

Prepared by and
after recording return to:

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Folio No. 06-2230-013-0110

TAX INCREMENT RECAPTURE INCENTIVE AGREEMENT

September 5, A.

THIS TAX INCREMENT RECAPTURE INCENTIVE AGREEMENT (the "Agreement") is made and entered into as of July 6th, 2024, by and between the NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic (the "NMCRA"), having an address at 735 N.E. 125th Street, Suite 100, North Miami, Florida 33161, and SOLO MIAMI DEVELOPMENT LLC, a Florida limited liability company (the "Developer") having an address at 7111 Taft Street, Hollywood, Florida 33024.

RECITALS

1. The NMCRA was formed for the purpose of removing slum and blight within a portion of the City of North Miami described as the community redevelopment area ("Redevelopment Area") and to promote redevelopment and employment therein.

2. The Tax Increment Recapture Program will use tax increment revenues to encourage economic development in the Redevelopment Area and will provide a Tax Increment Recapture to the owner of a qualifying project, which but for the NMCRA's funding, the project would not be undertaken.

3. Developer is the owner of certain real property located in the within the boundaries of the Community Redevelopment Area, located at 840 N.E. 130th Street, North Miami, Florida 33161, as more particularly described on Exhibit "A" attached hereto as and by this reference made a part hereof (the "Property"), and Developer has applied to the NMCRA for a Tax Increment Recapture Incentive of fifty percent (50%) of projected ad valorem revenues from the Property in an amount not to exceed Six Hundred Sixty One Thousand and 00/100 Dollars (\$661,000.00), through the life of the NMCRA, for the purpose of funding a multi-family residential rental project on the Property generally consisting of 67 units consisting of two (2) bedrooms/two (2) bathroom units along with appropriate parking and amenities including a gym and swimming pool (the "Project").

4. The NMCRA has approved an award to the Developer of a Tax Increment Recapture Incentive of fifty percent (50%) of the City's portion of the projected ad valorem revenues from the Property in an amount not to exceed Six Hundred Sixty One Thousand and 00/100 Dollars (\$661,000.00) through the life of the NMCRA, from the time the project appears on the property tax rolls until the NMCRA sunsets (approximately 20 years), the purpose underwriting a portion of the cost of the Project in accordance with the terms and conditions of this Agreement including, but

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not limited to, the program guidelines attached hereto as Exhibit "B" and by this reference made a part hereof (the "Program Guidelines").

5. The Developer desires to accept the Tax Increment Recapture Incentive subject to the terms, conditions, and restrictions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, Developer and the NMCRA hereby agree as follows:

1. **Recitals; Program Guidelines; Conditions Precedent; Defined Terms.**

1.1 **Recitals; Program Guidelines.** The Recitals set forth above are true and correct and are incorporated in this Agreement by reference. The terms and provisions of the Program Guidelines are incorporated into this Agreement by reference and the Developer agrees to abide by such terms and provisions. In the event of any conflict between the Program Guidelines and this Agreement, the terms and provisions of this Agreement will control with the understanding that any terms in the Program Guidelines that are not addressed in this Agreement shall nevertheless be applicable.

1.2 **Conditions Precedent.** Notwithstanding anything in this Agreement to the contrary including, but not limited to, the conditions precedent set forth in Section 4.2.3 of this Agreement, the award of the Tax Increment Recapture Incentive and the Developer's right to receive the Recapture TIF Incentive Payments are expressly subject to and contingent upon (a) approval (with all appeal periods expired without appeal being taken) by the City Council of the Approved Site Plan by December 31, 2024 and (b) the issuance by all applicable governmental authorities of all development approvals (including, but not limited to, building permits) necessary for the development of the Project in accordance with the Approved Site Plan by December 31, 2025. In the event that either (a) or (b) or both does not occur by the dates set forth herein, (x) the award of the Tax Increment Recapture Incentive is rescinded, (y) the Developer's right to receive the Recapture TIF Incentive Payments is null and void and (z) this Agreement shall be terminated, all by operation of law without the need for notice or any further action on the part of the NMCRA.

2. **Definitions.** The following terms used in this Agreement shall have the following meanings:

2.1 **Anticipated Development Value**" shall have the meaning ascribed to such term in Section 4.1.

2.2 **"Approved Site Plan"** means the site plan submitted by the Developer to the NMCRA as part of the Developer's application package, a copy of which site plan is attached hereto as Exhibit "C."

2.3 **"Assignee"** means a Person to whom a right or liability is transferred and which shall have the right, but not the obligation, to enforce any of the terms of this Agreement against any other party hereto.

2.4 “Base Year” shall mean the calendar year preceding the calendar year in which the tax rolls for the County with respect to any Folio Number with respect to a portion of the Property reflect an increase in the assessed value of the Property as a result of the Substantial Completion of the Project.

2.5 “Bond Obligations” has the meaning ascribed to such term in Section 5.1.

2.6 “City” means the City of North Miami, a municipal corporation of the State of Florida.

2.7 “City Budget Approval” means the approval by the City Council of the NMCRA Budget for the applicable year, which NMCRA Budget includes the Recapture TIF Incentive Payment.

2.8 “County” means Miami-Dade County, a political subdivision of the State of Florida.

2.9 “County Budget Approval” means the approval by the Board of County Commissioners of the NMCRA Budget for the applicable year which includes the Recapture TIF Incentive Payment.

2.10 “NMCRA” shall have the meaning ascribed to the term in the introductory paragraph.

2.11 “NMCRA Board” means the Board of Commissioners of the NMCRA.

2.12 “NMCRA Budget” means the annual budget for the operation of the NMCRA approved by the NMCRA Board, subject to County Approval.

2.13 “NMCRA Budget Approval” means the approval by the NMCRA Board of the annual NMCRA Budget which includes a line item for the Recapture TIF Incentive Payment for the applicable year.

2.14 “Developer” shall have the meaning ascribed to such term in the introductory paragraph and shall further include the Developer’s successors and assigns.

2.15 “Default Notice” shall have the meaning ascribed to such term in Section 11.

