

MEMORANDUM

TO: **Real Estate & Transportation Committee**
Commissioner Bill Read, Chairman
Commissioner Justin Troller
Commissioner Phillip Walker

FROM: City Attorney's Office

DATE: October 16, 2017

RE: **Agreement with Framework Group, LLC for the Sale and Redevelopment of the North Lake Mirror 10 Acre Redevelopment Site**

Attached for your consideration is an Acquisition and Redevelopment Agreement between the City of Lakeland, the Lakeland Community Redevelopment Agency and Framework Group, LLC for the sale of the North Lake Mirror Redevelopment Site to Framework Group, LLC and the redevelopment of the site by Framework. The redevelopment site consists of approximately 10 developable acres north of Bay Street, east of Iowa Avenue and south and west of the In-Town Bypass.

The subject site was previously a largely blighted area. The Lakeland Downtown Development Authority and Downtown CRA began assembling the site in 2004 in order to remedy the blight and prepare the property for redevelopment. Properties were acquired over a period of several years through a combination of voluntary sales and eminent domain. Although the right to redevelop the site was initially awarded to a previous developer following a request for proposals (RFP) process, the real estate downturn caused the developer to walk away and the property lies vacant. A second RFP issued in 2014 had respondents, but the CRA chose not to award the project at that time. In 2015, the CRA engaged Kimley-Horn to provide a development guide for future interested developers to use in response to a RFQ. Kimley-Horn held public meetings, met with City of Lakeland Community Development staff and contacted area stakeholders (property owners, developers and real estate brokers) for input. Their study also included economic development research to ascertain market capacity to absorb development on the site. CRA staff then developed Request for Qualifications (RFQ) #6284, including the Kimley-Horn document as an exhibit. The RFQ was issued on August 30, 2016.

Notice of the RFQ was sent to over 500 developers, real estate brokers, consultants, contractors, architects and engineers. It was also advertised in the Tampa Bay and Orlando Business Journals and The Ledger. Three companies submitted responses, which were ranked by the Selection Committee using the

RFQ evaluation criteria. At their regularly-scheduled November 3, 2016 meeting, the CRA Advisory Board recommended that the City Commission approve the Selection Committee's ranking and authorize CRA and City staff to begin negotiations with Framework Group, LLC for the redevelopment of the North Lake Mirror CRA Redevelopment Site. On November 21, 2016, the City Commission, acting in their capacity as the Community Redevelopment Agency, formally awarded the number one ranking to Framework and authorized CRA staff, along with the City Attorney's office, to begin negotiating an acquisition and development agreement, resulting in the Agreement attached hereto.

The significant terms of the Agreement are as follows:

- Framework will purchase the property for a purchase price of \$3,672,000.00.
- Framework will develop a minimum of 306 market rate, multi-family residential units on the site, consisting of approximately 300,000 to 350,000 square feet of new construction.
- Prior to closing, Framework must secure all permits and other development approvals for the construction of the project. In addition, Framework must secure a binding financing commitment for a construction loan to fully construct the project. Closing on the construction loan must occur at the same time as closing on the property.
- Closing will occur within 30 days of satisfaction of all closing conditions, but not later than 18 months following the effective date of the attached Agreement. Framework may extend the closing date by up to four 30-day periods.
- Framework must commence construction of the project within 30 calendar days of closing.
- The City and CRA will have final review and approval authority over the building elevations, exterior materials and colors for the project.
- Framework will set aside 5% of the development's total units for affordable housing if the City constructs a pedestrian rail passage and dog park in conjunction with the project.
- Framework will have a 120-day inspection period to evaluate the site. They may extend the inspection period by up to two 30-day periods. Framework may terminate the Agreement on or before the end of the inspection period if they determine, in their sole judgment, that the property is not suitable for the proposed project.
- The CRA will provide tax increment financing to Framework over a five-year period, beginning with a 100% increment payment in year one and decreasing by 20% each year. Framework will not be entitled to tax increment financing if they do not complete the Project within 3 years of the closing date.
- The City and CRA will pay, waive or otherwise satisfy all site plan, building permit and inspection fees, as well as water, sewer, solid

waste, school, fire and transportation impact and concurrency fees; all utility connection fees and costs; fees and costs related to the installation and/or relocation of wastewater, water and any additional utility infrastructure; and fees and costs related to the provision of all street improvements, including the screening of the nearby substation.

- The City's and CRA's maximum liability for the above-stated incentives is capped at \$1,760,000. However, this cap does not include the undergrounding of electric infrastructure for the project, which Lakeland Electric has agreed to provide and fund.
- If the City constructs a parking garage on the current surface parking lot to the east of the police station, Framework will have the right to purchase a forty-foot (40') strip of property from the City along the entire Bay Street frontage of the parking garage for the purpose of constructing residential liner units. Framework would pay the City \$12,000 per unit to be constructed if it purchases the property within three (3) years of the completion of its redevelopment project and will pay appraised value if it purchases the property beyond such three (3) year period. The City will provide free parking in the parking garage meeting code requirements for the occupants of the liner units for a period of five years. Thereafter, standard parking rates for the garage would apply. The first floor of the liner units would include mixed uses.

It is recommended that the City Commission, acting both in its capacity as the governing body of the City and as the City's Community Redevelopment Agency, approve the attached Agreement with Framework Group, LLC for the sale and redevelopment of the North Lake Mirror Redevelopment Site and authorize the appropriate City and CRA officials to execute the Agreement.

PCD
Attachment

ACQUISITION AND REDEVELOPMENT AGREEMENT

THIS ACQUISITION AND REDEVELOPMENT AGREEMENT (this “Agreement”) is entered into as of the ___ day of _____, 2017 (the “Effective Date”), by and between the City of Lakeland, a Florida municipal corporation (the “City”), the Lakeland Community Redevelopment Agency, a public body corporate and politic created pursuant to Part III, Chapter 163, Florida Statutes (the “CRA”), and Framework Group, LLC, a Florida limited liability company (“Framework”).

RECITALS

WHEREAS, the CRA is the owner of certain property known as the “North Lake Mirror CRA 10 Acre Redevelopment Site”, with an address of 301 N. Iowa Avenue, Lakeland, Florida 33801, as legally described on Exhibit A, attached hereto and incorporated herein (the “Property”); and

WHEREAS, the CRA desires that the Property be redeveloped for multi-family residential use consistent with the aesthetic of downtown Lakeland, and in furtherance of the CRA’s Downtown Community Redevelopment Plan (the “Master Plan”), and the Florida Community Redevelopment Act of 1969, Florida Statutes, Chapter 163; and

WHEREAS, on August 30, 2016, the CRA issued the Request for Qualifications, Redevelopment of The North Lake Mirror CRA 10 Acre Redevelopment Site, R. F. Q. No. 6284 (the “RFQ”). Framework responded to the RFQ with the RFQ Response for Redevelopment of the North Lake Mirror site (the “RFQ Response”), and the CRA selected Framework as the developer with which to negotiate an agreement at its public meeting on November 21, 2016; and

WHEREAS, the City and CRA find this economic development opportunity to be in the best interest of City and the health, safety and welfare of the citizens of Lakeland, have offered to facilitate the downtown redevelopment project by providing certain economic incentives to Framework, with the expectation that City’s and CRA’s involvement will encourage and accelerate the timing of the redevelopment, thus generating additional tax revenues, benefiting the downtown economy and enhancing the potential for future development; and

WHEREAS, the City and CRA find that City and CRA’s provision of the economic incentives set forth in this Agreement constitutes a public purpose, and the Florida Legislature has found that government sponsored public-private arrangements and the promotion and support, including financial assistance, of economic development activities are in the public interest and achieve a public benefit; and

WHEREAS, the parties hereto have agreed to memorialize the terms and conditions through which the CRA shall convey the Property to Framework and Framework shall redevelop the Property;

NOW, THEREFORE, in consideration of the foregoing matters, which are incorporated herein by reference, the mutual covenants contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by all parties, the parties hereto agree as follows:

1. **Recitals.** The Recitals set forth above are true and correct and are hereby incorporated in this Agreement.

