

AN ORDINANCE OF THE MAYOR AND CITY COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AUTHORIZING AND APPROVING THE DECLARATION OF CERTAIN REAL PROPERTY, AS MORE PARTICULARLY DESCRIBED HEREIN, AS SURPLUS PROPERTY; AND APPROVING THE DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF CAPE CORAL, A FLORIDA MUNICIPAL CORPORATION, CROWN DEVELOPMENT, INC., A NORTH DAKOTA PROFIT CORPORATION, AND BIMINI BASIN REDEVELOPMENT COMPANY, LLC, A FLORIDA LIMITED LIABILITY COMPANY, FOR A MIXED-USE PROJECT KNOWN AS “BIMINI EAST,” GENERALLY LOCATED SOUTH OF CAPE CORAL PARKWAY EAST, EAST OF THE VERSAILLE CANAL, WEST OF CORONADO PARKWAY, AND NORTH OF VICTORIA DRIVE; AND AUTHORIZING THE CITY MANAGER OR THEIR DESIGNEE TO EXECUTE THE DEVELOPMENT AGREEMENT, PURCHASE AND SALE AGREEMENT, AND ANY OTHER RELATED DOCUMENTS SET FORTH WITHIN THE DEVELOPMENT AGREEMENT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Cape Coral, Florida, (“City”) is a Florida municipal corporation with powers and authority conferred under the Florida Constitution, the Municipal Home Rule Powers Act, Florida Statutes, the Charter for the City of Cape Coral, Florida and Code of Ordinances of the City of Cape Coral, Florida. The City has all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal and governmental functions, and render municipal services, including the authority to adopt, implement and enforce (together with any other required governmental approvals) comprehensive plans, zoning ordinances, redevelopment plans, and other police power and legislative measures necessary to assure the health, safety and general welfare of the City and its inhabitants; and

WHEREAS, the Mayor and City Council adopted Resolution 235-24 on August 7, 2024, which authorized and ratified the Contract For Sale and Purchase between Bimini Centre of Cape Coral, LLC, TCJBN, LLC, Four Palms Condominium Association, Inc., for the purchase of 43 parcels and subsequently the Mayor and City Council adopted Resolutions 362-24, 363-24, 392-24, and 405-24, to acquire additional parcels located within the Community Redevelopment Agency’s (“CRA”) Bimini Basin District, which contains approximately 22 acres generally located south of Cape Coral Parkway East, east of the Versaille Canal, west of Coronado Parkway, and north of Victoria Drive, in order to alleviate blighted parcels and, upon assembling the subject parcels, create an opportunity for a large-scale mixed-use development; and

WHEREAS, pursuant to Section 2-155 of the City’s Code of Ordinances, the Mayor and City Council may declare real property not presently used for municipal purposes, nor projected in the foreseeable future to be used for municipal purposes, as surplus property; and

WHEREAS, the City issued Request For Proposal No. RCR25176KMR on October 2, 2025 for the redevelopment plan of Bimini East, and received one response from Crown Development, Inc., on behalf of Bimini Basin Redevelopment Company, LLC, which proposal includes an estimated capital investment of \$500,000,000 at the completion of the project, (the “Project”); and

WHEREAS, the Project will contain retail and professional space, a minimum of 130,000 square feet of commercial space, a minimum of 150,000 square feet to a maximum of 200,000 square feet of medical use, a maximum of 900 residential units that consist of townhomes, condominiums, and apartments, bandshell, hotel(s), public park(s), a pedestrian promenade to Bimini Square, four (4) parking garages containing a minimum of 2,000 parking spaces, and a 50 slip transient boat dock for use by the general public; and

WHEREAS, the City and Bimini Basin Redevelopment Company, LLC, will enter into a Purchase and Sale Agreement within ten (10) days of the effective date of the Development Agreement for the sale of City-owned property located within the Bimini East Project area; and

WHEREAS, at the time of closing between the City and Bimini Basin Redevelopment Company, LLC, of City-owned property within the Bimini East Project area, the City and Bimini Basin Redevelopment Company, LLC will execute a Four Freedoms Park Lease as set forth within the Development Agreement; and

WHEREAS, the Mayor and City Council find it to be in the best interest of the City and the CRA, and to promote the health, safety and welfare of the citizens and visitors of the City, have determined that providing certain economic and financial incentives to Crown Development, Inc. and Bimini Basin Redevelopment Company, LLC, as the Developers, in order to facilitate the development Bimini

East (approximately 34 acres), with the expectation that these incentives shall encourage and accelerate the timing of the development, thus preserving the property values in the CRA, enhancing and expanding economic development activities within the CRA for the purpose of providing a stronger, more balanced, and stable economy, enhance and preserve employment opportunities for residents, consolidate land, promote exceptional redevelopment, and to further recognize the monetary benefits of additional redevelopment throughout the CRA, by assisting the funding of certain public improvements, as set forth and described herein, and within the Development Agreement; and

WHEREAS, the City Manager recommends that the Mayor and City Council approve the Development Agreement between the City of Cape Coral, Florida, Crown Development, Inc., and Bimini Basin Redevelopment Company, LLC, which has been reviewed at a duly noticed public hearing on October 7, 2026, and at a second public hearing on October 21, 2026 and find that the Development Agreement is consistent with the City’s Comprehensive Plan, CRA Plan, and that approval of the Development Agreement is in the best interests of the City.