2.16 “Effective Date” means the date of execution and delivery of this Agreement by all parties hereto.

2.17 “Executive Director” means the Executive Director of the NMCRA.

2.18 “Final Completion” means that the construction or development of the Project have been completed in accordance with the Approved Site Plan and/or applicable plans and specifications and that a final certificate of occupancy, or its equivalent, has been issued by the City for the Project.

2.19 "Incremental TIF" shall mean, for each tax year, the tax increment revenues, if any, actually received by the NMCRA from the City with respect only to Improvements constructed, in accordance with the approved Project, on the Property after the Effective Date after deduction for any (i) allocable administrative charges imposed by the County (but not administrative costs associated with the operation of the NMCRA), (ii) other adjustments to the assessed value of the Improvements made by the City and/or County as a result of challenges or tax contests with respect to the assessed value of the Property, and (iii) reductions in tax increment revenues to the NMCRA as a result of (a) dedications made subsequent to the Effective Date resulting in any reduction in the tax increment revenues paid to the NMCRA with respect to the portion of the Property so dedicated and (b) demolition of any improvements located on the Property as of the Effective Date. For avoidance of any doubt, Incremental TIF specifically does not include any existing incremental revenues received by the NMCRA associated with the land comprising the Property or improvements on the Property located on the Property as of the Effective Date.

2.20 "Project" has the meaning ascribed to such term in the Recitals and as shown in the site plan attached as "Exhibit C."

2.21 "Property" has the meaning ascribed to such term in the Recitals and is more specifically described in "Exhibit A."

2.22 "Public Records" are defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. (see Section 119.011(12), Florida Statutes).

2.23 "Recapture TIF Incentive Payment" shall have the meaning ascribed to such term in Section 4.2.1.

2.24 "Redevelopment Area" has the meaning ascribed to such term in the Recitals.

2.25 "Substantially Completed" or "Substantial Completion," or words of like import, means that the construction or development of the Project have been substantially completed in accordance with the Approved Site Plan and/or applicable plans and specifications and that a temporary certificate of occupancy, or its equivalent, has been issued by the City for the Project.

2.26 "Term" shall mean the period commencing on the Effective Date of this Agreement and terminating on the sunset date of the NMCRA.

2.27 "TIF Agreement" has the meaning ascribed to said term in Section 5.3.

3. Public Benefit Commitments.

3.1 Development Commitments. As a material inducement to the NMCRA to provide the Recapture TIF Incentive Payment for the benefit of the Project pursuant to this

Agreement, and in the interest of furthering the goals of the NMCRA, Developer (for itself and its respective successors and assigns) hereby covenants and agrees to the rental restriction set forth in Section 3.2 below for the public benefit during the Term of this Agreement:

3.2 Affordable Housing Units. From and after Final Completion, the Developer acknowledges and agrees that five (5) two bedroom/two bathroom units shall be rented as affordable housing units to households with income up to seventy percent (70%) of the area medium income (AMI) in accordance with the 2024 HUD Income Limits and Rent Limits for Miami-Dade County for a family size of four (4), as amended annually (the "Affordable Housing Units"). In the event that the HUD Income Limits and Rent Limits for Miami-Dade County are no longer published, a replacement guideline intended to approximate the HUD Income Limits and Rent Limits for Miami-Dade County shall be designated by the NMCRA in its reasonable discretion. To ensure proper placement of the Affordable Housing Units, the NMCRA or its designee will vet City residents and other applicants to ensure affordable qualifications throughout the life of the NMCRA. The Affordable Housing Units are deemed floating within the Project such that the Developer has the flexibility to designate different units within the Project as Affordable Housing Units. When the income of a household occupying an Affordable Housing Unit rises above seventy percent (70%) AMI, the Developer shall rent the next available comparable unit to a household that meets the Affordable Housing Unit income definition set forth above.

3.3 Job Creation, Retention and Verification. The Developer hereby agrees that preference for all jobs (including construction positions) related to the Project will be given (a) first to NMCRA Community Redevelopment Area residents and (b) second to City residents for all remaining jobs. The Developer agrees to use its best efforts to comply with (a) and (b) above for a period of five (5) years following Final Completion. Developer hereby acknowledges and agrees that the funding by the NMCRA is predicated upon this covenant by the Developer, that the failure of the Developer to use its best efforts to comply with this objective will constitute a material default under the terms of this Agreement. Accordingly, if the Developer fails to hire any employees from the NMCRA Community Redevelopment Area and/or the City and cannot demonstrate in writing to the reasonable satisfaction of the NMCRA that the Developer used its best efforts, and that any such failure shall be a material default by the Developer hereunder. For purposes of this Agreement, a "job" shall mean a full-time job or the equivalent thereof (consisting of at least 30 hours per week of employment and eligibility for all benefits generally available for full-time employees of the Developer) with the Developer, at a wage at least equal to Living Wage Ordinance promulgated by the County. Notwithstanding anything in this Agreement to the contrary, in the event of a breach by Developer of this Section 3.2 that remains uncured for thirty (30) days following written notice from the NMCRA, the NMCRA shall be entitled to its rights and remedies as set forth in Section 9 below.

3.3.1 Verification of Jobs. Upon commencement of construction and every six (6) months thereafter until five (5) years following Final Completion, the Developer shall submit a written certification to the NMCRA stating that the Developer's baseline job numbers are either in compliance or not in compliance with the requirements of Section 3.2. Such certification shall be signed by an officer of Developer as being true and correct. If at any time the NMCRA reasonably believes that the Developer is in default of the requirements of Section 3.2, upon written notice, the NMCRA, or its designee, shall be provided full and complete access to all

records of the Developer that would be reasonably necessary to verify the number and types of jobs created, and the wages paid to employees. Subject to the notice and grace provisions of Section 9, failure to provide such access upon reasonable request shall constitute a material default under the terms of this Agreement. With respect to all information to be obtained pursuant to this Section 3, the NMCRA shall, to the extent permitted by law comply with all privacy, employment and other laws applicable thereto.