2. **Definitions.** In addition to terms defined elsewhere in this Agreement, the following terms shall have the following meanings:
 - A. *City Code* - The Land Development Code of City of Lakeland.
 - B. *Development Order* – Site plan approval, and other necessary approvals and permits, including, but not limited to, the issuance of a building permit or similar action by City and all other government entities with jurisdiction over the Project necessary for Framework to develop and construct the Project on the Property pursuant to the requirements of this Agreement.
 - C. *Escrow Agent* – Abel A. Putnam, Esq., Putnam, Creighton & Airth, P.A., P.O. Box 3545, Lakeland, Florida 33802-3545.
 - D. *Project or North Lake Mirror Redevelopment Project* - Except as otherwise provided herein, 306 market rate residential multi-family units, with accessory uses on the Property, as generally consistent with the Conceptual Plan (Exhibit B). The name of the Project may be changed in the sole discretion of Framework.
 - E. *Project Plans* - The site plan and other applications necessary to obtain a building permit and other development approvals for the Project to be submitted by Framework to City.
3. **Purpose.** The purpose of this Agreement is to provide for the redevelopment of the Property in accordance with Section 11, so as to enhance the quality of life and the aesthetic and useful enjoyment of the Lakeland downtown area, fulfill the goals of the RFQ, promote economic development and investment in the downtown area, and further the objectives of the Master Plan.
4. **Purchase and Sale.** The CRA agrees to sell and convey the Property to Framework, and Framework agrees to purchase the Property from the CRA, pursuant to the terms and conditions set forth in this Agreement. Prior to the end of the Inspection Period, the CRA and Framework agree to amend the legal description of the Property set forth on **Exhibit A** to a mutually agreeable legal description of the Property to be set forth on the Survey.
5. **Purchase Price.** The Purchase Price for the Property shall be THREE MILLION SIX HUNDRED SEVENTY TWO THOUSAND AND NO/100 DOLLARS (\$3,672,000.00). In the event that fewer than 306 units are approved by the City, then the Purchase Price will be reduced on a pro rata basis at a value of \$12,000.00 per each deleted unit.
6. **Deposits.**
 - A. In order to secure the performance by Framework in accordance with this Agreement, on or before three (3) business days after the Effective Date, Framework shall deliver a deposit to Escrow Agent in the amount of TEN THOUSAND AND NO/100 DOLLARS (\$10,000.00) (the “Deposit”).
 - B. The Deposit will be held by Escrow Agent in an institution the deposits of which are insured by an agency of the United States and disbursed in accordance with this

Agreement. The Deposit will be placed in a trust account upon receipt by Escrow Agent. Escrow Agent shall not be liable for any funds lost in connection with the take-over or failure of any bank or financial institution wherein Escrow Agent has deposited those funds. Escrow Agent shall deposit the funds in a single account at a bank or financial institution selected by Escrow Agent in its commercially reasonable discretion, and shall have no obligation to split such funds into multiple accounts to stay within Federal Deposit Insurance Corporation insurance limits on each account. The Deposit shall be applied to and credited against the Purchase Price at Closing, and, in the case of a termination of this Agreement, the Deposit shall be disbursed as provided herein.

7. **Inspection Period.** Framework shall have one hundred twenty (120) days from the Effective Date to conduct due diligence activities on the Property. Framework, its agents, representatives and consultants, shall have the right to enter the Property, with prior notice to the CRA, for the purposes of inspecting the same, including without limitation, for the purposes of conducting soil tests, soil borings and groundwater tests, performing surveys, environmental audits and inspections (including digging, boring and taking soil samples), and other invasive testing, performing physical facility inspections, and for such other purposes as shall be appropriate, in the judgment of Framework in order to determine whether, in Framework's sole discretion, the Property is suitable for the intended use. Framework shall be entitled to bring such equipment and vehicles onto the Property as are necessary to perform the activities described herein. In addition, Framework shall have the right to make such other investigations with respect to the Property, including, without limitation, investigations relating to zoning, land use, availability of utilities and the like, as Framework may deem to be appropriate in making the determination of whether or not the Property is suitable for the intended use of developing the Project. Framework shall indemnify, defend, and hold the CRA and City harmless from any and all liabilities, claims and damages arising out of the rights granted to Framework in this Section, which covenant shall survive the closing or the earlier termination of this Agreement for a period not to exceed the greater of four (4) years or the applicable statute of limitations for any claim brought against the CRA or City as a result of Framework's exercise of its rights under this Section; provided however, this indemnity shall not apply to existing site conditions on the Property or the intentional or negligent acts or omissions of the City or CRA, of the City or CRA's employees, consultants or agents or any third party acting on behalf of the City or CRA. Prior to entering the Property pursuant to this Section, Framework shall obtain and maintain in effect at its expense the following insurance with respect to the Property: (i) a comprehensive general liability insurance policy naming the CRA and the City as additional insureds and having limits of at least One Million and 00/100 Dollars (\$1,000,000.00) for injury, death or property damage per occurrence; (ii) business auto liability coverage, which shall cover any automobile for bodily injury and property damage arising out of ownership, maintenance or use, including owned, non-owned and hired automobiles and employee non-ownership use. The limits of such policy shall be no less than Five Hundred Thousand (\$500,000.00), single limit per occurrence, and the CRA and City shall be listed as additional insureds; and (iii) workers' compensation coverage at statutory limits, if applicable. All policies shall be written on an occurrence basis. In the event Framework does not purchase the Property, Framework shall repair any damage to the Property caused by Framework's exercise of its rights under this Section and otherwise restore the Property to the condition existing prior to the Inspection Period, which covenant shall survive the termination of this Agreement. On or before the end of the Inspection Period, Framework may, in its sole discretion, terminate this Agreement in writing, and any deposits shall be returned to Framework, and neither party shall have any further liability under this Agreement, except as otherwise expressly provided in this

Agreement. In the event Framework does not terminate this Agreement on or before the end of the Inspection Period, the Deposit shall become non-refundable, except in the event of a City or CRA default under this Agreement. Framework shall be entitled to two (2) thirty (30) day extensions of the Inspection Period as more fully provided by Section 14.