NOW, THEREFORE, THE CITY OF CAPE CORAL, FLORIDA, HEREBY ORDAINS PURSUANT TO THE LAWS OF FLORIDA, AND OTHER APPLICABLE LAWS, THIS ORDINANCE:

SECTION 1. The Mayor and City Council hereby authorize and approve the declaration of certain real property, as more particularly described in the legal description which is attached hereto as Exhibit 1, as surplus property. Said property is not presently used for municipal purposes, nor projected in the foreseeable future to be used for municipal purposes.

SECTION 2. The Mayor and City Council hereby approve the Development Agreement between the City of Cape Coral, Florida, Crown Development, Inc., and Bimini Basin Redevelopment Company, LLC, relating to the proposed development of the mixed-use project known as Bimini East. A copy of the Development Agreement is attached hereto as Exhibit 2.

SECTION 3. The Mayor and City Council hereby authorize the City Manager or their designee to execute the Development Agreement, Purchase and Sale Agreement, Four Freedoms Park Lease, and any other documents set forth or authorized pursuant to the Development Agreement.

SECTION 4. Severability. In the event that any portion or Section of this ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or Sections of this ordinance which shall remain in full force and effect.

SECTION 5. Effective Date. This ordinance shall become effective immediately after its adoption by the Cape Coral City Council.

ADOPTED BY THE MAYOR AND COUNCIL OF THE CITY OF CAPE CORAL, FLORIDA, AT THEIR REGULAR SESSION THIS _____ DAY OF _____, 2026.

JOHN GUNTER, MAYOR

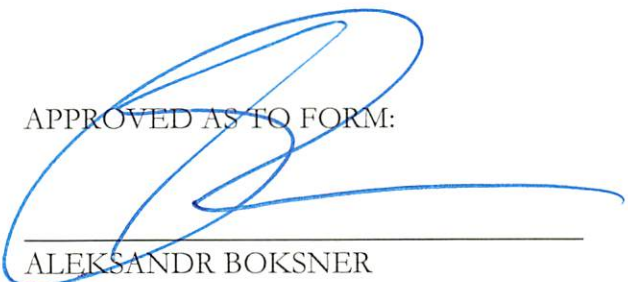
VOTE OF MAYOR AND COUNCILMEMBERS:

GUNTER	_____	LASTRA	_____
STEINKE	_____	KILRAINE	_____
LEHMANN	_____	LONG	_____
DONNELL	_____	KADUK	_____

ATTESTED TO AND FILED IN MY OFFICE THIS _____ DAY OF _____,
2026.

KIMBERLY BRUNS
CITY CLERK

APPROVED AS TO FORM:



ALEKSANDR BOKSNER
CITY ATTORNEY

ord\Development Agreement- Bimini East

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EXHIBIT 1

Legal Description of the Property

Block 81, Lots 1 through 29, and Lots 34 through 59, Cape Coral Unit Six, Part One, according to the Plat thereof, as recorded in Plat Book 11, Pages 45 through 47, inclusive, of the Public Records of Lee County, Florida.

Block 82, Lots 1 through 50, Cape Coral Unit Five, according to the Plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

Block 83, Lots 1 through 9, Lots 20 through 32, and Lots 35 through 40, Cape Coral Unit Five, according to the Plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

Block 84, Lots 1 through 32, Cape Coral Unit Five, according to the Plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

EXHIBIT 2

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “**Agreement**”) is made and entered into as of the _____ day of _____, 2026, by and among the City of Cape Coral, a Florida municipal corporation (the “**City**”), with a mailing address of PO Box 150027, Cape Coral, Florida, 33915, Crown Development, Inc., a North Dakota profit corporation (“**Crown**”), with a mailing address of 1918 9th Street East, West Fargo, North Dakota 58078, and Bimini Basin Redevelopment Company, LLC, a Florida limited liability company (“**Bimini**”), with a mailing address of 1918 9th Street East, West Fargo, North Dakota, 58078. Crown and Bimini are collectively referred to herein as “**Developers**”.

Introduction

- A. The property that is the subject of this Agreement lies in Cape Coral, Lee County, Florida. This Agreement, among other things, is intended to and shall constitute a development agreement between the parties pursuant to Sections 163.3220-163.3243, Florida Statutes, and Article 3 of the Code of Ordinances of the City of Cape Coral, Florida (the “**City Code**”).
- B. The City owns a portion of property more specifically described in **Exhibit “A”** attached hereto and incorporated herein by this reference (the “**Property**”), which is currently vacant land generally located south of Cape Coral Parkway East and east of the Versaille Canal, west of Coronado Parkway, and north of Victoria Drive, Cape Coral, Florida.
- C. The “**Project Area**” consists of that certain real property comprising approximately 34 acres, as depicted on the drawing attached as **Exhibit “B”** attached hereto and incorporated herein by this reference, which encompasses both the Property and non-City-owned parcels.
- D. Bimini and City will execute a purchase and sale agreement requiring a specific plan of development as an inducement for the City to convey the Property to Bimini, and Bimini has engaged Crown to develop the Project on behalf of Bimini.
- E. The Property, if developed as proposed, will be of substantial economic benefit to the City and its citizens.
- F. Developers intend to develop the Project Area as a mixed-use project which shall conform with the vision and specifications detailed in the City’s Request for Proposal No. RCR25176KMR and further depicted within the **Concept Plan**, which is attached as **Exhibit “C”** hereto and made a part hereof. The estimated total capital investment and

project valuation is approximately \$500,000,000.

G. The City is able to provide to the Project Area municipal services such as police protection, fire protection, sanitary sewage collection and treatment, public street maintenance, and potable water, in accordance with the terms herein.

