation for same is indicated by the Phase I environmental site assessment. Any such Phase II report shall allow both the Company and the DDA to equally rely on the assessment. The DDA's satisfaction with any such assessment(s) and the environmental condition of the Site shall be a Closing Condition in favor of the DDA.

1.6. Development of the Project.

1.6.1. Utilities. The Company shall be responsible for the delivery of adequate water, sewer, natural gas, and electricity to the Leased Land.

1.6.2. Design. The Company shall be responsible for the design of the Leased Improvements and the selection of the Leased Equipment, respectively.

1.6.3. Construction, Generally. The Company will be responsible for the construction of the Leased Improvements. Without limitation, the Company will select the contractor (the "**Contractor**") for such construction and enter into an agreement, as principal and not as agent of the DDA, with the Contractor for the construction of the Improvements. The Leased Improvements shall be constructed in compliance with applicable laws, including applicable zoning laws, building codes, environmental laws and other restrictions.

1.6.4. Acquisition and Installation of Personal Property. The Company will be responsible for the acquisition and installation, as principal and not as agent for the DDA, of the Leased Equipment, including, without limitation, payment of the costs thereof.

1.6.5. Permitted Exceptions. Without limitation, the Company shall keep the Project free and clear of all liens and encumbrances attributable to the Company, except for Permitted Exceptions, and shall in any event indemnify, hold harmless and defend the DDA and its respective directors members, officers, employees and representatives from any claim, liability or loss arising out of or related to any such lien or encumbrance (Permitted Exceptions and others), provided, that said indemnity shall not apply in the case of any particular indemnitee to any claim, loss or liability which is the result of the gross negligence or willful misconduct of such indemnitee. Said indemnity shall survive the expiration or earlier termination of this Agreement. As used herein, "**Permitted Exceptions**" shall be defined as the Definitive Documents (defined below), any superior encumbrances or superior security documents permitted by the Definitive Documents, and any liens, encumbrances, exceptions or other matters of record at the time of Closing and all matters set forth on the survey delivered in connection with the Closing or otherwise specified in this Agreement as being acceptable, or defined as such in the Lease.

1.7. Indemnity by the Company. The Company shall indemnify, hold harmless and defend the DDA and its directors, members, officers, employees and representatives from and against any and all loss, liabilities and claims (including, without limitation, liens and encumbrances resulting from construction and installation activities) that may arise out of or

relate to: (a) any act or omission by or attributable to the Company or its vendors, contractors or subcontractors, agents, employees or representatives, related to the Project; or (b) this transaction, including the Bond or the issuance thereof, or the ownership or operation of the Project. The indemnity contained in this Section 1.7 shall not apply in the case of any particular indemnitee to any claim, loss or liability which is the result of the gross negligence or willful misconduct of such indemnitee. Said indemnity shall survive the expiration or earlier termination of this Agreement. The DDA shall be entitled to receive information from the Company as it may reasonably request, including, without limitation, the Company's financial statements compiled (or, if required by the DDA, audited) by the Company's Certified Public Accountant, in order to determine that the financial capability of the Company is sufficient for purposes of the indemnification provisions of this Agreement and of the hereinafter described Definitive Documents in favor of the DDA. It shall be a Closing Condition in favor of the DDA that it be reasonably satisfied with such financial capability.

1.8. Public Benefit. The Project is located in the City within the central business district and the DDA's jurisdiction and will inure to the economic benefit of the citizens of the City. Without limitation, the DDA has found and determined, and does hereby find and determine, as follows:

1.8.1. This Project will benefit the public by providing a significant and much needed catalyst for revitalization and continuing redevelopment of the Leased Land and property in the vicinity of the Project. The financing, acquisition, and equipping of the Project will be in furtherance of the DDA's public purpose. The Project will promote trade and commerce, promote the economy, and bring other benefits to the City and its central business district, and the State. The Project promotes a vital interest of the City, and obtaining such critical public benefit is the basis on which the *ad valorem* property tax savings for the Project provided for herein is being extended.

1.8.2. The Project is a "project" under the Act.

1.8.3. The DDA's entry into this Agreement, and its carrying out of the Project, issuance of the Bond, and entry into the Lease pursuant hereto, are authorized, legal and proper under the Constitution and laws of the State of Georgia, including, without limitation, the Act.

1.8.4. The public benefit to be received by the DDA, the City and the County and their citizens from this Agreement and the Transaction (*i.e.*, the Public Benefit) includes, without limitation, the following:

1.8.4.1. The agreement of the Company to construct and operate the Project in the City, over time will result, among other things, in positive direct and indirect public revenues to the City and the County from the Project, even after taking into account the above mentioned favorable property tax treatment, in addition to economic benefits to their citizens, as noted in the "Economic and Fiscal Impact Analysis" of the Project prepared for the DDA.

1.8.4.2. The Project will accomplish the redevelopment of an area much

in need of rehabilitation and will further benefit the City and its citizens by dramatically changing the landscape, visibility and profile of the existing development, while providing a viable and exciting undertaking that would serve as a gateway to the City from multiple sub-markets, including: Dunwoody to the immediate west, Chamblee/Brookhaven to the south, and Peachtree Corners-Johns Creek to the north.

1.8.4.3. The Project will create employment opportunities for citizens of the City, inasmuch as staffing for the Project, including leasing, administrative and maintenance staff, will amount to 5 employees.

1.8.4.4. The residential occupants of the multi-family units will provide a significant economic boost to the City, especially its downtown area,

1.8.5. The economic benefits that will inure to the DDA, the City and the County and their citizens from this Agreement and the Transaction, and from the Public Benefit flowing therefrom, are substantial and will be greater in value than the benefits to be derived by the Company from this Agreement. The Transaction is the best and most feasible way to obtain such benefits for the DDA, the City and the County and their citizens. Therefore, the entry of the DDA into this Agreement and the provision of the favorable property tax treatment described in this Agreement involve no gratuity to the Company prohibited by the Constitution of the State of Georgia of 1983.

1.8.6. It is in the public interest to approve this Agreement in order to induce the Company to incur its obligations hereunder.

1.9. Year 1. For all purposes of this Agreement, including, without limitation, any Schedules and "Exhibits" hereto, "**Year 1**" shall be the year commencing on January 1 immediately following the year in which the first permanent certificate of occupancy is received for the Project, but no later than January 1, 2024. The Company must give the DDA prompt notice of the receipt of a certificate of occupancy.

1.10. City Approvals. It shall be a Closing Condition in favor of the DDA that the City has taken all official action necessary on the part of the City to approve the land use for the Project and that all other City permits that are required for the Project are in place. Notwithstanding the foregoing, if the Company, pursuant to Schedule 4.10 attached hereto, has diligently submitted and applied to the appropriate governmental body for all the requisite governmental approvals necessary for the land use for the Project and the permits that are required for the construction and operation of the Project, then the Closing may be extended until such time as the City or the appropriate governmental body, as applicable, approves the land uses and/or issues the permit; provided, however, that either the DDA or the Company, effective immediately upon giving notice thereof to the other, may terminate this Agreement if the Closing does not occur by 11:59 o'clock a.m., Doraville, Georgia, time on December 31, 2020.