4. **Development of Project and Project Incremental TIF.**

4.1 **Development of Project.** Developer anticipates that the Project shall be constructed in a single phase. Developer further anticipates that the assessed value of the Project will be approximately Fourteen Million Three Hundred Sixty-Six Thousand Four Hundred Seventy Two and No/100 Dollars (\$14,366,472.00) (the “Anticipated Development Value”). Developer estimates that Anticipated Development Value will initially generate approximately Ninety-Five Thousand Six Hundred Ninety Four and No/100 Dollars (\$95,694.00) of Incremental TIF annually for the entirety of the Project, with such Incremental TIF beginning as of January 1, 2026. The estimated Incremental TIF from the Developer’s application package is attached to this Agreement as Exhibit “D.”

Developer acknowledges and agrees that it bears the entire risk under this Agreement if the Project is valued at less than the Anticipated Development Value and/or is not developed within the time frame anticipated by the Developer resulting in the share of the Incremental TIF payable by the NMCRA pursuant to this Agreement being less than anticipated by Developer. Developer acknowledges and agrees that if the estimated Incremental TIF proves to be inaccurate, the same shall not relieve Developer of its obligations pursuant to this Agreement.

4.2 **Development Incentive.** Subject to NMCRA Budget Approval, City Budget Approval and County Budget Approval, as well as the NMCRA’s receipt of the Incremental TIF on an annual basis in all cases, as an inducement to the development of the Project, the NMCRA agrees to pay to Developer a percentage of Incremental TIF as follows:

4.2.1 **Payment of Incremental TIF.** On an annual basis for each calendar year commencing after the Base Year and continuing throughout the Term of this Agreement, the NMCRA shall pay to Developer a recapture TIF incentive payment equal to Fifty Percent (50%) of the Incremental TIF (the “Recapture TIF Incentive Payment”). Under no circumstances whatsoever shall the Recapture TIF Incentive Payments exceed the aggregate amount of Six Hundred Sixty One Thousand and 00/100 Dollars (\$661,000.00). All Recapture TIF Incentive Payments shall be due and payable within thirty (30) days of the later to occur of (a) March 1st of each fiscal year or (b) Developer’s providing to the NMCRA of proof of payment of the real estate taxes for the Property prior to delinquency for the applicable year. Notwithstanding anything herein to the contrary, the Developer’s right to receive the Recapture TIF Incentive Payments is expressly subject to and conditioned upon the payment of the real estate taxes for the Property prior to delinquency for the year from which a Recapture TIF Incentive Payment would be due. In the event the real estate taxes for the Property are not paid prior to delinquency for the year from which a Recapture TIF Incentive Payment would be due, the NMCRA shall have no obligation to make the Recapture TIF Incentive Payment for that year and the Developer shall not be entitled to any of the Recapture TIF Incentive Payment for that year.

4.2.2 Right to Recapture TIF Incentive Payments; Conditions Precedent.

Developer acknowledges and agrees that the Substantial Completion of the Project by is an express condition precedent to the Developer's right to receive the Recapture TIF Incentive Payment. Without limiting the foregoing, if such Substantial Completion shall not have occurred as of July 31, 2025, then the Recapture TIF Incentive Payment, shall be reduced as follows: (i) by ten percent (10%) if Substantial Completion of the Project has not occurred by October 31, 2025; (ii) by twenty percent (20%) if Substantial Completion has not occurred by October 31, 2025, but has occurred on or before January 31, 2026; and (iii) by thirty percent (30%) if Substantial Completion has not occurred as of January 31, 2026. If such Substantial Completion has not occurred as of January 31, 2026, then the Recapture TIF Incentive Payment based upon the Incremental TIF derived from the Project shall automatically be divested and shall terminate and be of no further force and effect, and Developer shall not be entitled to any Recapture TIF Incremental TIF with respect to the Project. Loss of the Recapture TIF Incentive Payment due to delays in Substantial Completion of the Project shall release the Developer and NMCRA from their obligations under this Agreement.

4.2.3 Right to Collaterally Assign Recapture TIF Incentive Payments.

Developer, in its sole and absolute discretion, may collaterally assign its right to receive the Recapture TIF Incentive Payments in connection with any construction and/or permanent financing of the development of the Project. The NMCRA shall execute and deliver such reasonable documentation requested by Developer's lender provided that such assignment does not result in any financial or other material obligations on the part of the NMCRA. As a condition precedent to the execution and delivery of any such documentation, the Developer shall pay the reasonable legal and administrative costs of the NMCRA in connection with its review and approval of such documentation by NMCRA staff and the NMCRA Board.

4.2.4 Right to Receive Recapture TIF Incentive Payments After Sale.

Notwithstanding the Developer's sale, lease or other disposition of all or any portion of the Project (including, but not limited to, the sale or lease of all or any portion of the residential units or commercial uses contemplated as part of the Project) (collectively, a "Sale"), the Developer shall continue to receive the Recapture TIF Incentive Payments for the Term of this Agreement subject to the terms and conditions hereof including, but not limited to, the payment of real estate taxes for the Property prior to delinquency. The foregoing shall only apply to a Sale that occurs following five (5) years after Substantial Completion. If a Sale occurs prior to five (5) years after Substantial Completion the NMCRA shall be a material default on the part of the Developer thereby entitling the NMCRA to all of its rights and remedies as set forth in Section 9.2 below.

4.2.5 Limitation on Use of Recapture TIF Incentive Payments. Recapture TIF Incentive Payments paid during the Term of this Agreement shall be used for the sole and exclusive purpose of paying and/or reimbursing the costs of the construction, maintenance, operation, and debt service/debt issuance costs of the Project to the extent such payments are a permitted use of the TIF Increment pursuant to Chapter 163 Part III, Florida Statutes.

4.2.6 Term of Agreement. Provided that all conditions precedent have been satisfied and this Agreement has not terminated pursuant to Section 4.2.2 above, the Developer's right to receive the Recapture TIF Incentive Payments shall continue for the Term of this Agreement and shall terminate and expire with the Recapture TIF Incentive Payment from the Incremental TIF for NMCRA fiscal year 2043-44.