H. The City has determined that the terms and conditions of this Agreement serve a proper public benefit and will further the goals, objectives and policies of the City of Cape Coral Comprehensive Plan.

I. The City is a Florida municipal corporation with powers and authority conferred under the Florida Constitution, the Municipal Home Rule Powers Act, Florida Statutes, the Charter for the City of Cape Coral and Code of Ordinances of the City of Cape Coral, Florida. The City has all governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal and governmental functions, and render municipal services, including the authority to adopt, implement and enforce (together with any other required governmental approvals) comprehensive plans, zoning ordinances, redevelopment plans, and other police power and legislative measures necessary to assure the health, safety and general welfare of the City and its inhabitants.

J. Having fully considered this Agreement at two (2) duly noticed public hearings in compliance with Section 163.3225 of the Act; and, having determined that the Project and this Agreement are in compliance with the City of Cape Coral Comprehensive Plan and the Land Development Code of the City of Cape Coral Florida as of the Effective Date as may be amended by the "Land Development Code Amendments" (as more specifically defined below); and, having further determined that it is in the City's best interest to address the issues covered by this Agreement in a comprehensive manner; the City has agreed to enter into this Agreement with the Developers.

K. All capitalized terms used in this Introduction are defined in Section 3 of or elsewhere in this Agreement.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Recitations. The foregoing recitations are true and correct and are incorporated herein by this reference.

2. Authority. This Agreement is entered into pursuant to the authority and procedures provided by the Act.

3. Definitions. All capitalized terms used in this Agreement shall have the

definitions set forth in this section unless the context indicates otherwise.

3.1 “**Act**” shall mean the Florida Local Government Development Agreement Act (Sections 163.3220 - 163.3243, Florida Statutes (2025)).

3.2 “**Bimini East**” shall mean a walkable and integrated open-air, mixed-use development as more particularly described and depicted on the Concept Plan. Bimini East shall include a multi-use core area as more particularly described and depicted in **Exhibit “D”** attached hereto and made a part hereof (the “**Core Area**”), which is organized around a clearly identifiable and energized community area where citizens can gather. The Core Area of Bimini East shall be anchored by retail, dining and leisure uses, as well as by vertically integrated multi-family residential uses, and at a minimum, include at least one other type of use such as office, medical, hospitality, civic or culture uses. Developers expressly agree to develop the Project in accordance with the Mixed-Use Bimini (MXB) Zoning District as set forth in the City’s Land Development Code (as may be amended by the Land Development Code Amendments). The specific location of the Core Area may be adjusted by mutual agreement of the parties.

3.3 “**Building Permit**” shall mean any permit issued by the City of Cape Coral, Florida, Permitting Services Division for the construction of vertical improvements, including, but is not limited to, any foundation, building or phase permits, but not including clearing, filling or other infrastructure site development work.

3.4 “**Business Day**” shall mean any day other than a Saturday, Sunday, any federal or state holiday. If a period expires on a day which is not a Business Day or any event or condition is required by the terms of this Agreement to occur or be fulfilled on a day which is not a Business Day, such period shall expire or such event or condition shall occur or be fulfilled, as the case may be, on the next succeeding Business Day.

3.5 “**City**” shall mean the City of Cape Coral, a Florida municipal corporation, having its principal offices at 1015 Cultural Park Boulevard, Cape Coral, Florida 33990. In all respects hereunder, the City’s obligations and performance is pursuant to the City’s position as the owner of the Property acting in its proprietary capacity. In the event the City exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any laws, rules, regulations, ordinances, and plans (including through the exercise of the City’s building, fire, code enforcement, police department or otherwise) shall be deemed to have occurred pursuant to the City’s regulatory authority as a governmental body and shall not be attributable in any manner to the City as a party to this Agreement or in any way deemed in conflict with, or a default under, the City’s obligations hereunder.

3.6 “**Closing**” shall mean the formal exchange of documents between the parties and the conveyance of the Property from the City to Bimini in accordance with that certain Purchase and Sale Agreement in substantial conformance with the form attached hereto as **Exhibit “E”**. References herein to the “**Closing Date**” shall mean the date that the Closing occurs.

3.7 “**Comprehensive Plan**” shall mean the City of Cape Coral Comprehensive Plan which the City has adopted and implemented for the redevelopment and continuing development of the City pursuant to Chapter 163 Part II, of the Florida Statutes, as may be amended in accordance therewith.

3.8 “**Commence Vertical Construction**” shall mean the initiation of physical construction activities on the Project Area as it pertains to a specific building or improvement, including but not limited to the completion of foundation work (including pouring of concrete footings, slabs, or other structural elements), pursuant to approved building permits and in accordance with the approved site plan and construction documents, but not including clearing, filling or other infrastructure site development work.

3.9 “**Concept Plan**” shall mean the plan of development for Bimini East attached hereto as **Exhibit “C”** and incorporated herein.

3.10 “**Developers**” shall mean Crown Development, Inc. a North Dakota profit corporation, and Bimini Basin Redevelopment Company, LLC, a Florida limited liability company, and any successors, assigns, or heirs thereof; provided, however, the term “Developers” shall not mean the City.

3.11 “**Development Order**” shall mean any order granting, denying, or granting with conditions an application for a Development Permit.

3.12 “**Development Permit**” shall have the meaning set forth in Section 163.3221(5), Florida Statutes (2025).

3.13 “**Effective Date**” shall mean the Execution Date.

3.14 “**Environmental Permit**” shall mean any environmental permit the Developers need to complete the Project, including, without limitation, any permit required for mitigation of aquatic species and construction of any seawalls or docks and any permit required by the U.S. Army Corps of Engineers, U.S. Environmental Protection Agency, Florida Departmental of Environmental Protection and any other permitting agencies, excluding any permits that may be required for the construction of docks for single-family homes.

