

**CONTRACT TO GROUND LEASE**  
(Residences at Government Center II - 4% South Project)

This Contract to Ground Lease (the “**Agreement**”) is made and entered into as of \_\_\_\_\_, 2023 (the “**Effective Date**”) by and between the **FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY**, a political subdivision of the Commonwealth of Virginia (“**FCRHA**”), and [ ], a [ ], (together with any assignee permitted under this Agreement, “**LAC4-South**”, and together with the FCRHA, collectively, the “**Parties**”).

**RECITALS:**

- R-1. The FCRHA is the fee simple owner of a certain 4.532-acre property located along Government Center Parkway, in the Braddock Magisterial District, having Fairfax County Tax Map number 56-1 ((15)), parcel 14B and being further described on Exhibit A attached hereto and made a part hereof (the “**Property**”).
- R-2. Pursuant to the Public Private Education Facilities and Infrastructure Act of 2002, as amended, Virginia Code Ann. §§ 56-575.1 to 575.16 (such law, the “**PPEA**”) and the FCRHA’s PPEA guidelines, the FCRHA evaluated proposals and selected LACM VA, LLC, a Virginia limited liability company and an affiliate of LAC4-south (the “**Developer**”) to develop and construct approximately 279 affordable housing units on the Property together with a service hall and surface and structured parking (the “**Development**”).
- R-3. Accordingly, the FCRHA and the Developer entered into that certain Interim Agreement (the “**Interim Agreement**”) dated June 7, 2022, to enable the Developer to promptly commence certain design and zoning related work and other due diligence on the Property.
- R-4. The Property is now subject to [ ] secured by the Developer (collectively, the “**Land Use Approvals**”) and certain proffers, dated [ ] accepted in connection therewith (the “**Proffers**”).
- R-5. The Development is anticipated to consist of two buildings (a “**North Building**” and a “**South Building**”; collectively, the “**Buildings**”), together with certain common amenities. Each Building will be comprised of two separate projects, one receiving four percent (4%) low-income housing tax credits (“**Tax Credits**”) and other sources (each, a “**4% Project**”) and the other receiving nine percent (9%) Tax Credits and other sources (each, a “**9% Project**”; the 4% Projects and 9% Projects collectively, the “**Projects**”). The 9% Project and the 4% Project in each of the Buildings will close on the construction financing contemporaneously; however, it is anticipated that the closings on the Projects in the North Building will occur first and the closings on the Projects in the South Building will occur subsequently. Each Project will have distinct owners and financing and will not be cross collateralized or cross defaulted in any manner after the financial closing on any Project.

- R-6 Simultaneously with the execution of this Agreement, the FCRHA has entered into three additional Contracts to Ground Lease (the “**Other Contracts to Ground Lease**”), each with a separate affiliate of Developer, two of which are for a 9% Project and one of which is for the other 4% Project (the “**Other Ground Lease Tenants**”). Each Other Contract to Ground Lease provides that the Developer counterparty will, subject to the terms and conditions of the applicable Other Contract to Ground Lease, enter into a 99-year ground lease for the development, construction, operation, and maintenance of the applicable Project on a portion of the Property (collectively, the “**Other Ground Leases**”).
- R-7 The FCRHA and LAC4-South agree that, subject to the terms and conditions of this Agreement, LAC4-South will enter into a 99-year ground lease in the form attached as Exhibit B (the “**Ground Lease**”) for the Ground Lease Premises and the 4% Project in the South Building (the “**4%-South Project**”).
- R-8 The FCRHA and LAC4-South desire to enter into this Agreement setting forth LAC4-South’s contract rights and option to enter into the Ground Lease for the Ground Lease Premises upon the satisfaction of certain conditions, as set forth below in this Agreement.

NOW THEREFORE for and in consideration of the mutual promises of the Parties and of other good and valuable consideration receipt and sufficiency of which are hereby acknowledged, the FCRHA and LAC4-South intending to be legally bound do hereby agree as follows:

## Section 1. **GRANT OF OPTION.**

1.1 Ground Lease Premises. The FCRHA hereby grants to LAC4- North an option to lease the Ground Lease Premises, subject to the terms and conditions of this Agreement. The term “**Ground Lease Premises**” means (a) the real property (the “**Land**”) more particularly described in Exhibit A of the Ground Lease; (b) all of the FCRHA’s interest in land use approvals, certain easements, development rights, improvements, equipment and fixtures located on the Land at the time of the Closing (as defined below); and (c) any other intangible property associated with the Land or the improvements, equipment and fixtures located thereon owned by the FCRHA.

1.2 Option. The option described in Section 1.1 is referred to in this Agreement as the “**Option.**”

1.3 Recordation of this Agreement. LAC4- North may record this Agreement in the Land Records of Fairfax County, Virginia (the “**Land Records**”). If this Agreement is recorded and later expires or is terminated as provided herein, then no later than five Business Days after the expiration or termination hereof, LAC4-South will deliver to the FCRHA for recordation, duly signed and notarized by LAC4-South, documents sufficient to confirm the expiration or termination of this Agreement, and otherwise in recordable form and reasonably acceptable to the FCRHA (and this obligation of LAC4-South will survive expiration or termination of this Agreement). If LAC4-South records this Agreement in the Land Records, LAC4-South will be responsible for payment of all fees and taxes associated with such recording.

1.4 Effect of Agreement; Interest in Real Property. The Parties intend that this Agreement is given by the FCRHA to LAC4-South as an option to lease the Ground Lease Premises. The

Parties intend that this Agreement creates a valid and present encumbrance on the Ground Lease Premises in favor of LAC4-South, effective as of the Effective Date, subject to any and all liens or encumbrances disclosed in the Land Records. Therefore, the Option will be deemed an encumbrance upon the Ground Lease Premises during the term of this Agreement effective as of the Effective Date and will be binding upon and inure to the benefit of each of the Parties hereto and their respective successors and assigns (subject to Section 12.7 below).

## Section 2. **INDEPENDENT CONSIDERATION.**

In consideration of and concurrently with the FCRHA entering into this Agreement, LAC4-South agrees to pay to FCRHA the sum of Ten Dollars (\$10.00) as independent consideration for the Option (the “**Consideration**”). The Consideration has been bargained for and agreed to as separate and independent consideration for LAC4-South option to lease the Ground Lease Premises pursuant to the terms herein, and for the FCRHA’s execution and delivery of this Agreement. The Consideration will be deemed fully earned by the FCRHA upon receipt and will be considered non-refundable to LAC4-South.