8. **Property AS IS, WHERE IS Condition.** FRAMEWORK ACKNOWLEDGES AND AGREES THAT UPON CLOSING, CRA SHALL SELL AND CONVEY, AND FRAMEWORK SHALL ACCEPT, THE PROPERTY "AS IS, WHERE IS," WITH ALL FAULTS, AND THERE ARE NO ORAL OR WRITTEN AGREEMENTS, WARRANTIES, OR REPRESENTATIONS (EXCEPT AS SPECIFICALLY PROVIDED HEREIN), COLLATERAL TO OR AFFECTING THE PROPERTY BY CRA, ANY AGENT OF CRA OR ANY THIRD PARTY ACTING FOR OR ON BEHALF OF CRA.

9. **Title Insurance.** Within five (5) days of the Effective Date of this Agreement, Framework, at its expense, shall obtain a title insurance commitment as to the Property (the "Title Commitment"), from a nationally-recognized title insurance company (the "Title Company"), together with legible copies of the deed(s) vesting title to the Property in the CRA and of all documents or instruments referenced in Schedule B-Section 1 and Schedule B-Section 2 of the Title Commitment (collectively, the "Back-up Documents"), and committing to issue to Framework an owner's policy of title insurance in the amount of the Purchase Price upon the recording of the special warranty deed from the CRA to Framework. Framework shall deliver a copy of the Title Commitment and Back-up Documents to the CRA on or before the tenth (10th) day after the Effective Date. Title to the Property as reflected by the Title Commitment and owner's/lender's policies issued pursuant thereto shall be subject only to ad valorem real property taxes for the year of the Closing which are not yet due or payable, and such other title exception matters set forth in Schedule B-Section 2 of the Title Commitment that are either (a) not included in Framework's Title Defect Notice (as defined below), or (b) having been identified in any timely Title Defect Notice, have thereafter been waived or deemed to have been waived by Framework in accordance with the terms and conditions set forth below (collectively the "Permitted Exceptions"). The Title Commitment shall further agree to insure any and all easements benefiting the Property. The Title Commitment shall provide that, in the event the Closing Agent receives or obtains all of the certificates, affidavits, surveys, and other matters required under Schedule B - Section 1 of the Title Commitment which are necessary in order to satisfy of record any "Monetary Liens" (as defined below in this Section 9, to insure the "gap" between the effective date of the Title Commitment and the recording of the special warranty deed conveying the Property from the CRA to Framework, and to delete the "standard exceptions", then such Monetary Liens and the "standard exceptions" (including standard exceptions for taxes and assessments not shown in the Public Records, claims of unrecorded easements, parties other than owner in possession, mechanic's liens and matters disclosed on the Survey, but excluding current real estate taxes not yet due and payable) shall be deleted from the title insurance policy when issued and the "gap" shall be insured at Closing. The CRA shall provide to the Title Company on or before Closing any affidavits, undertakings and other instruments reasonably required to delete said Monetary Liens, and standard exceptions, to insure the "gap", and to satisfy or comply with any requirements specified in Schedule B - Section 1 of the Title Commitment applicable to the CRA. Framework shall have to and until fifteen (15) days prior to the end of the Inspection Period within which to review the Title Commitment and the Survey (defined below). In the event Framework finds the Title Commitment and/or the Survey (as defined below) to contain any matter, requirement or exception which is objectionable to Framework (a "Title Defect"), Framework shall give written notice to the CRA of Framework's objection(s) (the "Title Defect Notice") on or before fifteen (15)

days prior to the expiration of the Inspection Period. The CRA shall thereupon promptly use diligent, good faith efforts to cure said Title Defect(s). If the CRA is unable to cure all Title Defects within the Inspection Period, it shall give prompt written notice to Framework of those non-monetary Title Defects which the CRA is unable to or elects not to cure (“No Cure Notice”) no later than five (5) days prior to the end of the Inspection Period, whereupon Framework shall have the option, exercisable by written notice of such election (the “Election Notice”) provided to the CRA within five (5) days of receipt of the No Cure Notice, either to (a) extend the time for the CRA to cure said Title Defects, (b) waive the remaining Title Defects, and such matters shall become Permitted Exceptions, or (c) terminate this Agreement, in which event the Deposits (if any) shall be refunded to Framework and thereafter the parties shall have no further obligation or liability hereunder, except as otherwise provided by this Agreement. The Title Commitment shall be updated by endorsement (“Update Endorsement”), which endorsement, together with copies of any additional matters identified therein, shall be provided to the CRA by Framework prior to Closing. If any Update Endorsement discloses any new requirement, defect, encumbrance or other adverse matter that is not a Permitted Exception, then Framework shall notify the CRA in writing specifying the new Title Defect. The CRA shall have a period of ten (10) days, or other reasonable time, but not more than thirty (30) days if such matters cannot be reasonably cured within said ten (10) day period, following the receipt of such notice from Framework to cure such new Title Defect and, if necessary, the applicable Closing Date shall be extended accordingly as provided above. The CRA agrees to use diligent, good faith best efforts to attempt to remove all Title Defects, as provided above. If the CRA fails to cure any such new Title Defect within the time periods set forth herein, then such new defect shall constitute a default and Framework shall have the remedies provided in this Section. Notwithstanding anything contained herein to the contrary, on or before Closing, the CRA shall be obligated to satisfy and release of record, and to pay all amounts necessary to obtain such satisfaction and release, all monetary liens encumbering the Property (collectively, “Monetary Liens”). For the avoidance of doubt, following the Effective Date of this Agreement the CRA will not convey all or any portion of the Property, or further encumber the Property with any easements, leases, restrictions or other encumbrances, nor shall the CRA enter into any contracts to do so. Likewise, from and after the Effective Date of this Agreement, the CRA will not physically alter the Property.

10. **Survey of Property.** Framework may obtain, at Framework’s sole cost and expense, a current survey of the Property, and which such survey is reasonably acceptable to the Title Company for the purpose of insuring Framework’s title policy over all survey based exceptions (the “Survey”). The Survey shall: (a) locate all present and future easements, rights of way, 100-year flood plain, building lines, utility lines, roadways and encroachments on the Property; and (b) contain an accurate metes and bounds description of the Property. In the event the Survey reflects any encroachments, lack of access, deficiencies, gaps or gores or hiatus between the Property and any adjoining streets or roads, or any other matters which would constitute a title defect, in Framework’s discretion (“Survey Matters”), Framework shall notify the CRA of Framework’s objections to the Survey on or before fifteen (15) days prior to the expiration of the Inspection Period. Objections to the Survey shall be treated as Title Defects pursuant to Section 9 above.
11. **Redevelopment of the Property.** Subject to the conditions of this Agreement and receipt of all Development Orders required for the Project, Framework shall develop the Project on the Property generally consistent with the Conceptual Development Plan, attached hereto and incorporated herein as **Exhibit B** (the “Conceptual Plan”), except as otherwise provided by this Agreement. Framework shall undertake the redevelopment at its sole cost and expense, except

as otherwise provided in this Agreement. The parties agree to timely process and amend this Agreement to substitute the site development plan approved by the City for the Conceptual Plan.

