

Prepared by and after recording return to:

Steven W. Zelkowitz, Esq.  
Fox Rothschild LLP  
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## **NMCRA TAX INCREMENT RECAPTURE PROGRAM**

### **TAX INCREMENT RECAPTURE INCENTIVE AGREEMENT**

**THIS TAX INCREMENT RECAPTURE INCENTIVE AGREEMENT** (the “Agreement”) is made and entered into as of February \_\_\_\_, 2020, by and between the **NORTH MIAMI COMMUNITY REDEVELOPMENT AGENCY**, a public body corporate and politic (the “CRA”), having an address at 12330 N.E. 8<sup>th</sup> Street, North Miami, Florida 33161, and **WEST BANK INVESTMENTS, LLC**, a Florida limited liability company (the “Developer”) having an address at 16450 Miami Drive #505, North Miami Beach, Florida 33162.

#### RECITALS:

1. The CRA was formed for the purpose of removing slum and blight within a portion of the City of North Miami (“City”) 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 qualifying project is one that is anticipated to create at least Two Million Dollars (\$2,000,000) in net new taxable value in the first full year following completion.

3. Developer is the owner of the real property as more particularly described on Exhibit “A” attached hereto and by this reference made a part hereof (the “Property”) with an address of 12280 N.E. 6<sup>th</sup> Avenue, North Miami, Florida, and Grantee has applied to the CRA for a Tax Increment Recapture Incentive of fifty percent (50%) of projected ad valorem revenues for the purpose underwriting a portion of the monthly rent gap for a mixed use project known as Golden Hill Apartments generally consisting of a five (5) story building with twenty (20) apartment units and retail on the first floor.

4. The CRA has approved an award to the Developer of a Tax Increment Recapture Incentive of fifty percent (50%) of projected ad valorem revenues from the time the project appears on the property tax rolls until the NMCRA sunsets (approximately 20 years) for the purpose underwriting a portion of the monthly rent gap in accordance with the terms and conditions of this Agreement including, but 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 a Tax Increment Recapture Incentive subject to the terms, conditions, and restrictions set forth in this Agreement.

**NOW, THEREFORE**, in consideration of the Grant and the mutual covenants and conditions set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties hereto do hereby agree as follows:

**Section 1. Recitals; Program Guidelines; Tax Increment Recapture Incentive Agreement.**

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 Grantee 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 Tax Increment Recapture Incentive Agreement. Reference is made to that certain Infrastructure Grant Agreement between CRA and Grantee of even date herewith (the “Grant Agreement”). Each of this Agreement and the Grant Agreement are cross defaulted and cross collateralized with it being understood and agreed by the Grantee that (a) the security interest and Collateral provided for in the Grant Agreement shall also serve as security for the obligations of the Developer set forth in this Agreement and (b) a default under the Grant Agreement shall be considered a default under this Agreement and, upon the occurrence of a default under the Grant Agreement and the expiration of any applicable grace period, CRA shall have the right to pursue, without limitation, any and all remedies available under this Agreement including termination of this Agreement and the right of the Developer to receive any Incremental TIF with respect to the Project.

**NOW THEREFORE**, in consideration of the foregoing and of the covenants and agreements hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Developer and the CRA hereby agree as follows:

1. Recitals. The Recitals to this Agreement are incorporated herein by reference and made a part hereof.

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 plans submitted to and approved by the City Council on \_\_\_\_\_, via adoption of Resolution No. \_\_\_\_-\_\_\_\_, a copy of which is attached hereto as Exhibit “B”.

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 Approval” means the approval by the City Council of the CRA Budget for the applicable year, which CRA 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 Approval” means the approval by the Board of County Commissioners of the CRA Budget for the applicable year which includes the Recapture TIF Incentive Payment.

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

2.11 “CRA Board” means the board of commissioners of the CRA.

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

2.13 “CRA Budget Approval” means the approval by the CRA Board of the annual CRA 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 CRA.

2.18 “Incremental TIF” shall mean, for each tax year, the tax increment revenues, if any, actually received by the CRA from the County and City with respect only to Improvements constructed on the Property after the Effective Date after deduction for any (i) allocable administrative charges imposed by the County and the City (but not administrative costs associated with the operation of the CRA), (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 CRA as a result of (a) dedications made subsequent to the Effective Date resulting in any reduction in the tax increment revenues paid to the CRA 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 CRA associated with the land comprising the Property or improvements on the Property located on the Property as of the Effective Date.

2.19 “Project” has the meaning ascribed to such term in the Recitals.

2.20 “Property” has the meaning ascribed to such term in the Recitals.

2.21 “Recapture TIF Incentive Payment” shall have the meaning ascribed to such term in Section 4.2.1.

2.22 “Redevelopment Area” has the meaning ascribed to such term in the Recitals.

2.23 “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 or permanent certificate of occupancy, or its equivalent, has been issued by the City for the Project.

2.24 “Term” shall mean the period commencing on the Effective Date of this Agreement and terminating on September 30, 2044 which is the sunset date of the CRA.