2. FINANCING OF THE PROJECT.

2.1. Bond. In order to establish the bond-financed sale-leaseback structure that is necessary for the provision of the favorable property tax treatment for the Project, the DDA shall

issue the DDA's revenue bond (*i.e.*, the Bond). The Company shall be responsible for the sale of the Bond, which shall be issued in one series and sold to the Company (in such capacity, the "**Bond Purchaser**") in exchange for the Project as it then exists pursuant to one or more agreements (collectively, the "**Bond Purchase Agreement**") among the DDA, the Company and the Bond Purchaser. It shall be a Closing Condition in favor of both the DDA and the Company that each of them be satisfied with the Bond Purchase Agreement.

2.2. Maximum Principal Amount of Bond. Without limitation, the principal amount of the Bond shall in the aggregate accommodate Total Project Costs for the Project. Such accommodation shall be made through structuring the Bond as a draw-down bond in an appropriate maximum principal amount. The principal amount of Bond issued shall not exceed in the aggregate the amount of Total Project Costs. Such maximum principal amount is estimated at $65 million.

2.3. Transaction Costs. The Company shall be responsible for all transactional costs of the issuance of the Bond and other matters related hereto, provided that such costs shall be subject to the Company's approval, which shall not be unreasonably withheld. Cash proceeds of the Bond, if any are available for such purpose, may be used to pay such costs or to reimburse the Company for transaction costs previously paid by it (progress billing shall apply prior to issuance of the Bond). Such transaction costs include, without limitation: (i) reasonable legal fees and disbursements of Bond Counsel related to the closing of the issuance of the Bond and the preparation and distribution of this Agreement and of transcripts; (ii) the reasonable fees and disbursements of the DDA's Issuer's Counsel related to the transaction; (iii) the court costs relating to validation of the Bond and recording and filing fees; and (iv) the DDA's financing fees provided for on Schedule 2.3 attached hereto and incorporated herein by reference. In addition, the Company shall pay or reimburse the DDA for all other reasonable third-party costs incurred by the DDA in connection with its approval of this transaction, including, without limitation, any fees of a consultant or consultants for the preparation of a tax generation model, for financial advisory purposes, for environmental engineering, or for other purposes reasonably related to the Project.

2.4. Tax Status of the Bond. The interest on the Bond issued to the Company will not be exempt from federal income taxation.

2.5. Roles of Counsel. The law firm of Seyfarth Shaw LLP, Atlanta, Georgia, counsel to the DDA, shall serve as Bond Counsel, and as the DDA's Issuer's Counsel, in connection with the issuance of the Bond. Counsel for the Company shall be a law firm selected by the Company, or in-house counsel to the Company, which attorney or firm thereof shall provide a customary legal opinion regarding the Company's organization, existence and good standing, and the enforceability and due authorization, execution and delivery of the Definitive Documents.

2.6. Repayment of the Bond. The Company shall be responsible for the repayment of the Bond which may be accomplished constructively or by book-entry. Without limitation, the Bond shall not be a general obligation of the DDA, but shall be a special and limited obligation payable solely from the payments received under the Lease and other pledged security. Neither

the DDA, the City, the State, nor any other public body shall have any obligation or liability for repayment of the Bond.

2.7. The Lease. The DDA and the Company shall enter into the Lease at the Closing. The Lease shall contain terms and provisions substantially of the type normally included in bond leases between governmental "conduit" bond issuers and users of bond-financed property. The Lease shall provide for the Company to pay "**Basic Rent**"; *i.e.*, rent equal to debt service on the Bond, which shall be applied to such payment. The Lease shall also provide for the payment to the DDA of rent ("**Additional Rent**") in an amount sufficient to reimburse the DDA for all out-of-pocket expenses and advances reasonably incurred by the DDA thereunder in connection with the Project subsequent to the execution of the Lease. The Lease shall grant to the Company the option, at any time, to prepay Basic Rent in the amount needed to retire the Bond which may be accomplished by cancelling the Bond to the extent the Bond is currently owned by the Company. The Lease will be a triple net type lease. The term of the Lease, including all extensions (the "**Lease Term**"), shall allow sufficient time for the Savings Schedule (defined below) and the term of the Bond. Notwithstanding the foregoing and any other provision hereof, the Lease Term shall, if not previously terminated, expire and terminate at the end of the year in which the DDA gives the Flip Determination Notice (defined below), in connection with which, the Company may exercise the Purchase Option on and subject to the terms and conditions hereof and shall in any event accomplish the redemption or early repayment of the Bond. Pursuant to the Lease, the Company will be responsible, during the Lease Term, for all of the Project's costs of operation and maintenance, insurance (including property and liability insurance), in amounts customary and reasonable, and (subject to Section 3.2) taxes. The Lease shall provide customary and reasonable requirements for indemnification of the DDA, its members, officers, employees and representatives against any claims, liabilities or losses relating to the Bond, or to the Project or the Company's operations thereat, or to environmental claims relating to the Project, regardless of whether any environmental claim is based on facts or circumstances first existing before or after the Closing, and regardless, without limitation, of whether any such claim relates to any period prior to the Company's own acquisition of the Leased Land, provided, that said indemnity shall not apply in the case of any particular indemnitee to any claim, loss or liability which is the result of the gross negligence or willful misconduct of such indemnitee. The Lease will contain appropriate provisions defining defaults by the parties and providing appropriate remedies

2.8. Purchase Option. Subject to the provisions of the Bond Purchase Agreement, the DDA, in the Lease or by separate instrument, shall grant the Company the option to purchase the Project (the "**Purchase Option**"), to the extent that the DDA holds title thereto at any time, exercisable for an option exercise price of $10 plus any Basic Rent, Additional Rent, Recovery Payments (defined below) or any other amounts due to the DDA that must be paid at such time (including, without limitation, all payments owed under the Definitive Documents), and if all of the Bond has not theretofore been retired, the Company shall cause the Bond to be retired or cancelled. The Company may exercise its Purchase Option under this Section regardless of whether, at the time of the attempted exercise of such Purchase Option, the Company is in monetary default under the Lease, provided that it must cure any such monetary default prior to closing under the Purchase Option (unless such default is waived by the DDA). If the Company purchases the Project pursuant to an exercise of the Purchase Option, the DDA shall convey title to the Project (or to the applicable portion of the Project) to the Company by limited warranty

deed, "as is and where is", subject, without limitation, to Permitted Exceptions and to any encumbrances created by the act or omission of the Company.

2.9. Definitive Documents. The term "**Definitive Documents**" means and includes the Bond, the related Bond Resolution, the Lease, the EDA the Bond Purchase Agreement, a deed to secure and security agreement from the DDA to the Bondholder for the Project, and any other related documents necessary to implement the Transaction. The Definitive Documents shall be prepared by Bond Counsel and shall be subject to the approval of the DDA, the Company, and the Bond Purchaser and the legal counsel thereof. The Parties agree to negotiate in good faith to establish the terms and conditions to be included in the Definitive Documents. It shall be a Closing Condition in favor of each of the Company and the DDA that they reach an agreement on such terms and conditions.

2.10. Transfers.

2.10.1. Transfer of this Agreement Prohibited. Prior to Closing, the DDA may not transfer or assign this Agreement or any interest herein. Prior to Closing, the Company may assign this Agreement and its interests herein to a special purpose entity Affiliate of the Company that is a Qualified Real Estate Investor or Institutional Investor, each as defined below.