- A. Right to Market. During the term of this Agreement and any extension thereof, Framework shall have the exclusive right to market the Property for sale or lease generally consistent with the Conceptual Plan, and to seek any Development Order associated with the development of the Project which is generally consistent with the Conceptual Plan for the Project. CRA shall not, during the term of this Agreement, market the Property or attempt to sell or lease the Property.

- B. Redevelopment Program for the Property. Framework shall develop the Project on the Property generally consistent with the Conceptual Plan, and the provisions of this Section.
 - 1. It is anticipated that the Project shall be developed in a single phase as provided herein. The North Lake Mirror Redevelopment Project will be a residential development project, providing a mixture of multi-family apartment units ranging in size, floor plan, and floor location, along with accessory facilities. The total Project will consist of approximately 300,000-350,000 square feet of new construction and will include a minimum of three hundred-six (306) multi-family residential units. If a parking variance is ultimately required to meet the City Code, the CRA will work with Framework to provide such variance or otherwise work with Framework to resolve any parking issues.
 - 2. The reference to square feet of residential units set forth in subsection B.1 above is approximate only. Framework may, during the development review process, change the size of the residential development (subject to the no less than three hundred-six (306) units requirement), subject to the CRA's approval during the development review process, which such approval shall not be unreasonably withheld, conditioned or delayed.
 - 3. Framework has or will obtain all state and local permits or other governmental authorizations and approvals required by law in order to proceed with the development of the Project, subject to the fee waivers contemplated under this Agreement.
 - 4. In the event that the City constructs the Dog Park and Pedestrian Rail Passage, as defined in Section 16, Framework shall set aside 5% of the development's total units to be made available at below market rents. Annual rent payment on the below market units shall not exceed 30% of 85% of Area Median Income for Polk County, Florida, in effect at the time of lease execution for each below market unit. Except as provided in this paragraph, all units will be provided at market rates and will not be the subject of any governmental housing subsidies.
 - 5. Framework shall develop the North Lake Mirror Redevelopment Project as a high-quality residential development project. The City and CRA shall have final review and approval authority over the building elevations and exterior materials and color schemes for the Project, including any changes to such plans.

6. Subject to Force Majeure delays, Framework shall commence construction of the Project within thirty (30) calendar days after Closing of this transaction.

12. **Closing Conditions.**

- A. **Framework Closing Conditions.** The obligation of Framework to purchase the Property is subject to the satisfaction as of the Closing Date of the following conditions precedent, any or all of which may be waived in whole or in part by Framework at or prior to the Closing:
 1. The representations and warranties of the City and CRA set forth herein shall be true and correct as of the Effective Date and on the Closing Date, and the City and CRA shall have fully performed and complied with all covenants and agreements of the City and CRA set forth herein which were to have been performed prior to Closing; and
 2. The City and CRA shall have tendered performance of all of their obligations and covenants to be performed at Closing under this Agreement; and
 3. The Title Company shall be irrevocably committed to endorsing or “marking up” the Title Commitment at Closing so as to insure title to the Property as being vested in Framework, to delete all requirements from Schedule B, Section 1, to delete the standard exceptions from Schedule B, Section 2 (subject to Framework providing the Survey), to revise the effective date of the Title Commitment to be through the date and time of the recording of the special warranty deed conveying title to Framework, to insure the “gap” between the effective date of the Title Commitment and the recording of such special warranty deed, all subject to no exceptions other than the Permitted Exceptions, and shall be prepared to issue a final title insurance policy (the “Title Policy”) promptly after the Closing; and
 4. Framework has received a firm commitment letter acceptable to Framework, in its sole and absolute discretion, for a FHA 221(d)(4) construction loan financing guaranteed by U.S. Department of Housing and Urban Development (HUD) or other acceptable lender, and such lender has issued a rate lock and agreed to fund this transaction; and
 5. Framework shall have received all necessary public and private approvals and permits, including the receipt of a building permit for the Project and any and all appeal periods related to such approvals or permits have expired; and
 6. There shall be no litigation affecting the Property, or any portion thereof; and
 7. There shall have been no material adverse change to the physical condition of the Property as it existed on the Effective Date.

- B. CRA Closing Conditions. The obligation of the CRA to sell the Property is subject to the satisfaction as of the Closing Date of the following conditions precedent, any or all of which may be waived in whole or in part by the CRA at or prior to the Closing:
1. The representations and warranties of Framework set forth herein shall be true and correct as of the Effective Date and on the Closing Date, and Framework shall have fully performed and complied with all covenants and agreements of Framework set forth herein which were to have been performed prior to Closing; and
 2. Framework shall have tendered performance of all of its obligations and covenants to be performed at Closing under this Agreement; and
 3. Framework shall have received all necessary public and private approvals and permits necessary to construct the Project on the Property, including the receipt of a building permit for the Project, and any and all appeal periods related to such approvals or permits have expired; and
 4. The Project's general contractor shall have provided an estimate of Project construction costs and a binding contract for the construction of the Project shall be in effect between Framework and the Project's general contractor; and
 5. Framework shall have provided written proof of a binding financing commitment from a lending institution, private lender or equity group to finance the construction of the Project, evidencing that the Project has been financed in amounts sufficient to commence and complete construction of the Project in accordance with the terms and conditions of this Agreement and the general contractor's construction cost estimate, and further indicating that the lending institution, private lender or equity group will close on the construction loan for the Project simultaneously with or prior to the CRA's conveyance of the Property; and
 6. Framework and Framework's general contractor shall have provided a joint written statement certifying that Project construction will commence on the thirtieth (30th) calendar day following conveyance of the Property.
- C. Failure of Conditions. In the event that any of the conditions set forth in this Section 12 above are not satisfied by the party responsible for their satisfaction (the "Responsible Party") or waived in writing by the non-responsible party (the "Non-Responsible Party") prior to the Closing, the Non-Responsible Party shall have the option of either: (i) terminating this Agreement by delivery of a written termination notice to the Responsible Party on or before the Closing Date, in which event the parties thereafter shall have no further rights or obligations to each other under this Agreement, except as otherwise expressly set forth in this Agreement; (ii) waiving such unsatisfied conditions precedent and proceeding with the Closing; or (iii) if the failure of any conditions precedent is due to or constitutes a default on the part of the Responsible Party, to declare a default on the part of the Responsible Party and to proceed in accordance with Section 19 below.
13. Closing. Unless otherwise agreed to by the parties in writing, the closing date for conveyance of the Property shall occur within thirty (30) days following the satisfaction of all the Closing Conditions set forth in Section 12, but no later than eighteen (18) months following the Effective Date, unless otherwise extended as provided herein (the "Closing Date"). The CRA shall convey

the Property to Framework pursuant to a special warranty deed conveying to Framework marketable fee simple title to the Property free and clear of all liens and encumbrances, subject only to the Permitted Exceptions, together with any negotiated easements for the Project; ad valorem real property taxes for the year of closing and subsequent years; and those matters which are approved in writing by Framework. CRA shall pay all the real estate transfer taxes applicable to the conveyance of the Property (including documentary stamp taxes and surtaxes). The CRA shall pay the costs of clearing title in accordance with Section 9 and recording any curative instruments. Framework shall pay for the cost of the title insurance commitment, and the owner's title policy if issued. Framework shall pay for the recording of the deed and all expenses associated with any financing. Each party shall pay its respective attorney's fees.