## Section 3. **TERM; EXTENSION OF OPTION; EXERCISE OF OPTION.**

3.1 Term of Agreement. The term of this Agreement (the “**Term**”) begins on the Effective Date and will expire at 5:00 p.m. on the Expiration Date (defined herein), unless an Option Notice (defined below) has been sent to the FCRHA by LAC4-South and an Approval Notice (defined below) has been sent to LAC4-South by the FCRHA, in which case the Term will expire on the Closing Date (defined below). The initial Expiration Date will be December 1, 2025 (the “**Initial Expiration Date**”). The Initial Expiration Date, as may be extended by mutual agreement in writing by the Parties or as specifically provided in this Section 3.1 below is the “**Expiration Date**.”

(a) Notwithstanding anything herein to the contrary, if either Other Contract to Ground Lease for a Project in the North Building expires or is terminated before closing thereunder, then this Agreement will also terminate automatically, and neither Party will have any further obligations hereunder except for those that expressly survive the termination of this Agreement.

(b) If (i) the Other Ground Lease Tenant for the 9% Project in the North Building receives an award of Tax Credits in the 2023 Tax Credit cycle, (ii) LAC4-South has not received an award of Tax Credits and has not sent an Option Notice on or before the Expiration Date, (iii) this Agreement is then in full force and effect and LAC4-South is not then in default beyond any applicable notice and cure period under this Agreement, and (iv) LAC4-South has given the FCRHA notice in writing of LAC4-South’s election to extend the Term of this Agreement no less than 10 Business Days before the Expiration Date, LAC4-South will have the right to extend the Expiration Date until 5:00 p.m. on December 1, 2026; provided, however, that LAC4-South will re-apply for the Tax Credits and equity and financing as required pursuant to Section 9.3.

(c) If the Other Ground Lease Tenant for the 9% Project in the North Building does not receive an award of Tax Credits in the 2023 Tax Credit cycle, then the Expiration Date will automatically be extended to December 1, 2026.

(d) If (i) the Other Ground Lease Tenant for the 9% Project in the North Building receives an award of Tax Credits in the 2024 Tax Credit cycle, (ii) LAC4-South has not received an award of Tax Credits and has not sent an Option Notice on or before the Expiration Date, (iii) this Agreement is then in full force and effect and LAC4-South is not then in default beyond any applicable notice and cure period under this Agreement, and (iv) LAC4-South has given the FCRHA notice in writing of LAC4-South's election to extend the Term of this Agreement no less than 10 Business Days before the Expiration Date, LAC4-South will have the right to extend the Expiration Date until 5:00 p.m. on December 1, 2027 ("**Outside Expiration Date**"); provided, however, that LAC4-South will re-apply for the Tax Credits and equity and financing as required pursuant to Section 9.3. For purposes of clarity, if the Other Ground Lease Tenant for the 9% Project in the North Building receives an award of Tax Credits in the 2023 Tax Credit Cycle, the Expiration Date cannot be extended under this Section 3.1(d).

(e) Notwithstanding anything to the contrary contained in this Agreement, in no event will the Expiration Date be extended to a date beyond the Outside Expiration Date, except by a mutual agreement in writing executed by both Parties. If LAC4-South has not exercised its right to extend the Expiration Date as expressly provided above, LAC4-South will be deemed to have forever waived its right to further extend the Term of this Agreement beyond the then current Expiration Date, except by mutual agreement in writing executed by both Parties.

3.2 Condition to Right to Exercise. LAC4-South may exercise the Option only if all of the following conditions have been met: (i) all of the conditions precedent set forth in Section 9.2 below have been satisfied, and (ii) there is no outstanding Event of Default by LAC4-South under this Agreement.

3.3 Exercise Notice. LAC4-South may exercise the Option in accordance with Section 8.1 below provided LAC4-South has satisfied the conditions set forth in Section 3.2 above to the FCRHA's reasonable satisfaction.

3.4 End of Term. If Closing does not occur by the Expiration Date, then (a) this Agreement will immediately terminate without further action of the Parties; (b) LAC4-South will promptly deliver to the FCRHA such documentation (fully executed and acknowledged) reasonably requested by FCRHA to evidence termination of this Agreement; and (c) the Parties will have no further obligations to each other except as otherwise specifically provided in this Agreement. This Section 3.4 is not intended to and does not in any way limit or affect any of the rights or remedies available to any Party if the other Party defaults in the due and timely performance of any of its obligations, or is in breach of any of its representations and warranties, under this Agreement.

#### Section 4. **TERMS OF LEASE AND ADDITIONAL DOCUMENTS.**

4.1 Ground Lease. At the Closing, the FCRHA and LAC4-South will enter into the Ground Lease, which will be substantially in the form of Exhibit B attached hereto and made a part hereof by this reference (except (i) to the extent such terms and conditions are no longer

applicable or are otherwise invalid or unenforceable under Virginia laws as of the Closing Date (as defined in Section 8.1 below) or (ii) as otherwise mutually agreed to by the FCRHA and LAC4-South, including without limitation any requirements of the tax credit investor or secured lenders that the FCRHA deems acceptable for the Development). Each Party will discuss any proposed modifications to the Ground Lease in good faith.

4.2 Proffer Allocation Agreement. At the Closing, LAC4-South will execute and record among the Land Records an amendment to join an agreement to allocate the responsibilities and costs for the Proffers for the Development (the “PAA”). The Other Ground Lease Tenants for the North Building and the FCRHA will have signed the PAA upon the closing of the North Building Projects. The FCRHA and LAC4-South shall each act in good faith and use reasonable efforts to agree, and LAC4-South shall use reasonable efforts to cause the Other Ground Lease Tenants to agree, upon the final form of the PAA; provided, however, that in no event will the FCRHA be responsible for any Proffer costs except in connection with a completed Project of which it obtains possession following a ground lease termination.

4.3 Reciprocal Easement Agreement. At the Closing, LAC4-South, will execute and record among the Land Records an amendment to join an agreement to establish such easements and related rights and obligations as may be necessary for the development, operations, and maintenance (including the performance of and payment for routine and capital maintenance and replacement work) of the Development (the “REA”). The Other Ground Lease Tenants for the North Building, the FCRHA, and the Board of Supervisors of Fairfax County, Virginia will have signed the REA upon the closing of the North Building Projects. The FCRHA and LAC4-South shall each act in good faith and use reasonable efforts to agree, and LAC4-South shall use reasonable efforts to cause the Other Ground Lease Tenants to agree, upon the final form of the REA; provided, however, that in no event will the FCRHA be responsible for any Proffer costs except in connection with a completed Project of which it obtains possession following a ground lease termination.

4.4 Services Agreement. At the Closing, LAC4-South and the Other Ground Lease Tenants will enter into a Services Agreement, which will be executed by and give the FCRHA third-party beneficiary rights and certain oversight and review authority (the “SA”). The FCRHA and LAC4-South shall each act in good faith and use reasonable efforts to agree, and LAC4-South shall use reasonable efforts to cause the other signatories to agree, upon the final form of the SA; provided, however, that the SA must require LAC4-South and the Other Ground Lease Tenants, collectively, to pay \$50,000 per year for the 15-year Tax Credit compliance period toward programming or operations at the service hall in the 9%-North Project.