5. **Subordination of TIF Incentive Payments.**

5.1 Developer acknowledges and agrees that the obligations of the NMCRA under this Agreement to make Recapture TIF Incentive Payments hereunder are junior and subordinate to the obligations of the NMCRA to pay debt service with respect to any bonds, notes, loans or other debt instruments issued by the NMCRA or for which the NMCRA is responsible for the payment of debt service as of the date of this Agreement and in the future (collectively the "Bond Obligations"). Under no circumstances shall the NMCRA be obligated to make Recapture TIF Incentive Payments from its general revenues or any other sources if Incremental TIF is unavailable after the NMCRA makes all required payments with respect to the Bond Obligations. To the extent no Incremental TIF or only a portion of the Incremental TIF is available to pay the NMCRA's obligations under this Agreement as a result of the Bond Obligations, the Recapture TIF Incentive Payments shall be reduced to the amount of Incremental TIF available, if any, and the shortfall shall be deferred to subsequent year(s). If requested by the NMCRA or the party to which the Bond Obligations are owed, the Developer shall execute a subordination agreement confirming that this Agreement is junior and subordinate to any Bond Obligations within ten (10) business days of written request by the NMCRA.

5.2 **Pledge of TIF Revenues.** In the event the NMCRA issues additional bonds, notes, loans or other debt instruments subsequent to the Effective Date, the NMCRA shall have the right to pledge the Incremental TIF derived from the Project which will be payable to Developer under this Agreement as collateral for such bonds.

5.3 **Additional Agreements Regarding Use of Incremental TIF.** Developer acknowledges and agrees that nothing contained in this Agreement shall be deemed or construed to prevent the NMCRA from entering into agreements similar to this Agreement (each a "TIF Agreement") pursuant to which the NMCRA commits to pay such developers a portion of the Incremental TIF generated from their project within the Redevelopment Area. Developer acknowledges and agrees that Incremental TIF generated from other projects which are subject to TIF Agreement(s) will not be available to make up for any shortfall under Section 5.1.

6. **Challenges.**

6.1 **No Liability.** Developer hereby forever waives and releases the NMCRA from any liability whatsoever, now or hereafter arising in connection with any challenge to this Agreement by a third party and covenants and agrees not to initiate any legal proceedings against the NMCRA in connection with any challenges to this Agreement (other than as a result of a default by the NMCRA with respect to its obligations under this Agreement).

6.2 **Duty to Defend.** In the event of any challenge to this Agreement, any party in interest, at its or their sole cost and expense, may defend any such challenge by a third party. The NMCRA shall cooperate with Developer and, if necessary, participate in the defense of such challenge provided Developer pays the cost of such defense.

6.3 **Indemnification.** The Developer hereby covenants and agrees to indemnify and hold harmless the NMCRA, its Chair and Board Members, the City, its Mayor and Councilmembers, and the County and its Commissioners and all of their respective employees,

consultants, attorneys and/or agents (collectively the "Related Parties") from and against all liability, losses or damages, including attorneys' fees and costs, at both the trial and appellate levels, which the NMCRA and/or the Related Parties may suffer as a result of claims, demands, suits, causes of actions or proceedings of any kind or nature arising out of, relating to or resulting from the performance or non-performance of this Agreement by the Developer or its members, managers, employees, agents, servants, lenders, contractors, subcontractors and materialmen including, without limitation, the Developer's failure to comply with a public records request to which the Developer is legally obligated to comply. The Developer shall pay all claims and losses and shall investigate and defend (with legal counsel acceptable to NMCRA) all claims, suits or actions of any kind or nature in the name of the NMCRA, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees and costs which may issue. The Developer expressly understands and agrees that any insurance carried by the Developer shall in no way limit the responsibility to indemnify, keep and save harmless and defend the NMCRA and the Related Parties. Nothing contained in this Agreement shall be construed to affect the NMCRA's right of sovereign immunity as provided in Chapter 768, Florida Statutes. Additionally, the NMCRA does not waive sovereign immunity, and no claim or award against the NMCRA shall include attorney's fees, investigative costs, or pre-judgment interest.

7. **Miami-Dade County Requirements.** Developer acknowledges and agrees that the following provisions are required pursuant to that certain Interlocal Cooperation Agreement, as amended, by and among the County, the City and the NMCRA (the "ICA"). The Developer agrees that such provisions constitute material obligations on the part of the Developer and that Developer shall comply with such provisions including cooperating with the County and its Office of the Inspector General to ensure and demonstrate compliance therewith.

7.1 **Community Benefits Agreements.** The ICA requires all entities or contractors contracting with or receiving financial assistance from the NMCRA for new commercial and residential developments to be constructed within the NMCRA Redevelopment Area in an amount of \$200,000 or more, or such other amount as may be established by the Board of County Commissioners, to enter into a community benefits agreement with the NMCRA which will benefit primarily the residents of the NMCRA Redevelopment Area. Depending on the worker or employee to be hired, the NMCRA is required to ensure that such entity or contractor complies with wage requirements, as applicable, established by the County's Living Wage or Responsible Wage Ordinances, pursuant to Section 2-8.9 and 2-11.16, respectively, of the Code of Miami-Dade County, Florida (the "County Code") or pay higher wages and benefits, as are feasible. Developer and the NMCRA acknowledge and agree that (a) this Agreement is intended to constitute the community benefits agreement and (b) the Developer is required to ensure compliance with wage requirements, as applicable, established by the County's Living Wage or Responsible Wage Ordinances, pursuant to County Code Section 2-8.9 and 2-11.16, respectively, or pay higher wages and benefits, as are feasible.

The ICA further requires all entities or contractors contracting with or receiving a financial assistance from the NMCRA in an amount of \$500,000 or more, or such other amount as may be established by the Board of County Commissioners, to comply with the following County ordinances contained in the Code, as may be amended, as if expressly applicable to such entities:

- (a) Small Business Enterprises (Section 2-8.1.1.1 of the County Code);

- (b) Community Business Enterprises (Section 2-10.4.01 of the County Code);
- (c) Community Small Business Enterprises (Section 10-33.02 of the County Code);
- (d) Conflict of Interest and Code of Ethics Ordinance (Section 2-11.1 of the County Code); and
- (e) Living Wage Ordinance (Sections 2-8.9 and 2-11.16 of the County Code).