14. **Extensions.** Framework shall be entitled to extend the deadlines set forth in Section 7 (Inspection Period) for up to two (2) thirty (30) day periods and Section 13 (Closing) for up to four (4) thirty (30) day periods, at no cost to Framework. Framework shall request such extension in writing not less than ten (10) calendar days prior to the expiration of any such deadline. The CRA Manager shall automatically approve any extension request so long as it complies with the terms of this Section. The extensions set forth above shall not require formal amendment of this Agreement. Except as provided in this Section or except as may be otherwise provided in this Agreement, there shall be no other extension of any performance obligation except through formal amendment of this Agreement in writing approved by the parties.

15. **Additional City and CRA Obligations/Redevelopment Incentives.** In consideration of Framework undertaking the Project, the City and CRA shall undertake the actions set forth in this Section. Unless otherwise provided below, the City and CRA shall undertake such actions at their sole cost.
 - A. **Joinder and Applications.** The CRA, as owner of the Property during the entitlement process, shall join in any application for development orders, variances or other approvals required for the Project, as well as any applications related to the Redevelopment Programs, including, but not limited to, applications for final site plan, plat approval, construction plans and stormwater permits.

 - B. **Redevelopment Incentives.**
 1. Provided Framework completes the Project within three (3) years of the Closing Date, as evidenced by the issuance of certificates of occupancy for all components of the Project (except for the liner units, as described below), the CRA shall provide tax increment financing to Framework in accordance with the CRA's standard tax increment financing terms and conditions, except that Framework shall receive a rebate of 100% of City, Polk County and Lakeland Area Mass Transit District tax increment revenue generated by the Property beginning in the year immediately following the year in which the Project is completed, 80% in the second year, 60% in the third year, 40% in the fourth year and 20% in the fifth year. No tax increment financing shall be provided following the fifth year. For such calculation, reassessment of the Property by the Polk County Property Appraiser shall be based upon the first year immediately following the year in which the Project is completed (the "Base Year"), For the avoidance of doubt, the parties agree that the tax increment revenue to which Framework shall be entitled in years two through five shall be determined by applying the applicable

rebate percentages for such years to a sum equal to the tax increment revenue generated by the Property in the Base Year and not to the tax increment revenue actually generated by the Property in years two through five. In addition, the parties agree that the above rebate percentages shall be applied only to the tax increment revenue collected by the CRA and Framework shall have no entitlement to any portion of the statutorily-required 5% administrative charge that is deducted prior to payment of tax increment revenue to the CRA. Framework's obligation to complete the Project within three (3) years of the Closing Date as a condition of its entitlement to receive tax increment financing shall be extended in accordance with Section 21 for events of Force Majeure.

2. City and CRA shall provide expedited plan review, permits, and inspections, and shall pay, waive or otherwise satisfy any related fees on behalf of, and at no cost to, Framework, including without limitation: site plan review fees; development order fees; building permit, plumbing, electrical, mechanical and site inspection fees; fees related to the review of documents necessary to plat any portion of the Property; water, sewer, solid waste, school, fire and transportation impact and concurrency fees for the Project; all City utility connection costs and fees (both on and off-site) for removal and installation; fees and costs related to the underground relocation of all electric utility poles and lines that are currently above-ground and are traversing or bordering the Property (i.e., along E. Oak Street, E. Peachtree Street, E. Gilmore Avenue, and N. Vermont Avenue); fees and costs related to the installation and/or relocation of certain wastewater, water, and any additional subsurface utility infrastructure as required to provide adequate service from such utility infrastructure to the Project, and to allow the most cost-effective and efficient means of constructing the Project; and fees and costs related to the provision of all street improvements, including but not limited to, concrete and brick sidewalks, curbing, driveway relocation, lighting, screening of utility infrastructure, street trees, screening of all substations and waste receptacles related to the Project; as all more particularly set forth on the "Conceptual Plan" attached hereto and incorporated herein as "Exhibit B".
 3. The City and CRA shall take all necessary action to rezone the Property as required to allow the Project to proceed as-of-right following Closing.
 4. The City and CRA shall take all necessary action to vacate the plat governing or replat the Property to privatize all internal streets and rights-of-way.
- C. Other Obligations. The CRA shall provide temporary construction easements for the construction of the Project. The CRA shall maintain the Property in its current condition during the term of this Agreement prior to conveyance of the Property.
- D. CRA Cooperation. CRA shall exercise its best efforts and cooperate with Framework in submitting and obtaining any state and federal licenses, permits, and governmental authorizations necessary to the completion of the Project; provided, however, all costs associated therewith shall be the sole responsibility of Framework. This Agreement shall not affect City's right and authority to act in regulatory matters in accordance with applicable laws or ordinances.

- E. No Merger. The terms and conditions of this Agreement shall survive the closing of the Property or any Parcel thereof and shall not be merged into the Deed for the Property or any Parcel thereof.
- F. Redevelopment Incentives Cap. Notwithstanding anything contained in this Agreement to the contrary, the City's and the CRA's total obligation to pay, waive, satisfy or otherwise contribute towards the fees and costs associated with the design, permitting, construction and development of the Project shall be capped at and not exceed a total sum of \$1,760,000, except that the fees and costs incurred by the City related to the underground relocation of all electric utility poles and lines that are currently above-ground and are traversing or bordering the Property (i.e., along E. Oak Street, E. Peachtree Street, E. Gilmore Avenue, and N. Vermont Avenue) shall not be included in said cap and shall be the sole responsibility of the City.

16. **Additional Enhancement Improvements by the City.**

- A. Pedestrian Rail Passage. The City shall, if financially and otherwise feasible, fund and construct means of safe pedestrian passage over, under, or across the train tracks (the "Pedestrian Rail Passage") south of the Property, allowing for passage from the North Lake Mirror Redevelopment to E. Main Street directly south of the Property, per the Concept Plan. The City shall use its best efforts to commence construction of the Pedestrian Rail Passage prior to Framework's receipt of its last certificate of occupancy and shall use best efforts to complete the Pedestrian Rail Passage within 12 months of commencement, subject to delays for Force Majeure.
- B. Dog Park. The City shall, if financially and otherwise feasible, fund and construct a public dog park (the "Dog Park") on City-owned land adjacent to the Pedestrian Rail Passage, as more fully depicted on the Conceptual Plan (**Exhibit B**). At a minimum, the Dog Park shall include a fully enclosed boundary fence and an open area of 0.30 acres, along with appurtenances such as a source of drinking water, waste disposal, lighting, seating, and enhanced landscaping. The City shall use its best efforts to commence construction of the Dog Park prior to Framework's receipt of its first certificate of occupancy and shall use best efforts to complete the Dog Park within 6 months of commencement, subject to delays for Force Majeure.
- C. In the event that either the Pedestrian Rail Passage or the Dog Park is not commenced or constructed as provided in this Section 16, Framework shall not be entitled to seek damages or other legal or equitable relief; provided however, and notwithstanding anything in this Agreement to the contrary, the CRA, the City and Framework agree that Framework shall have no obligation to set aside any portion of the Project for below-market housing.
- D. City Parking Garage. The City and Framework acknowledge and agree that the City is studying the feasibility of constructing a multi-story parking garage structure (the "City Parking Garage") on what is currently a surface parking lot on the south side of E. Bay Street, between N. Iowa Avenue and N. Vermont Avenue in the location generally shown on the Conceptual Plan (**Exhibit B**) (the "City Parking Garage Property"). The City acknowledges and agrees that the aesthetics and operation of the City Parking Garage