## Section 5. **REPRESENTATIONS AND WARRANTIES.**

5.1 In General. With the exception of those representations and warranties stated in Section 5.2, LAC4-South has not relied and will not rely upon any representations or warranties, express or implied, affirmative or negative, concerning the Property made by the FCRHA or any of the FCRHA’s agents or employees.

5.2 Representations and Warranties of FCRHA. The FCRHA represents and warrants that the following facts and circumstances are true and correct as of the Effective Date:

(a) Authority, Authorizations and Consents. The FCRHA is a political subdivision of the Commonwealth of Virginia. The FCRHA has all necessary power and authority to enter into this Agreement and to perform its obligations hereunder. The execution, delivery and performance of this Agreement has been duly and validly authorized by all necessary action and proceedings, and no further action or authorization is necessary on the part of the FCRHA in order to consummate the transactions contemplated herein. This Agreement is a legal, valid, and binding obligation of the FCRHA, enforceable in accordance with its respective terms. The FCRHA has obtained all authorizations, consents, or approvals of any governmental entity or other person or entity required to be obtained or given in connection with the execution and delivery of this Agreement by FCRHA or the performance of any of FCRHA's obligations hereunder.

(b) No Violation. The execution and delivery of this Agreement by the FCRHA, and the performance of its obligations hereunder, do not (i) violate, or conflict with any of FCRHA's obligations under, any contract to which it is a party or by which it is bound, or (ii) violate (and none of such obligations will be void or voidable under) any law, regulation, order, arbitration award, judgment or decree to which it is a party or to which it is subject.

(c) Options; Leases. No person or entity other than LAC4-South holds any option or other right to lease or purchase all or any part of any of the Property, including the Ground Lease Premises or any interest in the Property, including the Ground Lease Premises, other than (i) the Permitted Exceptions and (ii) the County's storage of FasTran buses on the Ground Lease Premises.

(d) No Pending Actions. To FCRHA's knowledge, there are no actions, suits, proceedings (including any arbitration proceedings, condemnation, expropriation or other proceeding in eminent domain, or environmental, zoning or other land use regulation proceedings (other than those initiated by affiliates of LAC4-South), orders, investigations or claims that are pending against or relating to the Property or the FCRHA's rights therein.

(e) Compliance with Laws. FCRHA has not received any written notice from any governmental entity asserting that the Property (or the FCRHA with respect to the Property) is in violation of any law, rule, regulation, order, ordinance, permit, license, writ, injunction, directive, determination, judgment or decree or other requirement of any governmental entity, in each case, applicable to the Property and/or the FCRHA.

For the aforementioned representations, the term "the FCRHA's knowledge" shall mean the actual knowledge of the following individuals (or their successors in the listed positions): Thomas Fleetwood, Director, Department of Housing and Community Development ("HCD"); Anna Shapiro, Deputy Director of Real Estate, Finance, and Development, HCD; Mark Buenavista, Deputy Director of Design, Development, and Construction, HCD; and Ryan Wolf, the Assistant County Attorney assigned to the Projects.

If circumstances occur that make the representations therein untrue or incorrect at any time after the Effective Date, FCRHA will use reasonable efforts to make such representations (other than Section 5.2(d) and (e)) true and correct as of the Closing and will provide LAC4-South notice required in Section 5.4. The provisions of this paragraph will not limit LAC4-South's right to terminate this Agreement.

5.3 Representations and Warranties of LAC4-South. LAC4-South represents and warrants that the following facts and circumstances are true and correct as of the Effective Date. In the event that any of the following representations and warranties are not true and correct as of the date LAC4-South delivers the Option Notice to FCRHA, LAC4-South will use reasonable efforts to cause such representations and warranties to be true and correct as of the Closing Date.

(a) Authority, Authorizations, and Consents. LAC4-South is a Virginia limited liability company. LAC4-South has all necessary power and authority to enter into this Agreement and to perform its obligations hereunder. The execution, delivery, and performance of this Agreement by LAC4-South have been duly and validly authorized by all necessary action and proceedings, and no further action or authorization is necessary on the part of LAC4-South in order to consummate the transactions contemplated herein. This Agreement is a legal, valid, and binding obligation of LAC4-South, enforceable in accordance with its respective terms. No authorization, consent, or approval of, or notice to, any governmental entity or other person or entity is required to be obtained or given in connection with the execution and delivery of this Agreement by LAC4-South or the performance of any of LAC4-South's obligations hereunder. In the event that LAC4-South assigns this Agreement (in accordance with its terms) to another entity, such entity will make the same (but corrected, as necessary) representations set forth in this Section 5.3(a) as of the Closing Date.

(b) No Violation. The execution and delivery of this Agreement by LAC4-South, and the performance of its obligations hereunder, do not (i) violate, or conflict with any of LAC4-South's obligations under, any contract to which it is a party or by which it is bound, or (ii) violate (and none of such obligations will be void or voidable under) any law, regulation, order, arbitration award, judgment or decree to which it is a party or to which it is subject.

(c) Litigation and Claims. To LAC4-South's knowledge, there is no suit, action, arbitration, or legal, administrative, or other proceeding, or governmental investigation pending or threatened against LAC4-South which could affect any of the transactions contemplated by this Agreement.

5.4 Inaccuracies. In the event that either Party becomes aware of facts or circumstances after the Effective Date that might result in any of that Party's representations or warranties set forth in Section 5.2 or Section 5.3 not being true as of the Closing, such Party will give prompt written notice to the other Party of such facts or circumstances.

## Section 6. **PROPERTY CONDITION; RIGHT OF ENTRY; TITLE.**

6.1 Property Condition. LAC4-South acknowledges that except to the extent of any express representations and warranties set forth in Section 5.2, FCRHA has made no

representations or warranties, express or implied, regarding the Property or the Ground Lease Premises or matters affecting the Property or the Ground Lease Premises, whether made by the FCRHA, or on the FCRHA's behalf, or by the FCRHA's agents or employees, or otherwise, and that except as otherwise provided in this Agreement, the leasehold interest in the Ground Lease Premises will be conveyed subject to, and in accordance with, the terms and conditions of the Ground Lease. For the avoidance of doubt, LAC4-South will accept possession of the Ground Lease Premises on the commencement date of the Ground Lease "AS IS, WHERE IS, WITH ALL FAULTS", subject to the Permitted Exceptions.