2.10.2. Transfer of the Project, the Lease and the Other Definitive Documents by the Company. Except as expressly provided in this Section, after Closing the Company may not, without the prior written consent of the DDA, assign its interests and rights under the Lease or other Definitive Documents or sublease any part of the Project. However, the Lease and the other Definitive Documents may be assigned in whole or in part without the consent of the DDA in the event (i) the assignee is an Affiliate of the Company having net worth reasonably acceptable to the DDA, or (ii) the Company consolidates with or merges into another domestic entity or permits one or more domestic legal entities to consolidate with or merge into it or the Company transfers or conveys all or substantially all of its assets to another domestic legal entity, but only on the condition that the assignee legal entity or the legal entity resulting from or surviving such merger or consolidation (if other than the Company) or legal entity to which such transfer is made is then solvent and, in the case of either (i) or (ii), the assignee shall expressly assume in writing and agree to pay and to perform all of the Company's obligations under the Definitive Documents.

The foregoing notwithstanding, the Company may assign its interest in the Project, the Lease and the other Definitive Documents pursuant to an Exempt Assignment (defined below) without the approval of the DDA; provided that, any assignee of the Company shall agree to fully and unconditionally assume all obligations of the Company arising under the Lease and the other Definitive Documents, including, without limitation, all indemnity provisions contained in the Lease. Such assumption may be limited to matters first arising from and after the date of the assignment, provided that the DDA is satisfied that the Company will have the financial capability thereafter to satisfy, and will continue to satisfy, its continuing indemnification obligations. Without limitation, the DDA may condition its

satisfaction with such financial capability upon the Company providing surety satisfactory to the DDA.

The Company shall furnish the DDA, not more than 15 business days following such assignment, written notification of the name, address and appropriate contact person for such assignee, together with a description of such assignment transaction.

Any provision hereof to the contrary notwithstanding, any assignment of this Agreement, the Project, the Lease or the other Definitive Documents, shall be further subject to the following conditions:

(1) no assignment shall relieve the assignor from primary liability for its obligations under the assigned documents or instruments accruing prior to the date of such assignment unless the assignor shall have obtained the consent (i) of the DDA and (ii) after the issuance of the Bond, of the holder of the Bond; provided, however, in connection with such an assignment, the assignor shall be automatically released from all liabilities and obligations accruing under the assigned documents or instruments after the effective date of such assignment if (x) the DDA approves any such assignment or (y) such assignment or other transactions are otherwise permitted hereunder and the assignee assumes such liabilities and obligations;

(2) the assignor shall, within 15 days after the delivery thereof, furnish or cause to be furnished to the DDA and (after the issuance of the Bond) to the holder of the Bond a true and complete copy of each such assignment, together with any instrument of assumption; and

(3) the Lease may only be assigned to a person or entity that is also the holder of the Bond, so at all times the lessee under the Lease and the holder of the Bond will be the same (except for a permitted pledge of the Lease).

(a) An "**Exempt Assignment**" means any of the following assignments:

(i) Any bona fide mortgage or leasehold mortgage;

(ii) The acquisition by any mortgagee or leasehold mortgagee or its designee of the leasehold interest through the exercise of any right or remedy of such mortgagee or leasehold mortgagee under a bona fide mortgage or leasehold mortgage, including any assignment of the leasehold interest to a mortgagee or the leasehold mortgagee or its designee made in lieu of foreclosure;

(iii) Any foreclosure sale by any mortgagee or leasehold mortgagee pursuant to any power of sale contained in a bona fide mortgage or leasehold mortgage;

(iv) Any sale or assignment of the leasehold interest by any mortgagee or leasehold mortgagee (or its designee) which has acquired the leasehold interest by means of any transaction described above;

(v) Any sale or assignment of the leasehold interest to any Qualified Real Estate Investor; and

(vi) Any sale or assignment of the leasehold interest to any person if (a) Lessee or the proposed assignee provides Adequate Financial Assurance of the payment of rent and other financial obligations under the Lease for the period the proposed assignee is the lessee under the Lease, and (b) the proposed assignee has sufficient commercial real estate experience to properly manage, or oversee the management of, the Project.

(b) "**Qualified Real Estate Investor**" means any of the following:

(i) Any Institutional Investor; or

(ii) Any person or entity domiciled within the United States of America and having a minimum net worth of $10,000,000 (either itself or in its direct or indirect constituent members or partners), as certified by a reputable firm of certified public accountants, provided such person or entity has sufficient commercial real estate experience to properly manage, or oversee the management of, the Project.

(iii) Any partnership having as a general partner any person or entity described in (ii) above, or any corporation, limited liability company or other person or entity controlling, controlled by or controlled with any person or entity described in (ii) above.

(c) "**Institutional Investor**" means any of the following persons:

(i) Any savings bank, savings and loan association, commercial bank, or trust company having shareholder equity (as determined in accordance with GAAP accounting) of at least $50,000,000;

(ii) Any college, university, credit union, trust or insurance company having assets of at least $50,000,000;

(iii) Any employment benefit plan subject to ERISA having assets held in trust of $50,000,000 or more;

(iv) Any pension plan established for the benefit of the employees of any state or local government, or any governmental authority, having assets of at least $50,000,000;

(v) Any limited partnership, limited liability company or other investment entity having either (A) total assets under ownership or

management of at least $50,000,000, or (B) committed capital of at least $50,000,000;

(vi) Any corporation, limited liability company or other Person having shareholder equity (or its equivalent for non-corporate entities) of at least $50,000,000;

(vii) Any lender of substance which performs real estate lending functions similar to any of the foregoing, and which has assets of at least $50,000,000; and

(viii) Any partnership having as a general partner or as an investor limited partner any person or entity described above, or any corporation, limited liability company or other person or entity controlling, controlled by or controlled with any person or entity described above.

(d) For purposes of this Section, the term "**Adequate Financial Assurance**" means a guaranty of payment of the rent and other financial obligations of Company under the Lease, including, without limitation, the indemnity obligations of the Company, made by a Qualified Real Estate Investor or Institutional Investor for the period of time that the proposed assignee is the Company under the Lease.

(e) As used herein, "**Affiliate**" means any person or entity (as used herein "entity" includes, without limitation, any public body) that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, a specified person or entity. As used herein, the term "control" of a person or entity means the possession, directly or indirectly, of the power: (A) to vote 10% or more of the voting securities of such person or entity (on a fully diluted basis) having ordinary power to vote in the election of the governing body of such person or entity, or (B) to direct or cause the direction of the management or policies of a person or entity, whether through the ownership of voting securities, by contract or otherwise.

2.11. Statutory Compliance. The Act requires, and the Lease will provide, that the Company must operate the Project at all times as a "project" permitted by the Act. Therefore, in order for the Company to use the Project as non-commercial housing (*e.g.*, single family residential housing), the Company must exercise the related Purchase Option and thereby remove the Project from ownership by the DDA, whereupon the Savings Schedule (defined below) shall no longer apply to such property.

3. PROPERTY TAX SAVINGS.

3.1. Purpose of Incentives. In order to induce the Company to locate the Project in the City, the following economic inducements will be provided for the Project by the DDA.