3.15 “**Execution Date**” shall mean the date the last of the required parties execute this Agreement.

3.16 “**Hotel(s)**” shall mean one or more hotels/resorts to be constructed within the Project consisting of a total of approximately 250 rooms to be served by the Parking Garage(s).

3.17 “**Land Development Regulations**” shall have the meaning set forth in Section 163.3221(8), Florida Statutes (2025) and shall also include, without limitation, the Land Development Code of the City of Cape Coral, Florida.

3.18 “**Land Development Code Amendments**” shall mean the amendments to the Land Development Regulations as described in **Exhibit “F”** attached hereto and incorporated herein by this reference specifically delineated on to, among other things, amend the text of the Land Development Regulations to authorize the development of the Project, as necessary.

3.19 “**Laws**” shall mean all laws, rules, regulations, ordinances, plans, resolutions, comprehensive plans and land development regulations, specifically including the City’s Comprehensive Plan and the City’s Land Development Regulations.

3.20 “**Marina**” shall include all of the following depicted on the Concept Plan: all marine improvements, including without limitation, docks, fifty (50) boat slips, pilings, seawall and bulkhead, and may include facilities for fuel sales and a pump out facility to serve the vessels docking at and visiting the Marina, all subject to receipt by Developers of all required governmental permits and approvals. The dockmaster and ship store, including ticket sales, are to be located within a separate retail building within the proximity of the Marina.

3.21 “**Parking Garage(s)**” shall mean one or more structured parking garages planned to include a minimum of 2,000 parking spaces located in the area generally depicted on the Concept Plan.

3.22 “**Project**” shall mean the development of the Property consistent with the Concept Plan. References herein to the “**Project Area**” shall mean the land within the boundaries of the Project.

3.23 “**Project Budget**” shall mean that certain budget prepared by Developers for the site development of the Project Infrastructure within the Project Area, a copy of which is attached hereto at **Exhibit “G”** and made a part hereof, which may be subject to change from time to time.

3.24 “**Project Engineer**” shall mean the civil engineer of record retained by the Developers for the development of the Project.

3.25 “**Property**” shall mean the real property owned by the City, as more specifically described in **Exhibit “A”** attached hereto and incorporated herein by this reference.

3.26 “**Public Facilities**” shall have the meaning set forth in Section 163.3221(13), Florida Statutes (2025), as may be amended from time to time.

3.27 “**Vertical Improvement**” shall mean any above ground building, structure, facility, or physical improvement built upon the Property, above the foundation or slab level, which include residential units, commercial/retail space and parking garages, consistent with the Concept Plan.

4. Concept Plan.

4.1 The Property shall be developed in accordance with this Agreement, the Concept Plan attached as **Exhibit C**, and the Land Development Regulations (as may be amended by the Land Development Code Amendments). The Concept Plan may only be modified by a written amendment to this Agreement and, as necessary, the Land Development Code.

4.2 The Property is zoned as Mixed-Use Bimini (MXB) Zoning District, pursuant to the City's Land Development Regulations. The MXB zoning district for the Property currently permits multi-family residences, single-family attached residences, public parks and recreational facilities, marinas, bars and brewpubs, restaurants without a drive-thru, hotels, retail, professional offices, personal services, and mixed-use buildings. The Property may be used for the purposes permitted by the City's Land Development Regulations (as may be amended by the Land Development Code Amendments). Notwithstanding the foregoing, the Property shall have: (i) a maximum of 900 residential units (including multi-family residential units, single-family attached units, townhomes, condominiums, and apartments), (ii) the Hotel(s), (iii) the Marina, (iv) an amenity area or areas to be determined by the Developers including a bandshell (v) a minimum of 120,000 square feet of commercial uses including the police substation, as described in Section 15 below, and (vi) a minimum of 150,000 square feet to a maximum of 200,000 square feet of medical uses, all of which are specifically delineated on the Concept Plan.

4.3 The maximum total floor area permitted upon the Property shall not exceed that provided by the City's Land Development Regulations (as may be amended by the Land Development Code Amendments or the Concept Plan) for the purposes of determining population densities and building intensities as required by the Act.

4.4 The height of any building constructed on the Property as measured from Base Flood Elevation as provided by the Project Engineer shall not exceed that provided by the City's Land Development Regulations (as may be amended by the Land Development Code Amendments), and any architectural projections will comply with the terms of the Land Development Regulations (as may be amended by the Land Development Code Amendments).

4.5 The minimum dwelling unit sizes for any residential building shall comply with the City's Land Development Regulations (as may be amended by the Land Development Code Amendments).

4.6 The minimum setbacks for the Project shall comply with the City's Land Development Regulations (as may be amended by the Land Development Code Amendments) and any applicable Federal, State or County laws, rules and regulations.

4.7 The Project shall include on-site parking in accordance with the provisions of the Land Development Code (as may be amended by the Land Development Code Amendments) and as depicted on the Concept Plan.

4.8 Any docks or boat slips located, as depicted on the Concept Plan, must be constructed within the timeframe set forth within Section 10.2(a). Docks and boat slips as depicted on the Concept Plan, may not be sold, leased or transferred, except as permitted herein. No less than fifty percent (50%) of the docks and boat slips shall be open to the public on a first come first served basis for temporary dock usage, and not subject to a long-term lease or otherwise transferred for exclusive private use to an individual or entity. Short-term leasing (i.e. less than six (6) months) of boat slips is permitted. Developers reserve the right to charge for boat dockage and may reserve up to twenty-five percent (25%) of the boat slips for boat rentals and/or for a ferry service.