6.2 Right of Entry. During the Term, LAC4-South will have reasonable rights of access to the Property to the extent set forth in this Section 6.2 for the purposes of surveying the Property and performing design and engineering analysis including environmental tests and studies and soils borings and tests, provided that neither LAC4-South nor its contractors will unreasonably disrupt the normal operation of the Property. LAC4-South's access hereunder will be in compliance with all applicable statutes, laws, rules, regulations, ordinances, and orders of any governmental or quasi-governmental authority having jurisdiction over the Property and LAC4-South's or its contractors' activities thereon. All such entry will be coordinated in advance with appropriate representatives of the FCRHA; for purposes of this Section 6.2, unless LAC4-South is otherwise notified by the FCRHA, the appropriate representatives will be Anwar Iqbal at 703-246-5017, [anwar.iqbal@fairfaxcounty.gov](mailto:anwar.iqbal@fairfaxcounty.gov), and Mark Buenavista at 703-246-5123, [mark.buenavista@fairfaxcounty.gov](mailto:mark.buenavista@fairfaxcounty.gov). Prior to LAC4-South entering the Property, LAC4-South (or its contractor) will obtain and maintain, at LAC4-South's (or its contractor's, as the case may be) sole cost and expense, the following insurance coverage, and will cause each of its agents and contractors to obtain and maintain, and, upon request of the FCRHA, will deliver to the FCRHA evidence of (i) general liability insurance, from an insurer reasonably acceptable to the FCRHA, in the amount of \$1,000,000.00 combined single limit for personal injury and property damage per occurrence, (ii) workers' compensation insurance at statutory limits, (iii) employer's liability insurance in an amount not less than \$1,000,000.00, and (iv) professional liability insurance of not less than \$1,000,000.00 for any access to conduct environmental tests and studies and/or soil borings and tests. LAC4-South will provide the FCRHA with original certificates of insurance for the coverage required above not less than five Business Days prior to any access, naming the FCRHA and such other parties designated by the FCRHA as additional insureds and otherwise in form reasonably satisfactory to the FCRHA. The FCRHA will have the right, in its discretion, to accompany LAC4-South and its contractors. All damage to the Property resulting from any access by or at the direction of LAC4-South or its contractors will be repaired immediately by LAC4-South, at its sole cost and expense, so that the Property will be restored to the same condition in which it existed immediately prior to such access. LAC4-South will indemnify, defend, and save the FCRHA and its respective Commissioners, agents, directors, officers and employees (collectively, the "**Indemnitees**") harmless from and against any and all losses, liabilities, suits, obligations, fines, damages, penalties, claims, costs, charges and expenses (including, without limitation, engineers', architects' and attorneys' fees and disbursements), which may be suffered by, imposed upon or incurred by or asserted against the FCRHA or any of the Indemnitees as a result of any access pursuant to this Section 6.2. The provisions of this Section 6.2 will survive Closing or any termination of this Agreement.

### 6.3 Title.



(a) The “**Permitted Exceptions**” are, collectively, (i) those matters set forth on Exhibit C, (ii) all matters of record affecting the Property, (iii) all building, zoning, and other federal, state, or local laws, codes, and regulations affecting the Property, (iv) the Land Use Approvals, the Proffers, and any other regulatory or administrative approvals sought by the Developer regarding the Property, (v) any matters agreed to in writing between the FCRHA and LAC4-South, and (vi) any lien or other encumbrance on the Ground Lease Premises arising out of an act or omission of LAC4-South or of its agents, employees, or invitees.

(b) Notwithstanding Section 6.3(a), the FCRHA agrees to take the following actions to be completed on or before Closing with respect to the Property:

(1) The FCRHA will be obligated at Closing to remove any and all existing mortgage liens or similar liens against the Property, including the Ground Lease Premises, except any such liens arising out of an act or omission of LAC4-South or of its agents, employees, or invitees;

(2) The FCRHA will be obligated at Closing to deliver such title affidavits or similar materials as are both (i) customary for the issuance of title insurance for conveyance of leasehold estates (a “**Title Policy**”), as applicable, and (ii) reasonably consistent with the forms of such documents typically executed by the FCRHA;

(3) From the Effective Date until the Closing, without the prior written consent of LAC4-South, FCRHA will not voluntarily place or cause a lien to be placed on the Property or encumber or convey the Property or any portion thereof or any interest therein, nor amend or modify any existing encumbrances in any manner which will materially adversely affect the Property or any portion thereof or impose any material obligation with respect thereto. For purposes hereof, an encumbrance or obligation will be deemed to “materially adversely affect the Property or any portion thereof” or impose a “material obligation” if (i) the cost associated therewith on a stand-alone basis or aggregated with any other new or modified encumbrances or obligations subject to the provisions of this subsection (b)(3) is greater than Twenty-Five Thousand Dollars, or (ii) impacts the design, construction, configuration, square footage, or parking of the proposed Development.

(4) If any new encumbrance or matter that both (i) is not a Permitted Encumbrance and (ii) materially adversely affects the Property, including the Ground Lease Premises, appears on any updated title commitment or survey that LAC4-South obtains after the Effective Date, and if LAC4-South disapproves of such encumbrance or matter, then LAC4-South will provide written notice to the FCRHA of such disapproval. If, within 15 Business Days after receipt of such notice, the FCRHA does not provide written notice to LAC4-South of the FCRHA’s plan to cure, remove or otherwise address the encumbrance or matter in a manner that is reasonably satisfactory to LAC4-South, then LAC4-South will have the right to terminate this Agreement, and except as otherwise expressly set forth in this Agreement, neither the FCRHA nor LAC4-South will have any further liability hereunder.

6.4 FasTran Buses. The Parties anticipate that any rights to or use of the Property by the FasTran buses and any related equipment, including any rights, duties or

obligations or any party with respect thereto, should be terminated and removed by March 1, 2024. If LAC4-South has secured a reservation of Tax Credits prior to August 1, 2023, LAC4-South will send an initial FasTran termination notice to the FCRHA by August 15, 2023, which notice the FCRHA will promptly remit to FasTran with any other related or required documentation by September 1, 2023, and LAC4-South will send a final FasTran termination notice to the FCRHA by November 15, 2023, which notice the FCRHA will promptly remit to FasTran with any other related or required documentation by December 1, 2023 to timely effect such termination and removal by or before March 1, 2024. If LAC4-South does not successfully secure a reservation of Tax Credits by August 1, 2023, the Parties shall work collaboratively on the dates to effect such termination and removal, anticipated to be extended one (1) year until March 1, 2025 with all notices extended one (1) year from the dates above.

## Section 7. **GOVERNMENTAL APPROVALS, SCHEMATICS, PLANS AND SPECIFICATIONS.**

### 7.1 Regulatory Approvals.

(a) **“Regulatory Approvals”** will mean approvals by the applicable relevant governmental bodies of necessary for the development of the 4%-South Project, including without limitation site plan and building permit.

(b) LAC4-South will promptly and diligently pursue the submission and approval by all necessary governmental bodies of the Regulatory Approvals.