3.2. Basis for Savings. Pursuant to the Act, under which the DDA was created and exists, the DDA will pay no *ad valorem* property tax on the property comprising the Project. The Parties agree that the Lease shall be structured so that the Company's leasehold interest in the

Project is a mere usufruct, or, as to personal property, a nontaxable bailment for hire, and not a taxable estate for years. Thus, while the Lease is in effect, the Company shall pay no actual taxes on its leasehold interest in the Project. The Company shall pay normal *ad valorem* property taxes with respect to property it owns which is not titled to the DDA in connection with the issuance of the Bond. The Company shall also make the payments in lieu of taxes required by the Savings Schedule (defined below).

3.3. Other Property. The Company shall pay normal *ad valorem* property taxes with respect to property it owns which is not titled to the DDA in connection with the issuance of the Bond.

3.4. Reversion to Normal Taxability. If the Purchase Option is exercised upon termination of the Lease or earlier, in whole or in part, or if the Lease is otherwise terminated or expires, the Project (or the portion of the Project so purchased pursuant to an exercise of the Purchase Option) will be taxable according to normal *ad valorem* property taxation rules that are applicable to privately owned property.

3.5. Board of Tax Assessors. The provisions of this Agreement relative to the assessment and taxability of the Project for *ad valorem* property tax purposes shall be the obligation and responsibility of the Board of Assessors (and not of the City, the County or the DDA). It shall be a Closing Condition in favor of both the DDA and the Company that the validation order for the Bonds become final by September 30, 2020, and specifically adjudge that the Company has no taxable interest in the Project, as contemplated in this Agreement. Nonetheless, the Parties acknowledge that the DDA has no control over the administration of the property tax laws of the State, and shall have no responsibility for adherence by the taxing authorities to such validation order. Rather, the Company shall indemnify, hold harmless and defend the DDA, its members, directors, officers, employees, and representatives from and against any claim, liability or loss related to the imposition of property taxes or assessments on the Project. Said indemnity shall not apply in the case of any particular indemnitee to any claim, loss or liability which is the result of the gross negligence or willful misconduct of such indemnitee. Said indemnity shall survive the expiration or earlier termination of this Agreement.

4. GOALS.

4.1. Inducement. The Company agrees to locate the Project in the City, within the jurisdiction of the DDA, provided, that nothing herein contained shall obligate the Company to make any particular level of investment or create any particular number of jobs. Rather, the Company's responsibilities regarding such matters shall be governed exclusively by Sections 4.3 and 4.4, below. However, the Project shall conform in all material respects to its description in this Agreement, including, specifically, the Standards and the Hero Housing Program. The Company's agreement to locate the Project in the City would not be possible but for the incentives being provided by the DDA in connection with the Lease and the EDA. Such incentives are being provided to induce the Company to locate the Project in the City, in order to obtain the Public Benefit, which constitutes valuable, non-cash consideration to the DDA and the citizens of the City and of the State. The Parties acknowledge that the incentives provided for in this Agreement serve a public purpose through the job creation and investment generation represented by the Project. The Parties further acknowledge that the cost/benefit requirements

applicable to the DDA in the course of providing such incentives dictate that some measure of recovery must be applied in the event that the Public Benefit does not for any reason fully materialize.

4.2. Jobs Goal. For the period prescribed as the Performance Period on the Goals Table ("**Goals Table**") included on the "**Incentives Schedule**" attached as Schedule 4 hereto and incorporated herein by reference (such period, the "**Performance Period**"), the Company shall have the goal of providing not fewer than the number of new full-time jobs at the Project specified on the Goals Table as the applicable Jobs Goal (the goal applicable in any particular year being the "**Jobs Goal**" for such year). For purposes of this Agreement, the number of new "full-time jobs" shall be defined and determined, from time to time, as provided on Schedule 4.2 attached hereto and incorporated herein by reference. Schedule 4.2 also determines how the number of full-time jobs shall be calculated.

4.3. Jobs Shortfall Percentage. If, for any year in the Performance Period, the number of full-time jobs at the Project is less than the Jobs Goal that is applicable to such year, the actual number of such full-time jobs shall be subtracted from the applicable Jobs Goal to obtain the "**Jobs Shortfall**." The number of jobs constituting the Jobs Shortfall shall be divided by the applicable Jobs Goal and converted to a percentage to determine the "**Jobs Shortfall Percentage**" for such year. If there is no shortfall, such percentage shall be 0%.

4.4. Investment Goal. For purposes of this Agreement, the Company shall have an "**Investment Goal**" of its having made new investment (cumulatively) in the Project in each year of the "Performance Period" as provided in Schedule 4, attached hereto and incorporated herein by reference, the amount for such year specified on the Goals Table as the applicable Investment Goal (the goal applicable in any particular year, the "**Investment Goal**"). For purposes of the Investment Goal the new investment at the Project shall be calculated on a cumulative basis from the date hereof to the end of each year of the Performance Period. Schedule 4.4 attached hereto and incorporated herein by reference provides rules that shall apply to satisfying the Investment Goal.

4.5. Investment Shortfall Percentage. If, for any year in the Performance Period, the cumulative amount of new capital investment by the Company in the Project is less than the Investment Goal that is applicable to such year, the actual amount of such investment shall be subtracted from the applicable Investment Goal to obtain the "**Investment Shortfall**." The amount of investment constituting the Investment Shortfall shall be divided by the applicable Investment Goal and converted to a percentage to determine the "**Investment Shortfall Percentage**." If there is no shortfall, such percentage shall be 0%.

4.6. Annual Report. On or before March 1 of each year (each, an "**Annual Report Year**") following a year that is in the Lease Term, the Company shall provide to the DDA an Annual Report for the preceding calendar year. Each Annual Report shall be in substantially the form of Schedule 4.6 attached hereto and incorporated herein by reference, as revised for the matters being reported.

4.6.1. Jobs Report. The Jobs Report shall contain a statement as to the full-time jobs (existing and new) at the Project for the immediately preceding year (each, an "**Annual**

Report Year") using the methodology provided above, and shall provide such supporting extracts from the Company's employment records (consistent with the privacy rights of its employees) as the DDA shall reasonably request.

4.6.2. Investment Report. The Investment Report shall contain a statement as to the investment by the Company for purposes of this Agreement and for the subject Annual Report Year, using the methodology prescribed herein.

4.6.3. Shortfall Percentages.

4.6.3.1. The Annual Report shall calculate any Jobs Shortfall Percentage, and any Investment Shortfall Percentage.

4.6.3.2. The average of the Jobs Shortfall Percentage, and the Investment Shortfall Percentage shall be the "**Project Shortfall Percentage**," which shall also be calculated and stated in the Annual Report.

4.7. Recovery Payments. If an Annual Report shows that, for the immediately preceding Annual Report Year, there is a Project Shortfall Percentage that is greater than 20%, then, the Company, in such Annual Report, shall calculate the amount of the "**Recovery Payment**" as described in Schedule 4, and shall pay the same at the time the Annual Report is filed, all pursuant to and as defined in the Goals Schedule. If the Project Shortfall Percentage is 20% or less, there shall be no Recovery Payment due. With its Annual Report, the Company shall include proof of such payment satisfactory to the DDA.