will have a significant effect on the Project. Accordingly, prior to the City commencing any construction on the City Parking Garage Property, Framework shall have the right to purchase a strip of property from the City no more than forty feet (40') in depth along the entire E. Bay Street frontage of the City Parking Garage (the "Liner Unit Property") for the purpose of constructing residential liner units integral to the City Parking Garage, with the first floor of the Liner Unit Property to include commercial uses allowed by City of Lakeland Land Development Code Zoning Designation C-6, but excluding those uses listed on **Exhibit "C"** attached hereto and incorporated herein. Construction of such liner units shall be at Framework's sole cost and expense. In the event Framework elects to purchase the Liner Unit Property, Framework shall pay to the City a purchase price of \$12,000 for each permitted unit to be constructed upon the Liner Unit Property provided Framework purchases the Liner Unit Property within three (3) years of the completion of the Project. If Framework purchases the Liner Unit Property more than three (3) years from the completion of the Project, then Framework shall pay the appraised value of the Liner Unit Property at such time based upon the appraisal of a certified MAI appraiser mutually agreed to by the City and Framework. The City shall provide in the City Parking Garage all parking required by the City Code for the liner units (but not less than 1.75 spaces per liner unit) at no cost to either Framework or its lessees for a period of five (5) years immediately following the issuance of a certificate of occupancy for the liner units. Thereafter, either Framework or its lessees shall make lease payments to the City for each leased parking space in accordance with the adopted rate schedule for the City Parking Garage then in effect. The terms and conditions under which Framework shall be permitted to attach any structure to the City Parking Garage shall be the subject of a separate agreement between the parties, which shall address reasonable insurance and indemnification requirements, construction plans and specifications, and other relevant issues, but which shall not require the payment of any compensation to the City in addition to the purchase price paid by Framework for the Liner Unit Property. In the event that: (i) the City does not construct the City Parking Garage; (ii) the City transfers the City Parking Garage Property to a third party; or (iii) Framework does not elect to purchase the Liner Unit Property, the City agrees to impose a restrictive covenant or similar conditions (acceptable to Framework, in its reasonable discretion) on the City Parking Garage Property which imposes enhanced landscaping and aesthetic elevations on the portion of the City Parking Garage Property facing the Property. Nothing contained herein shall obligate the City to construct the City Parking Garage or grant to Framework the right to purchase the Liner Unit Property if the City does not construct the City Parking Garage.

17. **Covenants, Warranties and Representations of the City and CRA.** The City and CRA covenant, represent and warrant to Framework, as of the Effective Date and as of the Closing Date, as follows:

- A. Except as otherwise provided in this Agreement, the City and CRA are not making and specifically disclaim any warranties or representations of any kind or character, express or implied, with respect to the Property, including, but not limited to, warranties or representations as to matters of title, tax consequences, or physical or environmental conditions, affecting the Property, including, without limitation, the value, condition, merchantability, marketability, profitability, suitability or fitness for a particular use or purpose of the Property. Framework agrees that with respect to the Property, Framework

has not relied upon and will not rely upon, either directly or indirectly, any representation or warranty of the City or CRA (except as expressly set forth in this Agreement) or any agent of the City or CRA. Framework represents that it is a knowledgeable purchaser of real estate and that it is relying solely on its own expertise and that of Framework's consultants, and that Framework will conduct such inspections and investigations of the Property, including, but not limited to, the physical and environmental conditions thereof, and shall rely upon same.

- B. This Agreement and each document contemplated hereby to which the City and CRA will be a party has been authorized and will be executed and delivered by the City and CRA and neither their execution and delivery, nor compliance with the terms and provisions: (i) requires the approval and consent of any other party, except as have been obtained or as specifically noted herein, (ii) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the City or CRA, or (iii) contravenes or results in any breach of, default under or creation of any lien or encumbrance on the City or CRA.
- C. This Agreement and each document contemplated to which the City and CRA will be a party, will constitute a legal, valid and binding obligation of the City and CRA enforceable against the City and CRA in accordance with the terms thereof, except as such enforceability may be limited by public policy or applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights and subject to usual equitable principles if equitable remedies are involved.
- D. The City and CRA shall cause to continue to be in effect those instruments, documents, certificates and events contemplated by this Agreement that are applicable to and the responsibility of the City and CRA.
- E. The City and CRA shall not violate any applicable laws, ordinances, rules, regulations, orders, contracts, or agreements, or to the extent permitted by law, enact or adopt any ordinance, regulations or order or approve or enter into any agreement, that will result in this Agreement or any part hereof, or any other instrument contemplated, to be in violation thereof.
- F. The City and CRA shall discharge, vacate, or release any lien, encumbrance, easement, right-of-way or other property interest the City or CRA has or owns on or in the Property (other than those arising under this Agreement) on or before the Closing of this transaction; provided, that neither the City nor the CRA shall have any obligation to discharge, vacate or release any easement, right-of-way or other property interest that is necessary for the provision of public utility service to property other than the Property until replacement easements, right-of-way or other property interests are in place that will ensure no interruption of public utility service to property other than the Property.
- G. The City and CRA represent that, to the best of their knowledge, the Property is not on any "Superfund" list under any applicable Environmental Law, nor is the Property currently subject to any lien related to any environmental matter. Except as specifically set forth herein, the City and CRA make no other representations or warranties, expressed or implied, concerning the environmental condition of the Property.