Developer acknowledges and agrees that Developer shall comply with the County Code provisions set forth in this Section 7.1 as if expressly applicable to the Developer.

7.1.1 The Developer shall require the General Contractor and require the General Contractor to require all Subcontractors working on the Project to consult and coordinate with the CareerSource South Florida Center, South Florida Minority Supplier Development Council ("SMSDC"), Miami-Dade Chamber of Commerce, State of Florida economic development entities, or other similar entities recommended by the Executive Director. Such consultation and coordination efforts shall be designed to assist: (i) local residents in their efforts to access job training, job placement services, and employment & business opportunities at or resulting from the Project during its construction; and (ii) the Developer in satisfying its community benefits commitments during the Project's construction. Such efforts shall also serve to identify and employ companies whose Principal Place of Business is located within the NMCRA and the County Targeted Areas with opportunities related to the Project's construction. General Contractor shall conduct one job fair, to be held within the Redevelopment Area prior to the start of construction.

7.2 Recovery of Recapture TIF Incentive Payments. The ICA requires the NMCRA to include in its contracts or grant agreements a "clawback" provision that requires the NMCRA to "clawback" or rescind and recover funding from any entity or contractor to which it provides funding which does not substantially comply with the provisions of its agreement with the NMCRA by demanding repayment of such funds in writing, including recovery of penalties or liquidated damages, to the extent allowed by law, as well as attorney's fees and interest, and pursuing collection or legal action, to the fullest extent allowable by law, if feasible. Developer and the NMCRA acknowledge and agree that Section 9 of this Agreement is intended to constitute the clawback provisions required by the ICA.

8. Books and Records; Public Records, Reports, Reporting and Monitoring Consultant.

8.1 Books and Records. The Developer shall maintain complete and accurate books, records and accounts of all costs and expenses incurred in connection with the Project. Upon the request of the NMCRA, all such books and records of the Developer which relate to the Project shall be available for inspection and audit by the NMCRA or any of its authorized representatives at all reasonable times during normal business hours. The NMCRA shall be entitled to make such copies of the books and records as the NMCRA deems appropriate. The Developer's books and records shall be maintained or caused to be maintained in accordance with generally accepted accounting principles in a consistent manner, together with the pertinent documentation

and data to provide reasonable audit trails for a period of six (6) years following Final Completion. The foregoing obligation shall expressly survive the expiration or earlier termination of this Agreement.

8.2 Public Records. Both Parties understand that the NMCRA is subject to the Florida Public Records Law, Chapter 119, Florida Statutes, and all other applicable Florida Statutes. The Developer agrees and understands that Florida has broad public records disclosure laws, and that any written communication with the Developer, to include emails, email addresses, a copy of this Agreement, and any deliverables under this Agreement, are subject to public disclosure upon request, unless otherwise exempt or confidential under Florida Statute. If the materials provided by the Developer do not fall under a specific exemption, under Florida or federal law, materials provided by the Developer to the NMCRA would have to be provided to anyone making a public records request. It will be the Developer's duty to identify the information, which it deems is exempt under Florida law, and to identify the statute by number, which exempts that information.

8.2.1 Developer shall ensure that Public Records which are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement and following termination of the Agreement if the Developer does not transfer the records to NMCRA.

8.2.2 Pursuant to Section 119.0701, Florida Statutes, a request to inspect or copy public records relating to this Agreement must be made directly to the NMCRA. The Developer shall direct individuals requesting Public Records to the Public Records custodian listed below. Should any person or entity make a public request of the NMCRA which requires or would require the NMCRA to allow inspection or provide copies of records which the Developer maintains are exempt from Public Records laws or are confidential, it shall be the Developer's obligation to provide the County within seven (7) days of notification by the NMCRA to the Developer of the request, of the specific exemption or confidentiality provision so the NMCRA will be able to comply with the requirements of section 119.07(1)(e) and (f), Florida Statutes.

8.2.3 Should the NMCRA face any kind of legal action to require or enforce inspection or production of any records provided by Developer to the NMCRA which Developer maintains are exempt or confidential from such inspection/production as a Public Record, Developer shall hire and compensate attorney(s) who shall represent the interests of the NMCRA as well as the Developer in defending such action. The Developer shall also pay any costs to defend such action and shall pay any costs and attorney's fees which may be awarded pursuant to section 119.12, Florida Statutes.

8.2.4 IF THE DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE NMCRA'S CUSTODIAN OF PUBLIC RECORDS CITY CLERK'S OFFICE, CITY OF NORTH MIAMI, 776 N.E. 125TH STREET, NORTH MIAMI, FLORIDA 33161, PHONE (305) 895-9817, VAJOSEPH@NORTHMIAMIFL.GOV.

8.3 Construction Reporting Requirements. During construction, Developer shall submit to the Executive Director: on a quarterly basis commencing thirty (30) days after the end of the first quarter after the commencement of construction, detailed reporting with respect to compliance with the General Contractor and Subcontractor wage requirements as set forth in Section 7.1 during the prior quarter and overall (collectively, the "Participation Reports"). The Developer and the Executive Director shall agree on the form of the Participation Reports and the required back-up information to be submitted as part of the Participation Reports prior to the commencement of construction of the Project. The Participation Reports shall contain such information as the Executive Director may reasonably require for the Executive Director to determine whether the Developer is in compliance with the wage and residency requirements. The Participation Reports with respect to each Phase must be certified as true and correct by the Developer.