5. Land Development Code. The City and the Developers acknowledge and agree that if the development, or any alteration of the development of the Project, requires modification of certain City Land Development Regulations, the Developers shall be solely responsible for initiating and bearing any and all fees associated with modification to the City's Land Development Regulations or the formal establishment and enactment of a Planned Unit Development (PUD) zoning classification.

6. Purchase Price and Deferred Payment Schedule. Within ten (10) days after the Effective Date of this Agreement, the City and Bimini shall enter into a Purchase and Sale Agreement in substantial conformance with the form attached hereto as **Exhibit "E"** for the conveyance to Bimini of the Property, which is currently owned by the City as described in Section 6 herein for a total purchase price of Twenty-Four Million Three Hundred Thousand and No/100 (\$24,300,000.00) Dollars (the "**Purchase Price**"). Bimini shall provide the City a deposit in the amount of One Million and No/100 (\$1,000,000.00) Dollars (the "**Deposit**"), to be held in an interest bearing escrow account by the City, in order to secure control and initiate necessary pre-construction and site preparation work payable in accordance with the terms of the Purchase and Sale Agreement. Bimini shall pay the Deposit to the City in the form of a wire transfer of immediately available funds ("**Cash Deposit**") or a letter of credit issued by a commercial bank doing business within the State of Florida ("**Letter of Credit**"). The Deposit shall be non-refundable, except in the event of a default by the City, an inability to satisfy those conditions set forth in Section 6.7 below or as otherwise set forth in the Purchase and Sale Agreement. In the event Bimini delivers the Deposit in the form of a Cash Deposit, the entire amount of the Cash Deposit shall be applied against the Release Payment first due pursuant to Section 6.3 below. Any interest earned on the Cash Deposit shall be paid to the Seller. In the event Bimini delivers the Deposit in the form of a Letter of Credit, then the amount of the Letter of Credit shall be reduced on an annual basis by the amount of any Release Payments (as defined below) made by Bimini to the City.

6.1 Deferred Purchase Price. The total Purchase Price shall be deferred (the "**Deferred Purchase Price**"), without interest, and paid by Bimini in accordance with Section 6.3 below. The Deferred Purchase Price shall be amortized and paid in accordance with the phased purchase price payment schedule detailed in this Section. Notwithstanding the phased payment schedule, the entire outstanding balance of the purchase price shall be paid in full no later than ten (10) years from the Closing Date.

6.2 Trumbull Apartments and George's Garage. Bimini has negotiated Purchase and Sale Agreements as follows:

- (a) Purchase and Sale Agreement, with an effective date of August 5, 2026, entered into by and between Steven Edward Trumbull and Cindy Lou Trumbull, as Trustees under the Steven Edward Trumbull and Cindy Lou Trumbull Revocable Living Trust Agreement dated January 13, 2026 ("**Trumbull**") as Seller, and Bimini, as Purchaser, for the real property located at 4803, 4807 and 4815 Triton Court East, Cape Coral, Florida 33904, as more particularly described on **Exhibit "H"** hereto (the "**Trumbull Apartments Parcel**") for a purchase price of Five Million Five Hundred Thousand and No/100 (\$5,500,000.00) Dollars; and
- (b) Purchase and Sale Agreement, with an effective date of August 24, 2026, entered into by and between GMJD Properties, LLC, a Florida limited liability company ("**GMJD**"), as Seller, and Bimini, as Purchaser, for the real property located at 4804 Coronado Parkway, Cape Coral, Florida 33904, as more particularly described on **Exhibit "I"** hereto (the "**George's Garage Parcel**"), for a purchase price of Five Million Five Hundred Thousand and No/100 (\$5,500,000.00) Dollars.

At the closing between Bimini and Trumbull, the City shall pay Bimini Five Million Five Hundred Thousand and No/100 (\$5,500,000.00) Dollars, for the acquisition of the Trumbull Apartments Parcel. Additionally, at the closing between Bimini and GMJD, the City shall pay Bimini Five Million Five Hundred Thousand and No/100 (\$5,500,000) Dollars for the acquisition of the George's Garage Parcel, collectively Eleven Million (the \$11,000,000.00) Dollars referred to as (the "**Acquisition Funds**"). Bimini shall utilize the Acquisition Funds, to acquire fee simple title to Trumbull Apartments Parcel and George's Garage Parcel pursuant to the Purchase and Sale Agreements (as described in section 6 herein), thereby incorporating said properties to facilitate the unified and cohesive development of the overall Project.

In the event a Certificate of Occupancy, or a Temporary Certificate of Occupancy for any Vertical Improvement(s) regarding the Project is not issued on, or before October 1, 2032, Bimini shall, within thirty (30) days of written demand by the City, refund and repay to the City the full amount of the Acquisition Funds previously disbursed to Bimini under this Agreement.

6.3 As a strict condition precedent to the commencement of construction of Vertical Improvements on any portion of the Property and prior to the issuance of any Building Permit to Commence Vertical Construction for any portion of the Property (together the, "**Release Parcel**"),

Bimini shall pay to the City that portion of the Deferred Purchase Price allocated to the Release Parcel determined by multiplying the Deferred Purchase Price by a fraction, the numerator of which is the acreage of the Release Parcel and the denominator of which is the total acreage included within the Property net of any road rights of way or other land to be dedicated to the City or to a community development district on any plat of the Property (the “**Release Payment**”). In the event Bimini sells, conveys, leases for a term of more than five (5) years, or otherwise transfers all or any portion of or interest in the Property to a third party, the Release Payment of such portion of the Property shall be due to the City within ten (10) days of closing, payable from the proceeds of the sale to the third party and credited toward the remaining outstanding balance of the Deferred Purchase Price.