4.8. Failure to File Report and Make Required Payments. If the Company fails to pay any Recovery Payment when due, interest shall be paid by the Company thereon at the rate of 8% per annum (or such lesser rate as may be allowed by law) until paid. The Company shall indemnify the DDA or the Tax Commissioner of DeKalb County, as applicable, for all costs of enforcement, including any court costs and reasonable and actual attorneys' fees and court costs.

4.9. Inspection Rights. No more often than once per year, the DDA and its agents shall be permitted to inspect records of the Company upon no less than ten (10) days' notice, solely related to the records pertaining to the Jobs Goal and the Investment Goal related to the Project, to verify such information during normal business hours and upon reasonable notice. The Company may reasonably redact such records to protect the confidentiality of the Company, its employees or its customers, and to comply with all applicable legal limitations.

4.10. Substantial Failure. The Company further acknowledges and agrees that the failure of the Company to achieve any one of the milestones on the "**Development Schedule**", attached as Schedule 4.10 hereto and incorporated herein by reference, on or before the related deadline for same provided on the Development Schedule, subject to "*Force Majeure*" (as such term is defined below), as provided herein, or to construct, equip, install, operate and maintain the Project in compliance in all material respects with the requirements of this Agreement (each a "**Substantial Failure**"), (including, without limitation, as regards the Standards and the Hero Housing Program), subject to "*Force Majeure*", as provided herein, will constitute sufficient basis for the DDA, in its sole discretion, to suspend future utilization, in whole or in part, of the Savings Schedule, and to increase the amounts payable by the Company (which the Company

agrees to pay) under the Savings Schedule as payments in lieu of taxes from time to time, in any increment that the DDA sees fit in its sole discretion, up to 100% of normal taxes on the Project for the remaining term of the Lease, provided that the DDA likewise may, in its sole discretion, from time to time, in any increment that the DDA sees fit, rescind any such increase. For the avoidance of doubt, (i) amounts paid as Recovery Payments and administrative payments with respect to a Year shall be taken into account in determining the amount of any increased payments in lieu of taxes due from the Company for such Year and (ii) in no event shall the sum of a Recovery Payment with respect to a Year, together with the payments in lieu of taxes for the same Year, exceed the amount of normal *ad valorem* property taxes for such Year.

4.11. Force Majeure. For purposes of this Agreement, the term "***Force Majeure***" shall mean the following: a general banking moratorium shall have been declared by federal or Georgia authorities, or a major financial crisis or a material disruption in commercial banking shall have occurred (but *Force Majeure* does not include a mere inability to obtain financing); acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders of any kind of the government of the United States of America or of the State of Georgia or any of their departments, agencies, political subdivisions or officials, or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; storms; floods; washouts; droughts; arrests; restraint of government and people; civil disturbances; explosions; breakage or accident to machinery, transmission pipes or canals; partial or entire failure of utilities; or any other event not within the control of the Company provided that (i) such event listed above or other event was unforeseeable, and (ii) the Company demonstrates that there is no alternative means for performing under this Agreement, notwithstanding such event listed above or other event. Without limitation, increased costs or other difficulties in performing are not sufficient to constitute *Force Majeure*, and in no event shall the Company claim *Force Majeure* in order to protect the Company against the normal risks of contracting The Company agrees, however, to use its reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing the Company from carrying out its agreements; provided, that the settlement of strikes, lockouts and other industrial disturbances shall be entirely within the discretion of the Company, and the Company shall not be required to make settlement of strikes, lockouts and other industrial disturbances by acceding to the demands of the opposing party or parties when such course is, in the judgment of the Company, unfavorable to the Company. An event of *Force Majeure* may excuse, as provided herein, the non-attainment of the Jobs Goal, the Investment Goal, and/or a Substantial Failure. Such excuse is available only if the event of *Force Majeure* is the proximate cause of such non-attainment of the Jobs Goal, the Investment Goal, and/or a Substantial Failure, as applicable. It is a condition to the Company's claiming the benefit of *Force Majeure*, that the Company promptly certifies to the DDA in writing, (a) what the event of *Force Majeure* is, (b) the dates of the commencement and, if the event of *Force Majeure* has abated, the date of the abatement, of such event of *Force Majeure*, and (c) whether the benefit of Force Majeure is claimed for the non-attainment of the Jobs Goal and/or the Investment Goal, and/or a Substantial Failure, as appropriate, in reasonable detail. As regards the Jobs Goal and/or the Investment Goal, the effect of *Force Majeure* for such purposes shall be that for any year in which the Company is entitled to claim, and does claim, the benefit of such provision, the Company shall be considered in compliance with its Jobs Goal and Investment Goal, as appropriate, but the Performance Period shall be extended by another year, which shall immediately follow the *Force Majeure* year. The Company's Jobs Goal and Investment Goal requirements shall resume as scheduled beginning with the extension year, and

shall continue as scheduled through the same number of remaining years as would have applied if there had been no event of *Force Majeure*. As regards Substantial Failure, the effect of *Force Majeure* for such purposes shall be that the applicable failure shall be excused until it is cured but for no longer than one (1) calendar year from when the notice of commencement of the event of *Force Majeure* was given or should have been given. The foregoing notwithstanding, (1) a milestone on the Development Schedule is subject to *Force Majeure* only if so specified therein and and (2) in no event shall *Force Majeure* excuse or postpone a payment obligation.

5. TERMINATION OF AGREEMENT.

5.1. Delay. If, despite the good faith efforts of the Parties, this Agreement is not fully executed on or before March 31, 2020, or the Closing has not occurred by September 30, 2020, then the DDA or the Company may terminate this Agreement by written notice to the other Party, without any further liability except as otherwise expressly provided in this Agreement.

5.2. Approval by Governing Bodies. Upon its execution of this Agreement, each Party represents and warrants that its governing body or other authorized committee or official thereof has approved and authorized its entry into such Agreement.

5.3. General Termination Rights. Any Party shall have the right to terminate this Agreement prior to the Closing, without any further liability except as otherwise expressly provided in this Agreement, effective immediately upon giving written notice to the other Parties, if:

5.3.1. The other Party is in breach of this Agreement; or

5.3.2. There has been commenced or threatened against the DDA, the Company, or any Affiliate of the Company any proceeding (a) involving any challenge to, or seeking damages or other relief in connection with, any of the matters that are the subjects of this Agreement, or (b) that may have the effect of preventing, delaying, making illegal, imposing limitations or conditions on, or otherwise interfering with, any of such matters. An uncontested validation proceeding for the Bond shall not be considered a proceeding within the meaning of this Section.

5.4. The DDA's Termination Rights. The DDA shall have the right to terminate this Agreement, without any further liability except as otherwise expressly provided in this Agreement, effective immediately upon giving written notice to the Company, if, by the Closing (or if this Agreement specifies another time therefor, then by such time) each Closing Condition set forth herein in favor of the DDA has not been satisfied. If the DDA does not exercise any such right to terminate by Closing (or by such other time specified), then, as of the Closing, such right shall be deemed waived with respect to the subject thereof.

5.5. The Company's Termination Rights. The Company shall have the additional right to terminate this Agreement, without any further liability except as otherwise expressly provided in this Agreement, effective immediately upon giving written notice to the DDA, if, by the Closing (or if this Agreement specifies another time therefor, then by such time) each Closing Condition set forth herein in favor of the Company has not been satisfied. If the Company does

not exercise any such right to terminate by Closing (or by such other time specified), then, as of the Closing, such right shall be deemed waived with respect to the subject thereof.