(c) LAC4-South will provide the FCRHA a copy of all submissions to be made in connection with the Regulatory Approvals for the FCRHA’s review and approval a minimum of ten (10) business days prior to LAC4-South’s anticipated submission of the same to the applicable governmental agencies. Approval of such submission will be in the FCRHA’s reasonable discretion; provided, however, that the FCRHA’s approval of any and all such submissions will not be unreasonably withheld on the basis of comments that do not reasonably reflect refinement of the scope and substance of prior approved submissions. If the FCRHA fails to notify the LAC4-South in writing of either its approval or disapproval of any such submissions within ten (10) business days after its receipt of the request from LAC4-South, then LAC4-South may proceed with the submission; however, such submission will not be deemed to be approved by the FCRHA.

### 7.2 Construction Drawings.

(a) The following definitions are used in this Section 7.2 and elsewhere in this Agreement as they relate to the design, development, and construction of the Development:

(i) **“Schematics”** means the concept plans completed at approximately fifteen percent of the Final Plans and Specifications.

(ii) **“Design Development Plans”** means the plans, specifications and construction drawings completed at approximately thirty-five percent of the Final Plans and Specifications for the development and construction of the Development and the parties having

determined the anticipated costs associated with the relocation, upgrade and bringing of utilities to the Property.

(iii) **“Permit Documents”** means the plans, specifications and construction drawings completed at approximately seventy-five percent of the Final Plans and Specifications for the development and construction of the Development.

(iv) **“Final Plans and Specifications”** means one hundred percent of the final plans and specifications and construction drawings, including but not limited to the Site Plan and building plans prepared by LAC4-South’s architect and engineers for the Development which materially conform to the Schematics and other Submission Materials previously approved by FCRHA that are necessary for the development and construction of the Development.

(v) **“Construction Drawings”** means the Schematics, the Design Development Plans, the Permit Documents, and/or the Final Plans and Specifications, as applicable.

For each iteration of the Construction Drawings specified in Section 7.1 (other than Schematics), LAC4-South will submit such iteration for the FCRHA’s approval and determination of conformity with prior iterations. If the FCRHA does not approve the iteration, the FCRHA will so notify LAC4-South in writing, specifying in what respects it disapproves of the iteration. LAC4-South and the FCRHA will reasonably cooperate with one another in addressing the comments of FCRHA. LAC4-South will revise the iteration to reflect the agreed upon changes and will then resubmit the iteration to the FCRHA for review. The initial review by the FCRHA will be carried out within ten (10) Business Days of the date of submission of the iteration; the FCRHA’s review of revisions to the iteration will be carried out within five Business Days of the date of submission of the revised iteration. If FCRHA has not notified LAC4-South of its determination within the applicable period, LAC4-South will send a subsequent written notice and request to the FCRHA, and the FCRHA will have ten (10) Business Days from receipt of such notice to notify LAC4-South of its determination or it will be deemed to have approved the applicable iteration.

### 7.3 Progress Monitoring.

(a) LAC4-South will submit progress reports to the FCRHA containing updates regarding the Regulatory Approvals process and the preparation of the Construction Drawings at least every 60 days.

(b) The FCRHA may, in its sole discretion, waive the requirement for written progress reports, provided such waiver is in writing.

## Section 8. **CLOSING.**

### 8.1 Time.

(a) Subject to the satisfaction or waiver (as may be applicable) of the conditions precedent set forth in Section 9.1 and Section 9.2, the Parties will each execute and exchange

original counterparts and deposit into escrow the documents described in Section 8.3 and Section 8.4 below and will close the transaction contemplated by this Agreement (the “**Closing**”) on the Closing Date. LAC4-South will select the date of Closing (the “**Closing Date**”) and will give notice to the FCRHA at least 15 Business Days prior to the Closing Date, unless otherwise agreed in writing by the Parties. The Closing Date must be a Business Day and must be no later than the Expiration Date.

(b) If the FCRHA defaults on its obligation to effectuate the Closing on the Closing Date pursuant to the terms of this Agreement, LAC4-South may, upon written notice to the FCRHA within five Business Days of such default, extend the Closing Date (and the Expiration Date, if applicable) by up to one hundred twenty (120) days.

8.2 Escrow. The Parties will conduct the Closing through Stewart Title & Escrow, Inc. (the “**Escrow Agent**”) or such other party mutually agreed between the Parties at the time of Closing. The terms of this Agreement (including, but not limited to, the terms contained in this Section 8), together with such additional instructions as the Escrow Agent will reasonably request and to which the Parties will agree, will constitute the escrow instructions to the Escrow Agent. If there is any inconsistency between this Agreement and any additional escrow instructions given to the Escrow Agent, this Agreement will control unless the intent to amend this Agreement is clearly and expressly stated in the additional escrow instructions.

8.3 FCRHA’s Deposits into Escrow. The FCRHA will deposit into escrow on or before Closing the following documents:

- (a) Two duly executed counterpart originals of the Ground Lease;
- (b) A duly executed and acknowledged counterpart original memorandum of lease in a reasonable form that has been agreed to between FCRHA and LAC4-South in recordable form (the “**Memorandum of Lease**”);
- (c) A duly executed and acknowledged original of the PAA;
- (d) A duly executed and acknowledged original of the REA;
- (e) A certificate of FCRHA signed by FCRHA affirming that all of FCRHA’s representations and warranties set forth in Section 5.2 are true in all material respects as of the Closing Date; provided however, to the extent FCRHA is aware of facts or circumstances that result in FCRHA’s representations or warranties set forth in Section 5.2 not being true as of the Closing, FCRHA will disclose such facts or circumstances in such certificate (the “**FCRHA Certificate**”); and
- (f) Such additional documents, including written escrow instructions consistent with this Agreement, as are both (i) reasonably necessary for the consummation of the transactions contemplated by this Agreement and (ii) reasonably consistent with the forms of such documents typically executed by FCRHA.

8.4 LAC4-South's Deposits into Escrow. LAC4-South will deposit into escrow on or before Closing:

- (a) Two duly executed counterpart originals of the Ground Lease;
- (b) A duly executed and acknowledged counterpart original of the Memorandum of Lease;
- (c) Two duly executed counterpart originals of the Guaranty (as defined in the Ground Lease);
- (d) A duly executed and acknowledged counterpart original of the PAA;
- (e) A duly executed and acknowledged counterpart original of the REA;
- (f) A duly executed original signature of each of LAC4-South and all other signatories (other than the FCRHA) for the SA;
- (g) A certificate of LAC4-South signed by a person duly authorized to do so on behalf of LAC4-South, affirming that all of the representations and warranties of LAC4-South set forth in Section 5.3 are true in all material respects as of the Closing Date; provided however, to the extent LAC4-South is aware of facts or circumstances that result in LAC4-South's representations or warranties set forth in Section 5.3 not being true as of the Closing, LAC4-South will disclose such facts or circumstances in such certificate (the "**LAC4-South Certificate**");
- (h) A lease preparation payment of \$12,500.00, to be paid to the FCRHA at Closing (the "**Lease Preparation Payment**");
- (i) Such evidence as the Escrow Agent reasonably requires as to the authority of the person or persons executing documents on behalf of LAC4-South; and
- (j) Such additional documents, including written escrow instructions consistent with this Agreement, as are reasonably necessary for the lease of the Property in accordance with the terms of this Agreement.