2.25 “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 CRA to provide the Recapture Incentive Payment for the benefit of the Project pursuant to this Agreement, and in the interest of furthering the goals of the CRA, Developer (for itself and its respective successors and assigns) hereby covenants and agrees to \_\_\_\_\_ (as defined in Section 3.2 below) for the public benefit during the Term of this Agreement:

3.2 \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

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 a minimum of Four Million Six Hundred Four Thousand Three Hundred Thirty Nine and 00/100 Dollars (\$4,604,339.00) (the "Anticipated Development Value"). Developer estimates that Anticipated Development Value will generate approximately \_\_\_\_\_ and No/100 Dollars (\$\_\_\_\_\_) Incremental TIF annually for the entirety of the Project, with such Incremental TIF beginning as of \_\_\_\_\_. The estimated Incremental TIF is attached to this Agreement on Exhibit "C."

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 CRA 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 CRA Budget Approval by the CRA Board, City Approval and County Approval, as well as the CRA's receipt of the Incremental TIF on an annual basis in all cases, as an inducement to the development of the Project, the CRA 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 CRA shall pay to Developer a recapture TIF incentive payment equal to Fifty Percent (50%) of the Incremental TIF (the "Recapture TIF Incentive Payment"). All Recapture TIF Incentive Payments shall be due and payable within thirty (30) days of the later to occur of (a) CRA's receipt of Incremental TIF or (b) Developer's providing to the CRA 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 CRA 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 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 \_\_\_\_\_, then the Recapture TIF Incentive Payment based upon the Incremental TIF derived from Project shall automatically and by operation of law without the need for further action by either party be divested and shall terminate and be of no further force and effect and the Developer shall not be entitled to any Incremental TIF with respect to the Project. In such event, this Agreement shall be deemed terminated and of no further force and effect between the parties, and the CRA shall be released by the Developer from its obligations hereunder.

4.2.3 Right to Collaterally Assign 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 CRA 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 CRA. 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 CRA in connection with its review of such documentation

4.2.4 Right to Receive 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 CRA shall be a material default on the part of the Developer thereby entitling the CRA to all of its rights and remedies as set forth in Section 11 below.

4.2.5 Limitation on Use of Recapture TIF Incentive Payments. 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 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 CRA fiscal year 2043-44.

## 5. Subordination of TIF Incentive Payments.

5.1 Developer acknowledges and agrees that the obligations of the CRA under this Agreement to make Recapture TIF Incentive Payments hereunder are junior and subordinate to the obligations of the CRA to pay debt service with respect to any bonds, notes, loans or other debt instruments issued by the CRA or for which the CRA is responsible for the payment of debt service as of the date of this Agreement (collectively the "Bond Obligations"). Under no circumstances shall the CRA be obligated to make Recapture TIF Incentive Payments from its general revenues or any other sources if Incremental TIF is unavailable after the CRA 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 CRA'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 CRA 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 CRA.

5.2 Pledge of TIF Revenues. In the event the CRA issues additional bonds, notes, loans or other debt instruments subsequent to the Effective Date, the CRA covenants and agrees not 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 CRA from entering into agreements similar to this Agreement (each a “TIF Agreement”) pursuant to which the CRA 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 CRA 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 CRA in connection with any challenges to this Agreement (other than as a result of a default by the CRA 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 CRA 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 CRA its board members and the City and its Councilmembers and 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 CRA 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, 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 CRA) all claims, suits or actions of any kind or nature in the name of the CRA, 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 CRA and the Related Parties. Nothing contained in this Agreement shall be construed to affect the CRA’s right of sovereign immunity as provided in Chapter 768, Florida Statutes. Additionally, the CRA does not waive sovereign immunity.

7. Representations of Developer. Developer makes the following representations to the CRA as follows:

7.1 The entity comprising Developer is a limited liability company, 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.

7.2 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.

7.3 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.

8. Representations of The CRA. The CRA makes the following representations to Developer:

8.1 The CRA 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 CRA, and to perform its obligations under this Agreement.

8.2 The CRA'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.

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

9. 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) facsimile 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 facsimile and if sent by facsimile 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:

CRA: Executive Director  
North Miami Community Redevelopment Agency  
12330 N.E. 8<sup>th</sup> Avenue  
North Miami, Florida 33161



Telephone No. (305) 899-0272  
Facsimile No. (305) 899-9376

Copy to: Steven W. Zelkowitz, Esq., CRA Attorney  
Fox Rothschild LLP  
One Biscayne Tower  
2 South Biscayne Boulevard, Suite 2750  
Miami, Florida 33131  
Telephone No. (305) 442-6540  
Facsimile No. (305) 442-6541

Grantee: Yongsheng Xue  
West Bank Investment, LLC  
16450 Miami Drive #505  
North Miami Beach, FL 33162  
Telephone No. (\_\_\_\_) \_\_\_\_\_  
Facsimile No. (\_\_\_\_) \_\_\_\_\_

10. Non-Recourse. This Agreement is non-recourse to the CRA. In the event of a breach of this Agreement by the CRA, 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 CRA. Without limiting the foregoing, the Developer waives any right to seek consequential and/or punitive damages against the CRA.