8.4 Failure to Comply with Responsible Wage and/or Living Wage Requirement. In the event that any Contractor fails to pay the Responsible and/or Living Wage to any worker working on the construction of the Project, and which failure is reported by such worker to the Executive Director, the Executive Director shall investigate the report and if the Executive Director, based upon the Executive Director's investigation, confirms such non-compliance with the Responsible and/or Living Rate requirement, and that the error on the part of the Contractor was not a de minimis miscalculation of the same, the Developer shall pay to the affected worker(s) as a penalty the Responsible and/or Living Wage for every hour for which such worker was underpaid plus a twenty percent (20%) penalty (the "Wage Penalty"). Developer shall not receive the benefit of any credit for hourly wage payments made to such worker that did not comply with the Wage requirement ("Erroneous Wage Payment").

8.4.1 By way of illustration, if a worker was paid an hourly rate of Twenty and No/100 Dollars (\$20.00) and no health benefits were provided for one (1) hour in lieu of the Responsible Wage of Twenty-Six and 30/100 Dollars (\$26.30), the Responsible Wage Penalty would be calculated as follows:

Responsible Wage Penalty =

$$[(\text{Responsible Wage} \times \text{Total Hours Worked}) \times \text{Penalty Rate}] + \text{Erroneous Responsible Wage Payment}$$

Example: $[(\$26.30 \times 1 \text{ hour}) \times 1.2] + \$10 = \$41.56$

Such Penalty shall be due from the Developer to the underpaid workers(s) within thirty (30) days after written demand from the Executive Director. Developer shall have the right to dispute such demand and the findings of the Executive Director. If the Executive Director and the Developer are not able to resolve their dispute within thirty (30) days, the dispute shall be submitted to the NMCRA Board from the Developer for determination which determination shall be binding on the parties.

The Responsible Wage Penalty is not intended to waive a worker's rights to seek any and all available legal relief available under applicable law. In the event a worker is granted a Monetary Award against the Developer or its Contractor(s) in some other forum, any Responsible Wage Penalty otherwise due and owing shall be reduced by the amount of any such Monetary Award previously paid to such worker.

8.5 Employment Advertisement & Notice. Developer shall require its General Contractor and all Subcontractors to electronically post job opportunities in established job outreach websites and organizations, including, without limitation, CareerSource South Florida, and similar programs in order to attract as many eligible applicants for such jobs as possible.

9. Breach of Agreement; Remedies.

9.1 Breach. A breach by the Developer under this Agreement shall have occurred if: (a) the Developer fails to complete the Project as set forth in this Agreement; (b) the Developer ineffectively or improperly uses the Recapture TIF Incentive Payments paid under this Agreement; (c) the Developer does not receive all permits and/or governmental approvals for the Project as required by applicable law; (d) the Developer refuses to allow the NMCRA access to records or refuses to allow the NMCRA to monitor, evaluate, and review the Project; (e) a Sale occurs prior to five (5) years after Substantial Completion, (f) the Developer makes or allows to be made any changes, alterations, or modifications to the completed Project without the prior written consent of the NMCRA, (g) the Developer discriminates in violation of any Federal, State, or local law; (h) the Developer attempts to meet its obligations under this Agreement through fraud, misrepresentation, or material misstatement; (i) the Developer fails to obtain final certificates of occupancy or completion, as applicable, for the Project; (j) the Developer fails to perform or improperly performs any of its obligations set forth in this Agreement; (k) Developer defaults in its obligations under any other agreements entered into between the NMCRA and Developer and/or the City and Developer; (l) an event of default occurs with respect to any loan to which the Developer is the borrower; (m) Developer fails to operate its business from the Property and/or (n) the Developer fails to comply with the County requirements set forth in Section 7. With respect to subsection (l), the Developer agrees to provide the NMCRA with copies of any notices of default given by any lender.

In the event Developer breaches or defaults in its duties and obligations under this Section 9.1, and such failure is not cured within thirty (30) days of the issuance of written notice of default specifying the breach (the "Default Notice"); provided however, if the default, by its nature cannot reasonably be cured within such thirty (30) day period and if, within the initial thirty (30) day period the Developer has provided the NMCRA with written notice specifying the reason why such breach cannot be cured within the initial (30) day period and has commenced and is diligently pursuing curative action, the Developer shall have up to ninety (90) days from the date of the default notice to cure the specified breach or default. For so long as any breach or default shall continue, the obligations of the NMCRA under this Agreement with respect to the Recapture TIF Incentive Payments shall be suspended, and if any such suspension shall continue for more than ninety (90) days, then the NMCRA shall have the right to terminate this Agreement upon written notice to the Developer and, in such case, this Agreement shall terminate and the NMCRA shall have no further duties or obligations under this Agreement to the Developer including, but not limited to, the payment of Recapture TIF Incentive Payments otherwise due and owing after the date of the Default Notice. Notwithstanding the foregoing, the NMCRA shall be entitled to all remedies available at law or in equity. The notice and cure provisions set forth above shall expressly not apply to (a) any of the deadlines set forth in Sections 1.3 and 4.2.2, as well as achieving Substantial Completion by December 31, 2024 and/or (b) the payment of real estate

taxes for the Property prior to delinquency, for both of which time is of the essence and there is no notice or cure period.

9.2 Additional Remedies. In addition to the remedies set forth in Section 9.1 above, the NMCRA may also (a) seek reimbursement of the Recapture TIF Incentive Payments or any portion thereof paid to the Developer under this Agreement; or (b) terminate or cancel any other agreements entered into between the NMCRA and the Developer. The Developer shall be responsible for all direct and indirect costs associated with such termination including, but not limited to, attorneys' fees and costs at both the trial and appellate levels and also incurred in enforcing this attorneys' fees provision.

9.3 No Waiver. No express or implied consent or waiver by the NMCRA to or of any breach or default by the Developer in the performance or non-performance by the Developer of its obligations under this Agreement will be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by the Developer of the same or any other obligations of such other Party hereunder. Failure by the NMCRA to complain of any act or failure to act of the Developer or to declare the Developer in default, irrespective of how long such failure continues will not constitute a waiver by the NMCRA of its rights hereunder. The giving of consent by the NMCRA in any one instance will not limit or waive the necessity to obtain the NMCRA's consent in any future instance.