8.5 Closing Costs. As additional consideration for the lease of the Ground Lease Premises pursuant to the Ground Lease, LAC4-South will pay all escrow and recording fees and other closing costs charged by the Escrow Agent and will pay the Lease Preparation Payment to the FCRHA at Closing.

## Section 9. **CONDITIONS PRECEDENT; COVENANTS.**

9.1 LAC4-South's Conditions. LAC4-South's obligations under this Agreement to Close are subject to the fulfillment of the following conditions at or prior to the Closing Date, each of which may be waived by LAC4-South in accordance with Section 9.4:

(a) Representations and Warranties. FCRHA's representations and warranties contained in Section 5.2, as restated as of the Closing in the FCRHA Certificate, will be true in all material respects at and as of the Closing.

(b) No Exceptions. Any material qualification or any exceptions of any kind to any of the representations or warranties set forth in the FCRHA Certificate will be acceptable to LAC4-South, in its sole but reasonable discretion.

(c) Performance. FCRHA will have performed and complied in all material respects with all covenants, agreements, terms, and conditions required by this Agreement to be performed or complied with by FCRHA prior to or at the Closing.

(d) Tax Credit Award. LAC4-South will have obtained from the VH (and closed or be simultaneously closing) an award of Tax Credits for financing the construction to occur under the Ground Lease (and any and all challenge periods related to such award have expired).

(e) Financing. LAC4-South will have obtained from investors and lenders (and closed or be simultaneously closing) any equity investment or loan financing or both in amounts sufficient to finance the Development.

(f) Permits and Construction Approvals. LAC4-South will have applied for and received all governmental approvals and permits, including building permits, for the construction of the buildings under the Ground Lease.

(g) Final Plans and Specifications. LAC4-South will have received approval from FCRHA of the Final Plans and Specifications.

(h) Construction Contract. LAC4-South will have entered into a contract with a reputable general contractor for the construction of the buildings and other improvements to be constructed under the Ground Lease.

9.2 FCRHA's Conditions. FCRHA's obligations under this Agreement to Close are subject to the fulfillment of the following conditions at or prior to the Closing Date, each of which may be waived by FCRHA in accordance with Section 9.4:

(a) Representations and Warranties. LAC4-South's representations and warranties contained in Section 5.3, as restated as of the Closing in LAC4-South Certificate, will be true in all material respects at and as of the Closing.

(b) No Exceptions. Any material qualification or any exceptions of any kind to any of the representations or warranties set forth in LAC4-South Certificate will be acceptable to FCRHA, in its sole but reasonable discretion.

(c) Performance. LAC4-South will have performed and complied in all material respects with all covenants, agreements, terms, and conditions required by this Agreement to be performed or complied with by LAC4-South prior to or at the Closing.

(c) No Litigation. There will exist no pending or threatened actions, suits, arbitrations, claims, attachments, proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization or other proceedings by or against LAC4-South that would materially and adversely affect the ability of LAC4-South to perform its obligations under this Agreement.

(d) Tax Credit Award. LAC4-South will have obtained from the VH (and closed or be simultaneously closing) an award of Tax Credits for financing the construction to occur under the Ground Lease (and any and all challenge periods related to such award have expired).

(e) Financing. LAC4-South will have obtained from investors and lenders (and closed or be simultaneously closing) any equity investment or loan financing or both in amounts sufficient to finance the Development.

(f) Permits and Construction Approvals. LAC4-South will have applied for and received all governmental approvals and permits, including building permits, for the construction of the buildings under the Ground Lease.

(g) Other Ground Lease. The Other Ground Lease Tenant for the 9% Project in the South Building and the FCRHA will have closed (or be simultaneously closing on) the Other Ground Lease for the 9% Project in the South Building pursuant to the Other Contract to Ground Lease for the 9% Project in the South Building.

(h) North Building Projects. The Projects for the North Building will have closed under the applicable Other Contracts to Ground Lease before the Closing Date.

9.3 Additional LAC4-South Covenants. LAC4-South covenants and agrees to satisfy the terms of this Section 9.3, prior to the Closing:

(a) Application for Tax Credits. LAC4-South will timely apply to VH for the Tax Credits in each cycle for which LAC4-South is eligible during the Term for the Ground Lease Premises until LAC4-South receives an award of Tax Credits, and LAC4-South will diligently and in good faith prosecute all steps and actions needed for the award of the Tax Credits. Promptly following the award of the Tax Credits, LAC4-South will (i) apply for and diligently prosecute in good faith all steps and actions needed to obtain loan or equity financing in amounts sufficient to finance the Development, and (ii) pursue the commitment of a tax credit investor for the purchase of the Tax Credits for the 4%-South Project.

In the event LAC4-South fails to satisfy the covenants set forth in this Section, FCRHA may avail itself to the rights and remedies set forth in Section 9.4 and Section 10 below.

9.4 Failure of Condition Precedent.

(a) If any condition to a Party's obligation to proceed with the Closing (as set forth in Section 9.1 for LAC4-South and in Section 9.2 for the FCRHA) has not been satisfied as of the Closing Date, such Party may, in its sole discretion, either (i) terminate this Agreement, (ii) extend the time available for the satisfaction of such condition by unilaterally extending the Closing Date, or (iii) elect to close, notwithstanding the non-satisfaction of such condition, in which event such Party will be deemed to have waived any such condition. A Party may send a Communication of its election (of the options set forth in clauses (a)(i), (a)(ii), and (a)(iii)) via those methods set forth in Section 12.4 or, for purposes of Section 9.4 only, via e-mail alone to the e-mail address(es) set forth for the other Party in Section 12.4; such e-mail notice will be deemed effective upon its sending.

(b) If such Party elects to proceed pursuant to Section 9.4(a)(ii) above, and such condition remains unsatisfied after the end of such extension period, then, at such time, such Party may again elect to proceed pursuant to Section 9.4(a)(i), (a)(ii) or (a)(iii).

(c) In the event the failure of a condition precedent for the benefit of either Party is not satisfied due to a breach of this Agreement by the other Party (for example, a failure or refusal to perform a Party's obligations under this Agreement), the benefitted Party may also pursue its rights and remedies as set forth in Section 10.