11. Default By Developer. In the event Developer breaches or defaults in its duties and obligations under this Agreement, 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 CRA 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 one hundred twenty (120) 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 CRA under this Agreement with respect to the Recapture TIF Incentive Payments shall be suspended, and if any such suspension shall continue for more than one hundred twenty (120) days, then the CRA shall have the right to terminate this Agreement upon written notice to the Developer and, in such case, this Agreement shall terminate and the CRA 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 CRA 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) achieving Substantial Completion by \_\_\_\_\_ 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.

12. Adjustment to Folio Numbers. Developer and CRA 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 CRA 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.

13. 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 CRA 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 CRA, but are only recipients of funding support, and Developer is not an agent or instrumentality of the CRA.

14. 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 CRA that it is the fee simple owner of the Property.

15. Budget and Appropriation. CRA covenants and agrees to budget the Recapture TIF Incentive Payment as a line item in its annual operating budget subject to CRA Board Approval, City Approval and County Approval. CRA 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 both the City and County.

16. 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 CRA Board's approval of this Agreement.

17. Miscellaneous.

17.1 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.

17.2 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.

17.3 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.

17.4 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.

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

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

17.7 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 CRA, in an individual capacity.

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

17.9 This Agreement may be recorded in the Public Records of Miami-Dade County at the sole cost and expense of Developer.

17.10 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 CRA, approved by the CRA Board.

17.11 From time to time and upon written request from the Developer, the Executive Director, on behalf of the CRA, 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).

17.12 No express or implied consent or waiver by the CRA 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 CRA 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 CRA of its rights hereunder. The giving of consent by the CRA in any one instance will not limit or waive the necessity to obtain the CRA's consent in any future instance.

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

17.14 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.

18. Public Records. To the extent required by law, the Developer shall comply with all public records requests, whether made to the CRA 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 CRA 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.

19. 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.

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

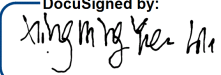
21. **JURISDICTION; VENUE AND WAIVER OF JURY TRIAL.** EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY (A) AGREES THAT ANY SUIT, ACTION OR OTHER LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL BE BROUGHT IN THE FEDERAL OR STATE COURT SITUATED IN MIAMI-DADE COUNTY, FLORIDA; (B) 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.

[SIGNATURE PAGE TO FOLLOW]

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.

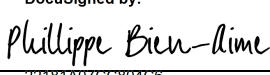
**GRANTEE:**


WEST BANK INVESTMENT, LLC  
a Florida limited liability company

DocuSigned by:  
  
By: \_\_\_\_\_  
Name: Xingmingyue Liu  
Title: Manager


**CRA:**

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

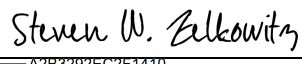
DocuSigned by:  
  
By: \_\_\_\_\_  
Philippe Bien-Amie  
Chairman

DocuSigned by:  
  
By: \_\_\_\_\_  
Rasha Comeau  
Interim Executive Director

Attest:

DocuSigned by:  
  
By: \_\_\_\_\_  
Vanessa Joseph, Esq.  
City Clerk

Approved as to form and legal sufficiency:

DocuSigned by:  
  
By: \_\_\_\_\_  
Fox Rothschild LLP  
CRA Attorney

STATE OF FLORIDA )  
 )  
SS:  
COUNTY OF MIAMI-DADE )

The foregoing was acknowledged before me by means of (check one)  physical presence or  online notarization this \_\_\_\_ day of February, 2020, by \_\_\_\_\_, as \_\_\_\_\_ West Bank Investment, LLC, a Florida limited liability company, on behalf of the company, who (check one)  is personally known to me or  has produced a \_\_\_\_\_ as identification.

My Commission Expires:

\_\_\_\_\_  
Notary Public  
Print Name:\_\_\_\_\_

STATE OF FLORIDA )  
 )  
SS:  
COUNTY OF MIAMI-DADE )

The foregoing was acknowledged before me by means of (check one)  physical presence or  online notarization this \_\_\_\_ day of February, 2020, by Philippe Bien-Aime, as Chairman of the North Miami Community Redevelopment Agency, who (check one)  is personally known to me or  has produced a Florida driver’s license as identification.

My Commission Expires:

\_\_\_\_\_  
Notary Public  
Print Name:\_\_\_\_\_

STATE OF FLORIDA )  
 )  
SS:  
COUNTY OF MIAMI-DADE )

The foregoing was acknowledged before me by means of (check one)  physical presence or  online notarization this \_\_\_\_ day of February, 2020, by Arthur H. Sorey III, as Interim Executive Director of the North Miami Community Redevelopment Agency, who (check one)  is personally known to me or  has produced a Florida driver’s license as identification.

My Commission Expires:

\_\_\_\_\_  
Notary Public  
Print Name:\_\_\_\_\_

**Exhibit "A"**

**Legal Description of Property**

**Exhibit "B"**

**Approved Project Site Plan**



**Exhibit "C"**

**Estimated TIF**