- (a) In the event Bimini sells, conveys, leases for a term of more than five (5) years, or otherwise transfers all or any portion of the Property prior to completion of Vertical Improvements (a “**Transferred Property**”), any subsequent development, redevelopment, construction, or land use on such Transferred Property shall be subject to the prior review and written approval of the City. Any transferee, buyer, or successor in interest shall submit all plans, site designs, and proposed developments to the City for formal approval prior to the issuance of any development permits or the commencement of any construction activity.

6.4 At the Closing, Bimini and the City shall perform the following:

- (a) The City will convey the Property to Bimini by Special Warranty Deed in accordance with the terms and conditions of the Purchase and Sale Agreement.
- (b) The City and Bimini shall enter into a Lease pursuant to the terms of which the City shall lease to Bimini Four Freedoms Park for a term of ninety-nine (99) years, the form of which is attached as **Exhibit “J”** (the “**Four Freedoms Park Lease**”). The precise boundaries and legal descriptions of the Four Freedoms Park shall be determined by a certified survey to be obtained by the City and shall be mutually agreed upon by both parties. The Four Freedoms Park Lease shall include a restrictive covenant requiring said property to be kept open for public use as a recreational area, and to be named Four Freedoms Park.

6.5 In order to facilitate the unified development of the Project, the Developers shall be responsible for securing clean title, fee simple ownership, or binding control of properties described as STRAP No. 13-45-23-C2-00083.0330, STRAP No. 13-45-23-C2-00000.30B0,

STRAP No. 13-45-23-C2-00000.30B1, and STRAP No. 13-45-23-C2-00102.0010, as depicted and more particularly described in **Exhibit “K”** attached hereto and incorporated herein (the **“Additional Parcels”**). Binding control of one or more of the Additional Parcels may be accomplished by the Developers entering into a binding contract with the owner of the Additional Parcel(s) to exchange the Additional Parcel(s) for a parcel of real property within the Property in which event the Developers shall be responsible for payment of the Release Payment to the City for the parcel to be exchanged with the owner of the Additional Parcel(s) at the earlier of (i) the time of the exchange of the Additional Parcel for a parcel of real property within the Property; or (ii) the issuance of a Building Permit to Commence Vertical Construction on the portion of the Property to be exchanged with the owner of the Additional Parcel(s).

6.6 Bimini’s obligation to pay the Deferred Purchase Price shall be set forth in a Promissory Note and Mortgage encumbering the Property to be executed by Bimini, at Closing, and recorded in the Public Records of Lee County, Florida. The Promissory Note shall be non-recourse to Bimini such that, in the event Bimini fails to pay the full Deferred Purchase Price to the City within ten (10) years after the Closing Date, the City may at its sole discretion foreclose the Mortgage to re-acquire title to the Property, less any portions thereof that have previously been released by the City.

6.7. The Closing shall occur within thirty (30) days after the satisfaction of the following:

- (a) Developers shall have entered into contracts to acquire control of the Additional Parcels, as set forth in Section 6.5 above;
- (b) Developers shall have met with the South Florida Water Management District (“**SFWMD**”) and obtained preliminary assurances that SFWMD would be willing to approve the Marina.

If the foregoing conditions have not been satisfied within one hundred eighty (180) days after the execution of the Purchase and Sale Agreement, then either party may terminate this Agreement and the Purchase and Sale Agreement, in which event the Deposit shall be returned to Bimini and the parties shall be released from any liability or obligation under this Agreement and the Purchase and Sale Agreement, unless the parties, by mutual agreement, agree to extend the deadline to satisfy the foregoing conditions.

7. Formal Recommendations.

7.1 The Cape Coral Community Redevelopment Agency formally authorized the approval of the Tax Increment Financing Rebate (“**TIF**”) Agreement on September 9, 2026, by way of CRA Resolution 11-26, which authorized a Tax Increment Financing Rebate in an amount not to exceed Forty-Five Million Seven Hundred Fifty Thousand (\$45,750,000.00)

Dollars, at a rate of 95%, with a project expiration date of September 30, 2042. The TIF Agreement is attached hereto as **Exhibit “M”**.

7.2 City shall provide the Cape Coral Community Redevelopment Agency with a formal recommendation to authorize the demolition of up to eight structures, not to exceed Two Hundred Thousand (\$200,000.00) Dollars per individual structure, pursuant to and in accordance with the Community Redevelopment Agency’s Demolition Assistance Grant Program.

7.3 City staff shall make a formal recommendation to amend the “Entertainment Area” boundaries, as defined within the City’s Code, to include the Project Area.

8. **Impact Fee Credits.** The Developers shall be eligible to receive Five Hundred Thousand (\$500,000) Dollars per fiscal year, on a cumulative basis, toward applicable impact fee credits associated with Fire, Advanced Life Support, Parks and Recreation and Mobility Impact Fees. In no event shall the aggregate principal amount paid by the City exceed Five Million (\$5,000,000.00) Dollars. Any portion of the impact fee credit that has not been utilized by Developers in any fiscal year shall carry forward as a credit to the next fiscal year. Conversely, Developers shall be entitled to reimbursement for any impact fees paid for any fiscal year to the extent that Developers pays any impact fees in excess of the annual credit.