5.6. Effect of Termination. If any Party terminates this Agreement pursuant to a right provided herein or if this Agreement expires, this Agreement shall terminate or expire as to all Parties without any further liability on the part of any Party, except as may theretofore have accrued, or except as otherwise expressly provided in this Agreement, or shall exist as a result of any prior breach hereof.

5.7. Extraordinary Termination Right.

5.7.1. The following is an "**Extraordinary Event of Default**" on the part of the Company: Failure by the Company to pay when due any payment in lieu of taxes (including, without limitation, any payment in lieu of taxes as increased pursuant to Section 4.10 hereof) or administrative payment required by the Savings Schedule, or any Recovery Payment required by Section 4.7 hereof, continued in any case for ten (10) days after the DDA gives the Company notice of default.

5.7.2. In addition to all of its other rights and remedies available to the DDA at law or in equity, upon the occurrence of an Extraordinary Event of Default, the DDA may, at its option terminate the Lease, and reconvey the Project to the Company. Such reconveyance shall be made by limited warranty deed, "as is and where is", subject, without limitation, to Permitted Exceptions and to any encumbrances created by the act or omission of the Company. All accrued liabilities and obligations of the Company shall survive such reconveyance.

5.7.3. The Lease shall contain provisions for the implementation of this Section 5.7.

6. MISCELLANEOUS.

6.1. Notices. Any notice, request or other communication required to be given by any Party pursuant to this Agreement, shall be in writing and shall be deemed to have been properly given, rendered or made only if personally delivered, or if sent by Federal Express or other comparable commercial overnight delivery service or express mail (in each case for delivery on the next business day) addressed to each other Party at the addresses set forth below (or to such other address as any particular Party may designate for notices to it to each other Party from time to time by written notice), and shall be deemed to have been given, rendered or made on the day so delivered or on the first business day after having been deposited with the courier service or the United States Postal Service:

If to the DDA: Downtown Development Authority of the City of Doraville
3725 Park Avenue
Doraville, GA 30341
Attn: Chair

with a copy to: Seyfarth Shaw LLP
1075 Peachtree Street, N.E.
Suite 2500
Atlanta, GA 30309
Attn: Daniel M. McRae, Esq.

If to the Company: Friday's Plaza Property, LLC
c/o Kaufman Capital Partners, LLC
5607 Glenridge Dr.
Suite 555
Atlanta, GA 30342
Attn: Gary Sobel
Telephone: 404- 601-8754
Email: gsobel@kaufmaninc.com

with a copy to: Sherman Golden, Esq.
Thompson Hine, LLP
Alliance Two
3560 Lenox Road
Atlanta, GA 30326

6.2. No Partnership or Agency. No partnership or agency relationship between or among the Parties shall be created as a result of this Agreement.

6.3. Survival of MOU. This Agreement shall survive Closing and the expiration or termination of the Lease, but may be superseded in whole or in part by the EDA to the extent that the EDA expressly so provides.

6.4. Governing Law; Jurisdiction and Venue. The Transaction contemplated hereunder and the validity and effect of this Agreement are exclusively governed by, and shall be exclusively construed and enforced in accordance with, the laws of the State, except for the State's conflicts of law rules. The Company consents to jurisdiction over it and to venue in the County.

6.5. Amendments. Any amendments, deletions, additions, changes or corrections hereto must be in writing executed by the Parties hereto.

6.6. Entire Agreement. This Agreement, together with the Definitive Documents (when executed), constitutes the entire agreement between the Parties with respect to the subject matter hereof.

6.7. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

6.8. Counterparts. This Agreement may be signed in counterparts, each of which shall be an original and all of which together shall constitute one and the same instrument.

6.9. No Personal Liability of DDA Representatives. No official, member, director, officer, agent, or employee of the DDA shall have any personal liability under or relating to this Agreement. Rather, the agreements, undertakings, representations, and warranties contained herein are and shall be construed only as corporate agreements, undertakings, representations, and warranties, as appropriate, of such public body. Without limitation, and without implication to the contrary, all Parties hereto waive and release any and all claims against each such official, member, director, officer, agent, or employee, personally, under or relating to this Agreement, in consideration of the entry of the DDA into this Agreement.

6.10. No Personal Liability of Company Representatives. No official, member, manager, director, officer, agent, or employee of the Company shall have any personal liability under or relating to this Agreement. Rather, the agreements, undertakings, representations, and warranties contained herein are and shall be construed only as corporate agreements, undertakings, representations, and warranties, as appropriate, of such entity. Without limitation, and without implication to the contrary, all Parties hereto waive and release any and all claims against each such official, member, manager, director, officer, agent, or employee, personally, under or relating to this Agreement, in consideration of the entry of the Company into this Agreement.

6.11. Execution of Agreement. This Agreement shall not be effective until it has been fully executed by all Parties hereto.

6.12. Legal Compliance. The Company agrees that it and its officers and employees acting for it in matters relating to this Agreement shall comply with all applicable provisions of law, including, without limitation, to the extent applicable, O.C.G.A. § 50-36-1 relating, in part, to public benefits.

6.13. Consequential Damages. IN NO EVENT SHALL ANY PARTY BE LIABLE TO ANY PARTY OR ANY PERSON OR ENTITY, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY) OR OTHERWISE FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND OR NATURE WHATSOEVER.

6.14. Recitals. The recitals at the beginning of this Agreement are part hereof and are hereby incorporated herein by reference.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Parties have executed this Agreement and caused it to be delivered as of the following Effective Date: _____, 2020.

The "DDA":

DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF DORAVILLE

By: _____
Chairman

Attest:

_____
Secretary

[SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

The "Company":

FRIDAY'S PLAZA PROPERTY, LLC,
a Georgia limited liability company

By: _____
Name: _____
Title: _____

SCHEDULE 1.1

THE STANDARDS AND THE HERO HOUSING PROGRAM

The "**Standards**" that the Project shall meet (in addition to meeting other requirements applicable to it) are as follows:

1. The Project shall be maintained in a Class A condition with no material deferred maintenance.
2. The Project's landscaping, rental office, club building and other amenities will be consistent with other Class A developments of this nature and age.
3. The residential units will be furnished with Class A quality appliances, finishes, flooring, and countertops of similar projects and age.
4. The Project will have a brick façade.
5. The Project will include a co-working area with free wi-fi for its residents.
6. The Project shall conform to, (a) its description in this Agreement, and the requirements of this Agreement, (b) its description in that certain "The Village at Tilly Mill Redevelopment Proposal" dated May 10, 2019, (c) applicable ordinances for the City's downtown area, and (d) all other filings, drawings, renditions, and other representations of the Project proposed by the Company once approved by the City's governing body.