18. **Representations and Warranties of Framework.** Framework hereby represents and warrants the following to the City and CRA:
- A. Framework is a validly existing limited liability company under the laws of the State of Florida, has all requisite power and authority to carry on its business, to own and hold property, to enter into and perform its obligations under this Agreement and consents to service of process on its registered agent in Florida.
 - B. This Agreement and each document to which Framework is or will be a party has been authorized and will be executed and delivered by Framework and neither their execution and delivery, nor compliance with the terms and provisions: (i) requires the approval and consent of any other party, except as have been obtained or as specifically noted herein, (ii) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on Framework, or (iii) results in any default or the creation of any lien on the property or assets of Framework which will have a material adverse affect on its ability to perform its obligations hereunder.
 - C. This Agreement and each document contemplated to which Framework will be a party, will constitute a legal, valid and binding obligation of Framework enforceable against Framework in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights and subject to usual equitable principles if equitable remedies are involved.
 - D. To the knowledge of Framework, there is no suit, litigation or action pending or threatened against Framework, which questions the validity of this Agreement or which will have a material adverse affect on its ability to perform its obligations hereunder.
 - E. During the period the obligations of Framework are in effect, Framework shall cause to continue to be in effect those instruments, documents, certificates and events contemplated by this Agreement that are applicable to and the responsibility of Framework.
 - F. Framework shall promptly notify the CRA Manager in writing of any actual or reasonably anticipated delays in the application, approvals by City or other agencies and/or in the construction of the Project.
19. **Default.** Prior to declaring a default hereunder, the non-defaulting party must provide the defaulting party with written notice and at least ten (10) days to cure such default; provided, however, if the default is of a nature that cannot be reasonably cured within such 10-day period, then the defaulting party shall be allowed a reasonable period of time to cure such default provided that it diligently commences the cure within the 10-day period and thereafter diligently undertakes and pursues such cure. Notwithstanding the foregoing, neither party shall be held in default of this Agreement for any delay or failure of such party in performing its obligations pursuant to this Agreement if such delay or failure is caused by Force Majeure as defined in Section 21. Notwithstanding the above, no prior notice or opportunity to cure need be provided if a party fails to close on the Property as and when required by Section 13. If a default occurs and is not cured within any permitted curative period, or no opportunity to cure is required, the non-defaulting party may terminate this Agreement, institute an action to compel specific

performance, except the City and CRA are expressly prohibited from pursuing Specific Performance against Framework, or to recover damages as applicable, suspend its own performance hereunder, or pursue any other remedy available at law or equity. The specified rights and remedies to which City, CRA and Framework are entitled under this Agreement are not exclusive and are intended to be in addition to any other means of redress which City, CRA or Framework may have. The foregoing notwithstanding, under no circumstances will City, CRA or Framework be liable for consequential damages, including lost profits, the right to such damages being expressly waived.

20. **Agreement to Run with Property.** This Agreement shall run with the Property and any portion thereof. This Agreement, and any amendments hereto, shall be binding upon and inure to the benefit of, and be enforceable by, the City, CRA and Framework, and their respective successors and assigns.
21. **Force Majeure.** Delays in performance due to: fire; flood; hurricane; tornado; earthquake; windstorm; sinkhole; unavailability or shortage of materials, equipment or fuel; war; declaration of hostilities; terrorist act; civil strife; strike; labor dispute; epidemic; archaeological excavation; or act of God, shall be deemed events of "Force Majeure" and such delays shall be excused in the manner herein provided. If a party is delayed in any work pursuant to this Agreement due to the occurrence of an event of Force Majeure, the date for action required or contemplated by this Agreement shall be extended by the number of days equal to the number of days such party is delayed. The party seeking to be excused based on an event of Force Majeure shall give written notice of the delay indicating its anticipated duration. Each party shall use its best efforts to rectify any conditions causing the delay and will cooperate with the other party, except for the incurrence of unreasonable additional costs and expenses, to overcome any loss of time that has resulted.
22. **Notice.**
- A. All notices, requests, consents and other communications required or permitted under this Agreement shall be in writing (including faxed communication) and shall be (as elected by the person giving such notice) hand delivered by messenger or courier service, faxed, or mailed by Registered or Certified Mail (postage pre-paid), Return Receipt Requested, addressed as follows or to such other addresses as any party may designate by notice complying with the terms of this Section:
1. For the City and CRA: Nicole Travis, CRA Manager, 228 S. Massachusetts Avenue, Lakeland, FL 33801; with copy to: Timothy McCausland, Esq., City Attorney, City of Lakeland, 228 S. Massachusetts Avenue, Lakeland, FL 33801.
 2. For Framework: Phillip A. Smith, Manager, 1200 W. Platt St., Suite 201, Tampa, FL, 33606; with a copy to Marilyn M. Healy, Esq. Adams and Reese, LLP, 101 East Kennedy Blvd. Suite 4000, Tampa, FL 33602.
- B. Each such notice shall be deemed delivered: on the date of delivery if by personal delivery; on the date of facsimile transmission if by facsimile; and if the notice is mailed, on the earlier of: (a) the date upon which the Return Receipt is signed; (b) the date upon which delivery is refused; (c) the date upon which notice is designated by the postal authorities as not delivered; or (d) the third business day after mailing. Notwithstanding

the foregoing, service by personal delivery delivered, or by facsimile sent, after 5:00 p.m. shall be deemed to have been made on the next day that is not a Saturday, Sunday or legal holiday. If a notice is delivered by multiple means, the notice shall be deemed delivered upon the earliest date determined in accordance with the preceding subsection.

23. **Assignment.** Framework shall be entitled to assign its rights and obligations under this Agreement to a parent, subsidiary, or affiliated entity in which Framework or Phillip A. Smith is a member or interest holder, including but not limited to, a single-asset entity or joint venture entity. Any other assignment shall require the written consent of the CRA, which may be withheld or conditioned by the CRA in its sole discretion. Framework shall provide notice of a permitted assignment to the CRA prior to the closing of the Project. The Notice of Assignment shall provide all information to the CRA sufficient for CRA to verify that the assignment is a permitted assignment under this Section. Upon the CRA's confirmation that the assignment is a permitted assignment, the CRA Manager shall be authorized to execute a document acknowledging CRA's acceptance of such assignment. Upon any assignment, the rights and obligations contained herein shall be binding on successors in interest to the Property, and the terms and conditions of this Agreement shall bind and inure to the benefit of the parties hereto and any respective successors and assigns.
24. **City's Police Powers.** Nothing in this Agreement shall serve to affect or limit the City's police powers in the exercise of rezoning decisions or other governmental action associated with the proposed redevelopment of the Property or any development order associated therewith.
25. **Sovereign Immunity.** Notwithstanding any other provision set forth in this Agreement, nothing contained in this Agreement shall be construed as a waiver of either the City's or the CRA's right to sovereign immunity under Section 768.28, Florida Statutes, or other limitations imposed on the City's or the CRA's potential liability under state or federal law. As such, neither the City nor the CRA shall be liable under this Agreement for punitive damages or interest for the period before judgment. Further, neither the City nor the CRA shall be liable for any claim or judgment, or portion thereof, to any one person of more than Two Hundred Thousand Dollars (\$200,000.00), or any claim or judgment, or portion thereof, which, when totaled with all other claims or judgments paid by the State or its agencies and subdivisions arising out of the same incident or occurrence, exceeds the sum of Three Hundred Thousand Dollars (\$300,000.00). This Section shall survive termination of this Agreement.
26. **Resolving any Invalidity.** The City, CRA and Framework hereby agree that in the event this Agreement or the economic incentives described herein are ever challenged by any person and held to be invalid by a court of competent jurisdiction, each will cooperate with the other, in good faith, to resolve the invalidity or pursue a valid alternative means to secure a substantially similar and equitable financial arrangement which the parties acknowledge was the inducement for Framework undertaking the Project. Notwithstanding anything in this Agreement to the contrary, in the event of any challenge to this Agreement or any portion thereof by a third party, including litigation, appeals, administrative actions or any other legal or equitable action, the affected dates for action required or contemplated by this Agreement shall be extended by the number of days equal to the number of days until such litigation, appeals, administrative action, or any other legal or equitable action has been fully resolved (including any applicable appeal periods).