10. Representations of Developer. Developer makes the following representations to the NMCRA as follows:

10.1 The entity comprising Developer is a corporation, duly organized and validly existing under the laws of its state of formation and has full power and capacity to own its properties, to carry on its business as presently conducted, and to enter into the transactions contemplated by this Agreement.

10.2 Developer's execution, delivery and performance of this Agreement has been duly authorized by all necessary company actions and does not conflict with or constitute a default under any indenture, agreement or instrument to which such entities are a party or by which they may be bound.

10.3 This Agreement constitutes the valid and binding obligation of Developer, enforceable against Developer in accordance with its terms, subject to bankruptcy, insolvency and other similar laws affecting the rights of creditors generally.

11. Representations of the NMCRA. The NMCRA makes the following representations to Developer:

11.1 The NMCRA is duly organized and validly existing under the laws of the State of Florida and has full power and capacity to own its own properties, to carry on its business as presently conducted by the NMCRA, and to perform its obligations under this Agreement.

11.2 The NMCRA's execution, delivery and performance of this Agreement has been duly authorized by all necessary actions and does not conflict with or constitute a default under any indenture, agreement or instrument to which it is a party or by which it may be bound.

11.3 This Agreement constitutes the valid and binding obligations of the NMCRA, enforceable against the NMCRA in accordance with its terms, subject to bankruptcy, insolvency and other similar laws affecting the rights of creditors generally.

12. **Notices.** All notices, demands, designations, certificates, requests, offers, consents, approvals, appointments and other instruments given pursuant to this Agreement (collectively called "Notices") shall be in writing and given by (a) hand delivery, (b) recognized express overnight delivery service, (c) certified or registered mail, return receipt requested, or (d) electronic mail provided such is followed up by (a), (b) or (c), and shall be deemed to have been delivered upon (i) receipt, if hand delivered, (ii) the next Business Day, if delivered by express overnight delivery service, (iii) if sent by certified or registered mail, return receipt requested the day evidenced by the return receipt or the day delivery is refused; or (iv) transmittal, if sent on a business day by electronic mail and if sent by electronic mail on a day other than a business day, on the first business day following transmittal. Notices shall be provided to the parties and addresses specified below:

NMCRA: Anna-Bo Emmanuel, Esq., Executive Director
North Miami Community Redevelopment Agency
735 N.E. 125th Street, Suite 100
North Miami, Florida 33161
Telephone No. (305) 895-9839
Facsimile No. (305) 895-9822
Email: aemmanuel@northmiamifl.gov

Copy to: Steven W. Zelkowitz, Esq., NMCRA Attorney
Taylor English Duma LLP
2 S. Biscayne Boulevard, Suite 2500
Miami, Florida 33131
Telephone No. (786) 840-1437
Facsimile No. (770) 434-7376
Email: szelkowitz@taylorenglish.com

Developer: Solo Miami Development LLC
7111 Taft Street
Hollywood, Florida 33024
Attn: Jaime C. Akbas, Managing Member
Telephone No. (786) 985-5952
Facsimile No. (_____) _____
Email: cemil72@hotmail.com

Copy to: _____

Telephone No. (_____) _____
Facsimile No. (_____) _____
Email: _____

13. **Non-Recourse.** This Agreement is non-recourse to the NMCRA. In the event of a breach of this Agreement by the NMCRA, the Developer may seek specific performance of this Agreement or bring an action at law which shall be limited to recovery of any Recapture TIF Incentive Payments due under the terms of this Agreement and in no event shall Developer or any Assignee have the right to seek damages against the NMCRA. Without limiting the foregoing, the Developer waives any right to seek consequential and/or punitive damages against the NMCRA.

14. **Adjustment to Folio Numbers.** Developer and NMCRA each acknowledge that the current tax folio numbers with respect to the Property may change as a result of the redevelopment of the Property in connection with the Project. In such event, the Executive Director of the NMCRA and the Developer shall proceed in good faith to agree as to which new folio numbers are applicable to portions of the Project, based upon the adjustment in such new folio numbers by the Miami-Dade County Property Appraiser.

15. **Relationship Between Parties.** This Agreement does not evidence the creation of, nor shall it be construed as creating, a partnership or joint venture between the NMCRA and Developer. No party can create any obligations or responsibility on behalf of the others or bind the others in any manner. 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 advisors as it has deemed necessary. Each party acknowledges that none of the other parties hereto is acting as a fiduciary for or an adviser to it in respect of this Agreement or any responsibility or obligation contemplated herein. Developer further represents and acknowledges that no one was paid a fee, commission, gift or other consideration by such party or such party's agent as an inducement to entering into this Agreement. It is expressly understood and intended that the Developer, its agents and employees, are not agents or employees of the NMCRA, but are only recipients of funding support, and Developer is not an agent or instrumentality of the NMCRA.

16. **Agreement to Run With The Land.** This Agreement, and all rights and obligations herein, shall be binding upon Developer and its respective successors and assigns and run with title to the Property. Developer represents and warrants to the NMCRA that it is the fee simple owner of the Property.

17. **Budget and Appropriation.** NMCRA covenants and agrees to budget the Recapture TIF Incentive Payment as a line item in its annual operating budget subject to NMCRA Board Approval, City Approval and County Approval. NMCRA further covenants to use governmentally reasonable efforts to procure annual approval of its operating budget, including the Recapture TIF Incentive Payment as contemplated by this Agreement, by the County.

18. **Consultant and Professional Compensation.** Developer each has retained consultants and professionals to assist Developer with the negotiation and execution of this Agreement, and Developer may compensate those consultants and professionals at their standard hourly rate for services performed, or any other method of compensation that is considered standard and reasonable for that particular service. Notwithstanding anything to the contrary contained herein, in no event shall Developer compensate any such consultant or professional in

any form that would be deemed a "bonus," "success fee" or "finder's fee" in exchange for the NMCRA Board's approval of this Agreement.

19. **Miscellaneous.**

19.1 All of the parties to this Agreement have participated fully in the negotiation and preparation hereof, and, accordingly, this Agreement shall not be more strictly construed against any one of the parties hereto and shall be interpreted in accordance with its plain meaning.