The "**Hero Housing Program**" shall mean a program whereby the Company shall set aside three multifamily units, which shall either be one or two bedroom units at the Project, for police officers employed by the City of Doraville Police Department, and if not rented by such persons, then for City staff that support the City of Doraville Police Department (such units being the "**Hero Housing Units**"). The Company shall offer each Hero Housing Unit at a rate that is 30% less than the then current rents being quoted to similar market-rate units available at the Project. The Hero Housing Unit shall at all times be substantially similar in construction and appearance (*e.g.*, square footage, type and brand of appliances, materials used for countertops, flooring, etc.) to the market-rate units, and shall not be in an isolated area of the Project but shall be interspersed among market-rate units at the Project. For the avoidance of doubt, the resident(s) of a Hero Housing Unit shall not be counted for purposes of calculating compliance with the Jobs Goal.

SCHEDULE 1.4

DESCRIPTION OF THE LEASED LAND

SCHEDULE 2.3

FINANCING FEE

In consideration of the issuance of the Bond the Company shall pay to the DDA a one-time financing fee equal to 1/8 of 1% of the maximum principal amount of the Bond at Closing.

SCHEDULE 3.2

SAVINGS SCHEDULE

1. The Company is not required by this Agreement to make any payments in lieu of taxes for tax years after the tax year of the Effective Date but prior to Year 1; *i.e*., the Project's construction period.

2. For each Year in the table below, the Company will pay to the Tax Commissioner of the County, for distribution to the appropriate taxing authorities in accordance with their applicable millage, amounts equal to the corresponding payment percentage, set forth below, of the normal *ad valorem* property taxes that would be payable if legal title to the Project were vested in the Company instead of the DDA, on January 1 of such Year. The corresponding savings percentage is 100% less the payment percentage. Such payments shall constitute payments in lieu of taxes.

3. The applicable payment percentages and savings percentages are as follows:

YEAR	SAVINGS PERCENTAGE	PAYMENT PERCENTAGE
1-20	100%	0%
21 and thereafter	0%	100%

4. The savings applies to all *ad valorem* property taxes (school, city, county and other) with respect to property comprising part of the Project titled to the DDA in connection with the issuance of the Bond. The Company shall pay normal property taxes with respect to property not so titled to the DDA.

5. In consideration of the DDA's maintaining its "good standing," under the laws of Georgia and other on-going activities required of it pursuant hereto, the Company shall, in addition, make an annual administrative payment to the DDA in each year beginning in Year 1. For Years 1 through 6, such annual administrative payment shall be $160,000. For each year thereafter, beginning with Year 7, each annual administrative payment shall be 102% of the administrative payment for the Year before. For the avoidance of doubt, the annual administrative payment required by this paragraph 5 is in addition to the financing fee payable in accordance with Section 2.3 of this Agreement.

6. Each Year during the term of this Agreement, the Company shall: (i) obtain from the County Board of Tax Assessors of DeKalb County (the "**Assessors**") the assessed value of the Project for such Year based on the fair market value of the Project, pursuant to O.C.G.A. Section 48-5-7, as amended, and (ii) calculate the amount of taxes that would have been due by the application of all millage rates applicable in the City (school, city, county, and other) for such Year as though legal title to the Project were held by the Company, and report the same to the DDA, promptly after such assessed value is available. Such report shall also calculate and state the amount of the ad valorem property taxes for such Year saved by it by virtue of the Savings Schedule (offset by the amount of

any payments in lieu of taxes and by the amount of any administrative payments), the cumulative amount of saved ad valorem taxes to date, the amount payable to the Tax Commissioner as payments in lieu of taxes pursuant to paragraph 2, above, and the amount payable to the DDA as its annual administrative payment pursuant to paragraph 5, above. The Company shall provide such supporting documentation as the DDA may reasonably request regarding the Company's calculations in the foregoing report. Such calculations, and the underlying support, data and methodology, shall be subject to approval by the DDA, and if disapproved, the DDA shall make its own calculations, which shall also be based upon the assessed value established by the Assessors, which shall be final absent manifest error, provided, that the Company may at any time to the extent and as provided by law appeal the assessed value of the Project in its own name, provided further, that notwithstanding any such appeal, the Company shall timely comply with its obligations under this Agreement. The Company may request that the DDA allow the Company to make such an appeal in the name of the DDA, and the DDA will consider such request, but is not obligated to grant it. Notwithstanding any such appeal, within 10 days of receipt of notice from the DDA that it has accepted the Company's calculations or of notice of the DDA's own calculations, or, if later, by the due date for payment of ad valorem property taxes in the County generally, the Company shall make payment to the Tax Commissioner of the County of any related payment in lieu of taxes payable pursuant to paragraph 2, above, and payment to the DDA of its related administrative payment payable pursuant to paragraph 5, above. If for any reason the assessed value of the Project is not available from the Assessors at least 60 days before the due date for payment of ad valorem taxes in the County generally, then the Company shall so notify the DDA, and the prior Year's assessed value shall be used until the current Year's assessed value is available whereupon, the Company shall file an amended report with the DDA using the current Year's assessed value and either pay to the Tax Commissioner any additional payment in lieu of taxes that may be due (and pay any additional administrative payment that may be due), or apply to the Tax Commissioner for a refund to the extent and as provided by law (and apply to the DDA for a refund of the appropriate portion of its administrative payment).

7. Notwithstanding any other provision herein to the contrary, the *ad valorem* property tax savings afforded by this Agreement shall terminate upon the first to occur of (i) twenty Years of *ad valorem* property tax savings (i.e., the Savings Schedule having been in effect through Year 20) or (ii) the amount of the cumulative *ad valorem* property tax savings to the Company (offset by the amount of any payments in lieu of taxes actually made by the Company and by the amount of any administrative payments), determined as if title to the Project were vested in the Company instead of the DDA, attaining $19,000,000 (such amount being the "**Property Tax Savings Cap**"). Any provision hereof to the contrary notwithstanding, neither the DDA, the City, the County, nor the State shall have any obligation or liability to the Company in the event that the operation of the Savings Schedule or the other Definitive Documents does not provide the Company with cumulative *ad valorem* property tax savings in the amount of the Property Tax Savings Cap. Any payment obligation of the Company, however, shall survive expiration or termination of the Lease or this Agreement. For the avoidance of doubt, no further administrative payments under paragraph 5, above, shall be incurred for any

calendar years after the expiration or termination of the Lease. Each year during the term of this Agreement, the Company shall: (i) obtain from the County Board of Tax Assessors of DeKalb County ("**Assessors**") the assessed value of the Project, and (ii) calculate the amount of taxes that would have been due by the application of the millage rate for such year. The Company shall report to the DDA by October of each year its calculation of the saved *ad valorem* taxes for such year, the data it used, the cumulative amount of saved *ad valorem* taxes to date, and any net payments in lieu of taxes payable by it, and shall provide such supporting documentation as the DDA may reasonably request. The data used for such calculations and the calculations themselves shall be subject to approval by the DDA, and if disapproved, then the DDA shall make its own calculations, which shall also be based upon the assessed value established by the Assessors, which determination shall be final. The Company shall make payment of the full amount of payments in lieu of taxes due, if any, within 10 days of receipt of notice from the DDA that it has accepted the Company's report or of the amount that the DDA has instead calculated to be due. As used herein, the "**Flip Year**" is the year in which the cumulative amount of *ad valorem* property taxes saved pursuant to this Agreement (determined as set forth above) equals or exceeds the Property Tax Savings Cap. In a reasonable time (not less than 30 days) after the DDA is able to determine (whether in the Flip Year or otherwise), based on the calculations provided for above, that the Flip Year has occurred, the DDA shall so notify the Company in writing (such notice, the "**Flip Determination Notice**"), and such notification shall be conclusive. For the Flip Year, the Company shall make an administrative payment to the DDA in the amount of such excess. For each subsequent Year, if any, through the Year in which the Lease Term is terminated as required by Section 2.7, above, the Payment Percentage shall be 100%.