## Section 10. **DEFAULT; REMEDIES.**

10.1 FCRHA Default. In the case of any default or breach by the FCRHA hereunder, LAC4-South will give the FCRHA written notice of such default or breach and will provide the FCRHA with 30-days to cure the default or breach. If the FCRHA fails to cure the default or breach within such 30-day period, LAC4-South will be entitled to (a) seek specific performance to enjoin the FCRHA to cure such default or breach and consummate the transaction contemplated by this Agreement; (b) extend, in the event of an FCRHA default to effectuate the Closing on the Closing Date, the Closing Date (and the Expiration Date, as applicable) as set forth in Section 8.1(b), or (c) terminate this Agreement and the Option. LAC4-South may terminate the Option if any condition to Closing contained in Section 9.1 has not been satisfied or waived by LAC4-South in writing by the Closing Date. Upon any termination by LAC4-South under this Section 10.1, LAC4-South will be entitled to receive a refund of the Consideration previously paid. Notwithstanding anything to the contrary in this Agreement, LAC4-South's sole remedy for any default or breach by the FCRHA hereunder will be specific performance (as described in Section 10.1(a)), extending the Closing Date (and Expiration Date, as applicable) (as described in Section 10.1(b)) or terminating this Agreement and the Option (as described in Section 10.1(c)), and in no event will LAC4-South be entitled to recover any monetary damages (other than a refund of the Consideration) or other damages from the FCRHA if the FCRHA defaults or breaches this Agreement.

10.2 LAC4-South Default. In the case of any default or breach by LAC4-South hereunder, FCRHA will give LAC4-South written notice of such default or breach and will provide LAC4-South with 30 days to cure the default or breach; provided, however, if such default or breach is not capable of being cured within 30 days, then LAC4-South will have an additional 30 days so long as LAC4-South continues to diligently pursue a cure. In the event LAC4-South fails to cure



the default or breach within such period, FCRHA may terminate the Option. Additionally, FCRHA may terminate the Option in the event of any condition to Closing contained in Section 9.2 has not been satisfied or waived by FCRHA in writing by the Closing Date. FCRHA's remedies for any default or breach by LAC4-South hereunder will be terminating the Option; in no event shall the FCRHA be entitled to any damages from LAC4-South if LAC4-South defaults or breaches under this Agreement.

## Section 11. **CONDEMNATION OR CASUALTY**

11.1 Condemnation or Casualty. FCRHA will notify LAC4-South of any (i) condemnation or taking by eminent domain of any portions of the Property or (ii) casualty event affecting the Property. LAC4-South and the FCRHA agree that the FCRHA has no obligation to restore the Property in the event of a condemnation or casualty event.

11.2 Obligation to Close. Notwithstanding any condemnation or casualty event, LAC4-South will remain obligated to close under this Agreement so long as such condemnation or casualty event does not materially and adversely affect the Property. For purposes of this Section, a condemnation or casualty event will "materially and adversely affect the Property" if, after completion of such condemnation or the occurrence of such casualty event, as applicable, LAC4-South would no longer be able to develop and construct the Development in substantial accordance with Land Use Approvals, the Final Plans and Specifications and the Ground Lease, subject to any minor adjustments caused by such condemnation or casualty event, as applicable. In the event of a condemnation or casualty event that has a material and adverse effect on the Property, (A) LAC4-South will have the right to terminate this Agreement without liability on its part by so notifying FCRHA within 15 Business Days of FCRHA's notification to LAC4-South of said condemnation or casualty event, and except as otherwise expressly set forth in this Agreement, neither FCRHA nor LAC4-South will have any further liability hereunder, and (B) if LAC4-South does not so terminate the Agreement, then LAC4-South will remain obligated to close under this Agreement and neither such condemnation or casualty event nor the condition of the Property thereafter will be deemed to give rise to a default hereunder.

## Section 12. **MISCELLANEOUS PROVISIONS.**

12.1 No Brokers, Finders, Etc. None of the Parties has engaged any agent, broker, finder or investment or commercial banker in connection with the negotiation, execution or performance of this Agreement, or the transactions contemplated hereby.

12.2 Expenses. Except as specifically set forth herein, whether or not the transaction contemplated by this Agreement is consummated, each of the Parties will pay their own fees and expenses incident to the negotiation, preparation, execution, delivery and performance of this Agreement.

12.3 Complete Agreement; Waiver and Modification, Etc. This Agreement and the 4%-South Option to Lease dated as of the date hereof between the FCRHA and LAC4-South (the "**Option Document**") constitutes the entire agreement between the Parties hereto and thereto pertaining to the subject matter hereof and thereof and supersedes all prior and contemporaneous agreements and understandings of the Parties. There are no representations, warranties, covenants,

or conditions by or benefiting any Party except those expressly stated or provided for in this Agreement, any implied representations, warranties, covenants, or conditions being hereby expressly disclaimed. No person or entity other than the Parties to this Agreement have any rights or remedies under or in connection with this Agreement, except rights or remedies validly assigned hereunder. No amendment, supplement or termination of or to this Agreement, and no waiver of any of the provisions hereof or thereof, will require the consent of any person or entity other than the Parties hereto, nor will any such amendment, supplement, termination or waiver be binding on a Party to this Agreement unless made in a writing signed by such Party. To the extent any provision of the Option Document conflicts with, or is inconsistent with, this Agreement, then this Agreement shall govern and control.

#### 12.4 Communications.

(a) Whether expressly so stated or not, all notices, demands, requests and other communications required or permitted by or provided for in this Agreement (“**Communications**”) will be given in writing to the Parties at their respective addresses set forth below, or at such other address as a Party will designate for itself in writing in accordance with this Section:

If to LAC4-South, to: Lincoln Capital Acquisition LLC

c/o Lincoln Avenue Capital  
401 Wilshire Blvd.  
Ste. 1070  
Santa Monica, CA 90401  
Attention: Hanna Jamar  
E-Mail: [hanna@lincolnavecap.com](mailto:hanna@lincolnavecap.com)

and a copy to:

Klein Hornig LLP  
1325 G Street, NW, Suite 770  
Washington, DC 20005  
Attention: Erik T. Hoffman  
E-Mail: [ehoffman@kleinhornig.com](mailto:ehoffman@kleinhornig.com)

If to FCRHA, to:

Fairfax County Redevelopment and Housing Authority  
Attention: Director, HCD  
3700 Pender Drive, Suite 300  
Fairfax, Virginia 22030-6039  
e-mail: [Thomas.Fleetwood@fairfaxcounty.gov](mailto:Thomas.Fleetwood@fairfaxcounty.gov)

-and-

Fairfax County Redevelopment and Housing Authority  
Attention: Anna Shapiro  
3700 Pender Drive, Suite 300

Fairfax, Virginia 22030-6039  
e-mail: [anna.shapiro@fairfaxcounty.gov](mailto:anna.shapiro@fairfaxcounty.gov)

With a copy to:

Office of the County Attorney  
Attention: Ryan Wolf, Assistant County Attorney  
12000 Government Center Parkway, Suite 549  
Fairfax, Virginia 22035-0064  
e-mail: [Ryan.Wolf@fairfaxcounty.gov](mailto:Ryan.Wolf@fairfaxcounty.gov)

(b) Communications may be transmitted by (1) reputable overnight courier (with a signed receipt) or (2) hand delivery (with receipt acknowledged in writing by the office of the addressee).