8.1 The impact fee credits provided in this Agreement do not exclude Developers or any third party from seeking additional economic incentives or credits under the City Code, provided all applicable statutory and municipal requirements are met.

9. **Public Promenade Cost-Share; Pedestrian Walkway.** The Developers shall be responsible for initiating the design, permitting, and construction of the public pedestrian promenade connecting Bimini Square, located at 430-440 Cape Coral Parkway East, Cape Coral, Florida, to Bimini East, as depicted on **Exhibit “N”** attached hereto, in full compliance with the City’s Land Development Code. The final design of the promenade shall be subject to the review and approval by the City. The City shall contribute up to fifty (50%) percent of the costs incurred for the design, permitting, and construction of the pedestrian promenade, however, the City’s matching obligation shall be subject to and not to exceed amount of One Million (\$1,000,000.00) Dollars. Any and all project costs exceeding Two Million (\$2,000,000.00) Dollars associated with the pedestrian promenade shall be the sole responsibility of the Developers, without any right of contribution or reimbursement from the City. The City shall reimburse Developers, as the work progresses, within thirty (30) days after submission of an invoice from the Developers, together with certification from the Project Engineer that the work for which payment is being requested has been performed in accordance with the Approved Project Plans (as defined in Section 10.3 below) and applicable permits.

10. Design and Construction Documents.

10.1 Notwithstanding anything to the contrary contained herein, the Developers shall submit the application(s) for the civil engineering permits for the development of those certain components of the Project including the Marina (referred to herein as the “**First Phase of the Project**”) as described on **Exhibit “O”** attached hereto on or before six (6) months after the Closing Date.

10.2 Timing/Sequencing. Developers shall have the right to establish its own timeline for the development of the Project including the sequencing or order of the development of the Project (each “**Phase**”) as deemed appropriate by Developers; provided, however, that Developers shall:

(a) within twenty-four (24) months after receipt of all required governmental permits and approvals for the Marina or either adoption of the Land Development Code Amendments or zoning for a Planned Unit Development to allow the uses contemplated by the Concept Plan, whichever is later, (i) commence development of the First Phase of the Project and (ii) Commence Vertical Construction of at least two (2) buildings comprising not less than 200,000 square feet of space and (iii) dedicate to the City an area consisting of approximately one (1) acre as a neighborhood park, as shown on the Concept Plan, with two (2) tennis/pickleball courts and a children’s playground (the “**Neighborhood Park**”); and

(b) within twenty-four (24) months thereafter commence development of the balance of the Core Area.

All time frames shall be subject to force majeure events, as set forth in Section 41 below.

10.3 At Developer’s request, the City shall implement a priority review program for the City’s review and approval of the construction documents for the Project and all permits, inspections, and plans. As to permit and plan reviews, the City will provide pre-submittal review of the Developer’s permit and plan submittals at the 30%, 60% and 90% stage of completion of the Project. Each submittal shall be reviewed by the City within five (5) Business Days after receipt from the Developers. Each applicable City department or division thereof shall designate a qualified team of professionals dedicated to the Project to review proposed plans and give priority review of the Project over other review work unaffiliated with the Project. If the City timely rejects such submittals, the City shall give the specific and detailed reasons for such rejection; in which event, the Developers shall revise any such construction document for the rejected component of the Project so that any such construction document conforms to the Concept Plan and this Agreement and then re-submit any such construction document to the City pursuant to the foregoing process until such construction document has been approved by the City (such

construction documents, once approved by the City, are referred to herein as the “**Approved Project Plans**”). The Developers shall submit to the City for review and approval any proposed modifications to the Approved Project Plans that deviate from the Concept Plan and this Agreement. Proposed modifications to the Concept Plan and this Agreement require City Council approval. Such proposed modifications, once approved by the City, shall become part of the Approved Project Plans. Any dispute regarding the City’s rejection of the construction documents or any proposed modification thereof must be resolved prior to the commencement of the construction of the particular component of the Project in dispute. If the City fails to timely deliver a response or render a determination within said five (5) Business Days, then the City and Developers shall meet within three (3) Business Days thereof to reallocate or add resources to ensure compliance with the expedited priority review procedures provided herein. If such reallocation of resources is not possible or results in another untimely response in the same calendar year, then the City shall replace such professional and/or engage a new professional with a qualified professional who is capable of reviewing submittals on a timely basis.

10.4 In the event that Developers request that the City implement a priority review program for the City’s review and approval of the construction documents for the Project and all permits, inspections, and plans, as set forth above, then the Developers agree that it will compensate the City, on an hourly basis, for actual time spent by the qualified professional or team of professionals hired by the City for reviewing the Developer’s submittals and agrees to pay such hourly fee no more frequently than monthly upon receipt of a detailed invoice reflecting the specific submittal reviewed by the person performing such review. The hourly rate charged shall be the actual costs for all assigned personnel, with the rates for each based on the experience and technical skills of each employee, as mutually agreed upon by the City and the Developers. The current hourly rates are set forth on **Exhibit “P”** attached hereto. Upon request, the City shall provide the Developers a reasonable opportunity to review proposed rates prior to commencement of priority permit review work, and shall allow the Developers to prioritize and coordinate reviews and inspections based on actual needs as the Developers develop the Project. If the Developers fail to pay an uncontested priority review invoice within thirty (30) days after receipt of the invoice, the City shall deliver to the Developers a written demand notice whereupon the Developer shall have an opportunity to cure for a period of five (5) days after receipt of such demand notice before such nonpayment of an uncontested priority review invoice shall be deemed an Event of Default hereunder.