SCHEDULE 4

INCENTIVES SCHEDULE

1. The recovery value ("**Recovery Value**") of each of the Incentives provided pursuant to the Sections of this Agreement identified below shall be as specified in the rows of the table set forth below (the "**Incentives Table**"), with any payments to be made by the Company as provided in this Incentives Schedule to the parties indicated as follows:

INCENTIVES TABLE				
Section	**Incentive**	**Recovery Value**	**Recovery Factor**	**Recovery Paid To**
3.2	Property Tax Savings on Project	Actual amount of *ad valorem* property taxes on Project saved each year	100%	Appropriate Taxing Authorities, Pro Rata in Proportion to Applicable Millage Rates

2. The table ("**Goals Table**") set forth below sets forth the applicable Jobs Goal and Investment Goal.

GOALS TABLE		
PERFORMANCE PERIOD (INCLUDES ALL YEARS SCHEDULED BELOW, AND ANY YEAR THROUGH WHICH THE PERFORMANCE PERIOD IS EXTENDED)	**JOBS GOAL (CUMULATIVE)**	**INVESTMENT GOAL (CUMULATIVE)**
Year 1-20	5	$50 million

3. In each year in which there is a Project Shortfall Percentage that is greater than 20%, the Company shall make a payment as provided below with respect to the incentive listed in the Incentives Table above (each payment, a "**Recovery Payment**" and collectively, the "**Recovery Payments**") to the respective parties so specified based on the Recovery Value as so determined for each year included in the Performance Period in which a Project Shortfall Percentage is determined as provided in this Agreement. If the Project Shortfall Percentage is 20% or less, there shall be no Recovery Payment due.

4. [RESERVED].

5. For each year for which a Project Shortfall Percentage in excess of 20% is determined as provided in this Agreement, in order to determine the Recovery Payment such Project Shortfall Percentage shall be multiplied times the Recovery Value, the result shall be multiplied times the corresponding Recovery Factor, the result shall be the Recovery Payment, the Company shall pay the amount thereof to the Party or parties specified above simultaneously with its delivery of the Annual Report for the subject year as required by this Agreement. If the Project Shortfall Percentage is 20% or less, there shall be no Recovery Payment due.

SCHEDULE 4.2

RULES FOR SATISFYING THE JOBS GOAL

1. For purposes of this Agreement, the number of new "full-time jobs" shall be defined and determined, from time to time, as provided follows:

   a) Only direct employees of the Company and its tenants, sub-tenants and users on the Leased Land shall be counted.

   b) In determining the number of full time jobs a portion of the definition of "full-time job" from the job tax credit regulations of the Georgia Department of Community Affairs, which portion is set forth below, shall be used, but shall be modified as follows: "In no event shall any temporary employee or leased employee be counted as occupying a full-time job, regardless of whether or not such person is employed by or any other person or entity."

   c) Subject to such modification, "**full-time job**" means the following: "a job with no predetermined end date (other than a retirement date), with a regular work week of 35 hours or more on average for the entire normal year of local company operations, and with benefits generally provided to other regular employees of the local company, but does not mean a job classified for federal tax purposes as an independent contractor, and with no minimum wage or benefit requirement other than as imposed by applicable law."

2. The number of full-time jobs shall be calculated as provided below.

   a) The number of jobs shall be determined based on the monthly average number of full-time employees subject to Georgia income tax withholding for the taxable year.

   b) The monthly average number of full-time employees in a taxable year shall be determined by the following method:

      (i) for each month of the taxable year, count the total number of full-time employees of the business enterprise that are subject to Georgia income tax withholding as of the last payroll period of the month or as of the payroll period during each month used for the purpose of reports to the Georgia Department of Labor;

      (ii) add the monthly totals of full-time employees; and

      (iii) divide the result by the number of months the business enterprise was in operation during the taxable year. Transferred jobs within the company, except for jobs transferred to the Project from either outside the State of Georgia or the city limits of the City of Doraville, Georgia, and replacement jobs may not be included in the monthly totals.

SCHEDULE 4.4

RULES FOR SATISFYING THE INVESTMENT GOAL

1. Only capital investments in the Project by the Company shall be counted, except as provided in 4 below.

2. Original cost, without regard to depreciation, shall be used in calculating whether the Investment Goal is met, except as provided in 3, below.

3. Transferred equipment relocated by the Company to the Project to be used as part of the Project may be counted at net book value, or, if requested and substantiated by the Company to the DDA's satisfaction, and approved by the DDA, its fair market value.

4. Machinery and equipment leased to the Company under an operating lease (even though such property is not titled to the DDA and is not leased under the Lease) and other machinery and equipment owned or beneficially owned by the Company but not leased to the Company under the Lease, shall be counted.

SCHEDULE 4.6
FORM OF ANNUAL REPORT

[DATE]

[DDA]

Re: Memorandum of Understanding ("MOU") and Economic Development Agreement ("EDA") between the Downtown Development Authority of the City of Doraville (the "DDA"), and the [COMPANY] (the "Company"), regarding the capital project located in DORAVILLE, Georgia (the "Project") – 20__ Annual Report

Dear _____:

This letter shall serve as the 20__ Annual Report, as required under the MOU and EDA.

1. Jobs Report

As of December 31, 20__, the total number of full-time jobs located at the Project was ___. We have enclosed _____, as evidence of such job creation.

The Jobs Goal for ____ was ___ jobs. The Jobs Shortfall for the year _____ is ___ jobs. The Jobs Shortfall Percentage is ___% (__ ÷ __).

2. Investment Report

As of December 31, 20__, the Company has invested $_____ in the Project.

The Investment Goal for 20__ was $_____. Therefore, the Investment Shortfall Percentage is __%.

3. Recovery Payments

The Project Shortfall Percentage for 20__ is ___% ((___% + __%) ÷ 2). [IF A RECOVERY PAYMENT IS DUE, THAT PAYMENT SHOULD BE CALCULATED HERE BASED ON THE RECOVERY SCHEDULE IN THE MOU.] If the Project Shortfall Percentage is 20% or less, no Recovery Payment is due.

Please do not hesitate to let us know if you require any additional information.

Sincerely,

SCHEDULE 4.10
DEVELOPMENT SCHEDULE

MILESTONE	DEADLINE
Complete execution of MOU (this Agreement)	March 31, 2020
Demolition Permit	July 1, 2020*
Land Disturbance Permit	August 1, 2020*
Building Permit	August 1, 2020*
City or Governmental Approval of Water	August 1, 2020*
City or Governmental Approval of Fire	August 1, 2020*
City or Governmental Approval of Sewer	August 1, 2020*
City or Governmental Approval of Pool	August 1, 2020*
Issuance of Bond	September 30, 2020
Substantial completion of Project (subject to *Force Majeure*)	December 31, 2022

*Deadline to submit

Any permits or approvals not specifically mentioned above shall be applied for no later than August 15, 2020.