19.2 In the event any term or provision of this Agreement is determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or be construed as deleted as such authority determines, and the remainder of this Agreement shall be construed to be in full force and effect.

19.3 In the event of any litigation between the parties under this Agreement, the prevailing party shall be entitled to recover attorneys' fees and costs at trial and all appellate levels.

19.4 In construing this Agreement, the singular shall be held to include the plural, the plural shall be held to include the singular, the use of any gender shall be held to include every other and all genders, and captions and Paragraph headings shall be disregarded.

19.5 All of the exhibits attached to this Agreement are incorporated in, and made a part of, this Agreement.

19.6 Time shall be of the essence for each and every provision of this Agreement.

19.7 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 the NMCRA, in an individual capacity.

19.8 This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

19.9 This Agreement may be recorded in the Public Records of the County at the sole cost and expense of Developer.

19.10 This Agreement may not be changed, altered or modified except by an instrument in writing signed by the party against whom enforcement of such change would be sought and, with respect to the NMCRA, approved by the NMCRA Board.

19.11 From time to time and upon written request from the Developer, the Executive Director, on behalf of the NMCRA, shall execute an estoppel certificate or similar certification, in form, scope and substance reasonably acceptable to the requesting party, confirming Developer's compliance with the conditions set forth in this Agreement (and/or disclosing any then failure or default by either such party).

19.12 No express or implied consent or waiver by the NMCRA to or of any breach or default by the Developer in the performance or non-performance by the Developer of its

obligations under this Agreement will be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by the Developer of the same or any other obligations of the Developer hereunder. Failure by the NMCRA to complain of any act or failure to act of the Developer or to declare the Developer in default, irrespective of how long such failure continues will not constitute a waiver by the NMCRA of its rights hereunder. The giving of consent by the NMCRA in any one instance will not limit or waive the necessity to obtain the NMCRA's consent in any future instance.

19.13 This Agreement represents the entire and integrated agreement between the NMCRA and the Developer and supersedes all prior negotiations, representations or agreements, either written or oral.

19.14 Neither of the parties intend to directly or substantially benefit any third party by this Agreement. Therefore, the parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement.

20. **Public Records.** To the extent required by law, the Developer shall comply with all public records requests, whether made to the NMCRA or to the Developer, for the Developer's books and records which relate to the Project and which books and records are not exempted under Chapter 119, Florida Statutes. In the event the Developer is required by law to comply with a public records request and fails to do so, the Developer shall indemnify the NMCRA and the Related Parties in accordance with Section 6.3 above. The foregoing obligation shall expressly survive the expiration or earlier termination of this Agreement.

21. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof and there are no other agreements, representations or warranties other than as set forth herein. This Agreement shall be binding upon the parties hereto and their respective successors and permitted assigns.

22. **Publicity.** The Developer shall ensure that any publicity, public relations, advertisements, and signs recognize the NMCRA as a funding source for the Project. The Developer shall permit a sign to be placed upon the Property by the NMCRA relative to this Agreement.

23. **JURISDICTION; VENUE AND WAIVER OF JURY TRIAL.** EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY (A) AGREES THAT ANY SUIT, ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE BROUGHT IN THE FEDERAL OR STATE COURT SITUATED IN MIAMI-DADE COUNTY, FLORIDA; (B) CONSENTS TO THE JURISDICTION OF EACH SUCH COURT IN ANY SUCH SUIT, ACTION OR PROCEEDING; AND (C) WAIVES ANY OBJECTION WHICH IT MAY HAVE TO THE LAYING OF VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY OF SUCH COURTS. EACH PARTY WAIVES ALL RIGHTS TO ANY TRIAL BY JURY IN ALL LITIGATION RELATING TO OR ARISING OUT OF THIS AGREEMENT.

24. **Force Majeure.** For purposes of this Agreement, "Force Majeure" shall mean the inability of either party to commence or complete its obligations hereunder by the dates herein

required directly resulting from delays caused by strikes, picketing, acts of God, tropical storms, hurricanes, tornados, war, governmental action or inaction, acts of terrorism, emergencies, pandemics or other causes beyond either party's reasonable control which shall have been communicated by written notice to the other party within seven (7) days of the happening of such event. Events of Force Majeure shall extend the period for the performance of the obligations for the period equal to the period(s) of any such delay(s).

25. Florida Live Local Act. Notwithstanding anything to the contrary set forth in this Agreement, if during the Term of this Agreement, the Developer utilizes any provisions of the Florida Live Local Act, as such may be amended from time to time, or any other Florida law, and such reduces or eliminates the obligation of the Developer to pay real estate taxes for the Property, (a) this Agreement shall immediately terminate and become null and void by operation of law without any further action or notice by either party and (b) the Developer shall not be entitled to any further Recapture TIF Incentive Payments except for any Recapture TIF Incentive Payments for which real estate taxes for the Property have previously been paid. The Developer acknowledges and agrees that (x) this provision is a material inducement for the NMCRA to enter into this Agreement as the creation of Incremental TIF by the Project is a condition precedent pursuant to the Program Guidelines and (y) waives any claim that this provision is unenforceable.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective and duly authorized officers the day and year first above written.

DEVELOPER:

SOLO MIAMI DEVELOPMENT LLC
a Florida limited liability company

By: PSN at Solo LLC
a Florida limited liability company,
as Managing Member

By:

Name: Jaime Akbar

Title: Managing Member Attest:

By: OZ & BF, LLC
a Florida limited liability company,
as Managing Member

By:

Name: SERHAT KARAKAYA Approved as to form and legal sufficiency:
Title: MANAGING MEMBER

NMCRA:

NORTH MIAMI COMMUNITY
REDEVELOPMENT AGENCY,
a public body corporate and politic

By:


Anna-Bo Emmanuel, Esq.
Executive Director

By:


Vanessa Joseph, Esq.
NMCRA Secretary

By:


Taylor English Duma LLP
NMCRA Attorney