(c) Except as otherwise provided in this Agreement, delivery or service of any Communications will be deemed effective only upon receipt (or refusal of receipt), and receipt will be deemed to have occurred when the Communications were delivered to the specified address without regard to whether or not a representative of the addressee was present to receive the Communications or was present but refused receipt of such Communications; provided, any Communications delivered after 5:00 P.M. local time of place of receipt, or on a day other than a Business Day, will be deemed received on the next succeeding business day.

(d) For convenience, a Party may send a Communication via e-mail, but such Communications will not be effective unless and until a hard copy of such Communication is sent via one of the methods set forth in Section 12.4(b) and deemed effective as set forth in Section 12.4(c).

(e) Either of the Parties may change the address(es) to which any such Communications are to be delivered by furnishing 3 Business Days written notice of such change(s) to the other of the Parties in accordance with the provisions of this Section.

**12.5 Governing Law.** This Agreement will be interpreted in accordance with and governed by the laws of the Commonwealth of Virginia.

**12.6 Headings; References; "Hereof," Etc.** The Section headings in this Agreement are provided for convenience only, and will not be considered in the interpretation hereof or thereof. References in this Agreement to Sections or Exhibits refer, unless otherwise specified, to the designated Section of or Exhibit to this Agreement, and terms such as "herein," "hereto" and "hereof" used in this Agreement refer to this Agreement as a whole.

**12.7 Successors and Assigns.** LAC4-South may not assign its rights under this Agreement to any party without the consent of the FCRHA, which may be withheld in the FCRHA's sole and absolute discretion. A sale, assignment, or other transfer of the equity of LAC4-South or of any direct or indirect parent of LAC4-South that constitutes a change in control of the **entity** shall be deemed to be an assignment subject to the restrictions of this Section 12.7. Notwithstanding the foregoing to the contrary, LAC4-South will be permitted to assign its rights under this Agreement

to any person or entity which directly or indirectly controls, is controlled by or is under common control with LAC4-South or to any person or entity resulting from a merger or consolidation with LAC4-South, or to any person or entity which acquires all the assets of LAC4-South's business as a going concern pursuant to a written agreement, reasonably acceptable to the FCRHA, provided that (i) such assignment or sublease is not a subterfuge to avoid the application of the provisions of this Section 12.7, (ii) the assignee assumes, in full, the obligations of LAC4-South hereunder, and (iii) LAC4-South provides FCRHA with written notice of any such assignment at least one (1) month prior to the Closing Date.

12.8 Severability. If for any reason any provision of this Agreement will be held invalid, illegal or unenforceable in whole or in part in any jurisdiction, then that provision will be ineffective only to the extent of that invalidity, illegality or unenforceability and in that jurisdiction only, without in any manner affecting the validity, legality or enforceability of the unaffected portion and the remaining provisions in that jurisdiction or any provision of this Agreement in any other jurisdiction.

12.9 Cumulative Rights and Remedies. The rights and remedies of each Party under this Agreement are cumulative, except as otherwise expressly provided.

12.10 Survival of Representations and Warranties. Except as otherwise expressly provided in this Agreement, all representations, warranties, covenants and agreements of the Parties contained in this Agreement will be considered material and will be effective and survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby and thereby notwithstanding any investigation of the matters covered thereby by or on behalf of any Party benefited by any such representation, warranty, covenant or agreement or any knowledge (actual or constructive) on the part of any Party benefited by any such representation, warranty, covenant or agreement as to the truth or accuracy (or falseness or inaccuracy) thereof.

12.11 Further Assurances. From time to time and at any time after the execution and delivery hereof, each of the Parties, at their own expense, will execute, acknowledge and deliver any further instruments, documents and other assurances reasonably requested by the other Party, and will take any other action consistent with the terms of this Agreement that may reasonably be requested by the other Party to evidence or carry out the intent of or to implement this Agreement.

12.12 Counterparts; Separate Signature Pages. This Agreement may be executed in any number of counterparts, or using separate signature pages. Each such executed counterpart and each counterpart to which such signature pages are attached will be deemed to be an original instrument, but all such counterparts together will constitute one and the same instrument.

12.13 Time; Business Days. **WHETHER EXPRESSLY SO STATED OR NOT IN CONNECTION WITH ANY OBLIGATION, TIME IS OF THE ESSENCE IN THE PERFORMANCE OF EACH PARTY'S RESPECTIVE OBLIGATIONS UNDER THIS AGREEMENT, AND NO NOTICE OF A PARTY'S INTENT TO REQUIRE STRICT COMPLIANCE WITH ANY OF THE DEADLINES SET FORTH IN THIS AGREEMENT IS REQUIRED.** If any time period set forth in this Agreement would otherwise expire on a

Saturday, Sunday or holiday, such time period will be automatically extended to the next business day. As used in this Agreement, the term “**Business Days**” will mean any day which is not a Saturday, Sunday or a day observed as a holiday by the County of Fairfax, Virginia or the federal government.

12.14 Estoppel Certificates. Each Party will, from time to time upon 15 Business Days’ prior request by another Party, execute, acknowledge and deliver to the requesting Party a certificate signed by an authorized representative of such Party stating that to the knowledge of such Party this Agreement (a) is or is not in full force and effect, (b) is or is not unmodified (and, if modified, the details of the modification(s)), and (c) that default(s) do or do not exist hereunder (and if defaults do exist, the nature thereof to the extent known).

12.15 Incorporation of Recitals. The Recitals set forth above are hereby incorporated into this Agreement.

*[Signatures on the following page]*

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date first written above.

**FCRHA:**

**FAIRFAX COUNTY REDEVELOPMENT  
AND HOUSING AUTHORITY**, a political  
subdivision of the Commonwealth of Virginia, in  
its proprietary capacity

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

COMMONWEALTH OF VIRGINIA       )  
COUNTY OF FAIRFAX                ) to wit

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_,  
2023, by \_\_\_\_\_, the \_\_\_\_\_, on behalf of the Fairfax County  
Redevelopment and Housing Authority.

\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

*[Signatures continue on following page]*

**LAC4-SOUTH:**

[                      ],  
a [                      ]

By:

COMMONWEALTH OF VIRGINIA  
COUNTY OF FAIRFAX, to wit:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023,  
by \_\_\_\_\_, the \_\_\_\_\_, on behalf of [\_\_\_\_\_].

\_\_\_\_\_  
\_\_\_\_\_  
Notary Public

My commission expires:

\_\_\_\_\_

**EXHIBIT A**  
**THE PROPERTY**



**EXHIBIT B**

**FORM OF GROUND LEASE**

**(Attached)**

**EXHIBIT C**

**CERTAIN PERMITTED EXCEPTIONS**

[       ]