27. **Amendments.** Except as otherwise provided by Section 14 and Section 34, this Agreement may not be amended, supplemented, waived, or changed orally but only by a writing making specific reference to this Agreement signed by the party as to whom enforcement of any such amendment, supplement, waiver or modification is sought.
28. **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
29. **Severability.** Any provision of this Agreement held by a court of competent jurisdiction to be invalid, illegal or unenforceable shall be severable and shall not be construed to render the remainder to be invalid, illegal or unenforceable.
30. **Relationship.** This Agreement does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture among City, CRA and Framework. Each party is acting for its own account, and it has made its own independent decisions to enter into this Agreement and as to whether the same is appropriate or proper for it based upon its own judgment and upon advice from such advisers as it has deemed necessary. Each party acknowledges that the other party hereto is not acting as a fiduciary for nor as an adviser to it in respect of this Agreement.
31. **Personal Liability.** No provision of this Agreement is intended, nor shall any be construed, as a covenant of any official (either elected or appointed), director, employee or agent of City, CRA or Framework in an individual capacity and neither shall any such individuals be subject to personal liability by reason of any covenant or obligation of Framework, City or CRA hereunder.
32. **Exclusive Venue.** The parties agree that the exclusive venue for any litigation, suit, action, counterclaim, or proceeding, whether at law or in equity, which arises out of, concerns, or relates to this Agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby, whether sounding in contract, tort, strict liability, or otherwise, shall be in the state courts in Polk County, Florida or the federal district court in Tampa.
33. **JURY WAIVER.** EACH PARTY HEREBY COVENANTS AND AGREES THAT IN ANY LITIGATION, SUIT, ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. ANY PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS AGREEMENT WITH ANY COURT, AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO OF THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY. NEITHER PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY THE OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.
34. **Recording.** CRA shall, at its own expense, record this Agreement, or a certified copy thereof, in the Public Records of Polk County, Florida and City and CRA shall subordinate the provisions thereof to Framework's mortgage lender, except that any such subordination shall not materially diminish the rights or remedies available to the City or CRA under this Agreement, whether with respect to Framework, Framework's mortgage lender or any other successor or assign deriving its rights by or through Framework. The parties shall agree to the form of the Subordination

Agreement within the first ninety (90) days of the Inspection Period and shall timely process an amendment to this Agreement to attach such Subordination form as an exhibit. The City Attorney is authorized to execute such amendment, without further approval from the City or the CRA.

35. **Counterparts; Copies.** This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, and all of which shall together constitute one and the same instrument. Additionally, signed facsimiles shall have the same force and effect as a signed original, and, in lieu of an original, any party hereto may use a photocopy of this Agreement in any action or proceeding brought to enforce or interpret any of the provisions contained herein.
36. **Language.** Whenever used in this Agreement: the singular form of a term or phrase shall include the plural and the plural of a term or phrase shall include the singular, and the use of any gender shall include all genders where the context permits; references to Sections shall include all subsections (and other divisions) thereunder; the word "or" may be read "and," if the context permits or requires it; and the words "include," "includes," "including" shall be deemed to be followed by the phrase "without limitation."
37. **Attorney's Fees.** In any legal action or other proceeding (including, without limitation, appeals or bankruptcy proceedings) whether at law or in equity, which: arises out of, concerns, or relates to this Agreement, any and all transactions contemplated hereunder, the performance hereof, or the relationship created hereby; or is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses even if not taxable as court costs, incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.
38. **Successors and Assigns.** All covenants, agreements, warranties, representations, and conditions contained in this Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of the parties to this Agreement.
39. **Waiver.** A failure to assert any rights or remedies available to a party under the terms of this Agreement shall not be deemed a waiver of such rights or remedies, and a waiver of the right to remedies available to a party by a course of dealing or otherwise shall not be deemed to be a waiver of any other right or remedy under this Agreement, unless such waiver of such right or remedy is contained in a writing signed by the party alleged to have waived his other rights or remedies.
40. **Construction of Agreement.** Each party acknowledges that all parties to this Agreement participated equally in the drafting of this Agreement and that it was negotiated at arm's length. Accordingly, no court construing this Agreement shall construe it more strongly against one party than another.
41. **Exhibits.** Any exhibits attached to this Agreement shall, by this reference, be incorporated into this Agreement.
42. **Further Action.** Each of the parties hereto shall execute and deliver any and all additional papers, documents, and other assurances, and shall do any and all acts and things reasonably necessary

in connection with the performance of the obligations hereunder and to carry out the intent of the parties hereto.

- 43. **Time.** Time is of the essence of all of the provisions and terms of this Agreement.
- 44. **No Pledge of Full Faith and Credit.** Neither the CRA's nor the City's obligations hereunder constitute, nor shall they be deemed to constitute, a general obligation of City, nor do they constitute a pledge of the full faith and credit of the City within the meaning of the Constitution and laws of the State of Florida. They shall be binding obligations only to the extent that the CRA and City have funds available to meet them.
- 45. **Entire Understanding.** This Agreement represents the entire understanding and agreement between the parties with respect to the subject matter hereof, and supersedes all other negotiations, understandings or agreements made by and between the parties.

WHEREFORE, the parties have executed this Agreement on the Effective Date set forth above.

THE CITY:

ATTEST:

**City of Lakeland,
a Florida municipal corporation**

Kelly S. Koos, City Clerk

R. Howard Wiggs, Mayor

Approved as to form and correctness:

Timothy J. McCausland, City Attorney

ATTEST:

Kelly S. Koos, City Clerk

Approved as to form and correctness:

Timothy J. McCausland, City Attorney

CRA

By: _____
R. Howard Wiggs, CRA Chairman

FRAMEWORK:

**Framework Group, LLC,
a Florida limited liability company**

By: _____
Phillip A. Smith, Manager

Exhibit "A"



The property bounded by the Intown Bypass to the north and east, Bay Street to the south, and Iowa Avenue to the west less and except the FDOT retention pond at the southeast corner of the property.

LAND USE LEGEND

- Garden Apartments (3 Stories)
- Townhomes (3 Stories)
- Garages
- Clubhouse / Amenity Building



PROGRAM	
TOTAL DU	306 DU
TOTAL SPACES PROVIDED	527 SP

Exhibit C

Commercial Development Restrictions for Liner Unit Property

Prohibited Uses

Group Homes, Level I, II and III

Nursing Homes

Rooming Houses, Hostels

Building Material Sales

Medical Marijuana Dispensing Facilities

Motels

Fuel Sales Uses

Service Uses

Parts & Accessory Stores

Tobacco Shops

Gunsmith shops

Taxidermists

Small recreation vehicle sales and rental