10.5 Upon reasonable notice from the Developers, the City will make available and mobilize a priority permit inspection team to perform on-demand, no later than next day inspections as needed. Upon notice from Developers that continuous inspection or review work is required, the City will assign full-time inspectors or reviewers on site, until the Developers notify the City that inspections or reviews are no longer needed continuously, and inspections and reviews may revert to an on-demand, no later than next day basis. The Developers agree that it will compensate the City for actual time spent for priority inspections and reviews and agrees to pay on a monthly basis invoices reflecting priority permit inspections performed. The hourly rate charged shall be reflective of the difficulty of the work performed and the skill level required of

the person performing the permit inspection, as reasonably determined by the City. The current hourly rates are set forth on **Exhibit “P”** attached hereto. If full-time on-site inspectors or reviewers are requested by the Developers, the Developers shall provide suitable air-conditioned work space for all on-site inspection personnel.

10.6. The City hereby agrees to provide procedural support to the Developers throughout the application and permitting processes at the local, state and federal levels to facilitate the accomplishment of the Project’s development objectives.

10.7 The City hereby acknowledges that after platting of the Property, construction and certification by the Project Engineer that the Project Infrastructure has been completed in accordance with applicable federal, state and local laws, codes and regulations regarding the construction of Public Facilities, and formal acceptance by the City for ownership and maintenance (as set forth in the Developer’s Project Budget) pursuant to the City’s standards and procedures adopted by ordinance for final inspections by all applicable departments and/or divisions having jurisdictional authority, there will be adequate Public Facilities to serve the Property, that the Public Facilities needed to serve the development authorized by this Agreement shall be provided concurrency with the development, and that the proposed development will be vested for concurrency and Public Facilities requirements.

10.8 All typical permit reviews and determinations under this Section 10 made by the City’s team members shall be in writing and shall be considered binding upon the City.

11. **Project Infrastructure.** The Developers shall be responsible for any and all costs and expenses associated with the design, permitting, and construction of all master on-site infrastructure necessary to serve the Project, including but not limited to all interior roadways, street lighting, wet and dry utilities, pedestrian facilities, exfiltration systems, and on-site stormwater management improvements and the Marina (the “**Project Infrastructure**”); provided, however, that the City shall be responsible for payment of any Contributions in Aid of Construction that may be levied by any utility or the City to off-set the cost of expanding water, sewer or irrigation infrastructure. No upsizing shall be required to service any properties located outside of the Project Area.

11.1 The Developers (or a property owners association or community development district established by the Developers within the Project Area) shall maintain exclusive ownership, management, and maintenance responsibilities for all interior roadways and all wet and dry utility systems, except for the lift station to be turned over to the City.

11.2 The Developers shall convey via Bill of Sale the proposed lift station required for the development of the Project to the City, subject to the lift station meeting all applicable engineering design standards and passing final inspection, the City shall accept and assume full operational control and responsibility for the ongoing management, repair and maintenance of the lift station, as described in **Exhibit “Q”** attached hereto.

11.3 The Developers shall be responsible for the design, permitting, and construction of the underground stormwater utility upgrades along Victoria Drive. The Developers shall coordinate with the City's Utilities Department and Stormwater Division prior to the design, permitting, and construction of the underground stormwater utility upgrades, which upgrades shall be subject to the City's approval. The City shall reimburse the Developers for actual and documented costs associated with the design and installation of such public infrastructure improvements, as the work progresses, within thirty (30) days after submission of an invoice from the Developers, together with certification from the Project Engineer that the work for which payment is being requested has been performed in accordance with the Approved Project Plans and applicable permits.

11.4 The City shall not require the Developers to provide, design, or engineer stormwater retention or detention capacity, or any downstream water and sewer utility expansions in excess of the volumes strictly necessitated by the Project.

11.5 Upon the City's receipt of a written engineer's certification of each portion of the Project Infrastructure, the City shall have the right to perform a final inspection of such infrastructure for purposes of confirming final completion; provided, however, the Project Infrastructure shall conclusively be deemed complete upon the City's issuance of a certificate of completion in accordance with the permits and plans (the "**Project Certificate**").

12. Public Improvements.

12.1 The City and Developers shall share equally in the costs associated with the design, permitting, and construction of public improvements, on and along Coronado Parkway and Miramar Street, including the installation of a traffic signal or roundabout at the intersection of Coronado Parkway and Miramar Street, net of any state or federal contributions that may be available for such purpose. Each party's maximum contribution to the costs associated with those public improvements on and along Coronado Parkway and Miramar Street, including the installation of a traffic signal or roundabout, shall not exceed One Million Five Hundred Thousand and No/100 (\$1,500,000.00) Dollars.

12.2 The Developers shall be solely responsible for the design, permitting and costs associated with the expansion of the sidewalks surrounding the Project Area as depicted on the Concept Plan.

12.3 The City shall, at its expense, replace existing streetlights along Coronado Parkway adjacent to the Project boundaries within twelve (12) months after the Closing Date. Except as set forth herein, Developers shall be responsible for selection and installation of street lights within the boundaries of the Project Area.

12.4 The Developers shall be solely responsible for the design, permitting, and all costs associated with the extension of gas lines owned by TECO to the Project Area.

12.5 If the Developers elects to provide facilities for a ferry service, then Developers shall be solely responsible for the design, permitting and costs associated with the construction of a ferry dock within the Marina. The Developers may be eligible to receive Mobility Fee Credits for the construction of the ferry dock, in accordance with Chapter 2, Administration, Article II, Fees, Division 5, Mobility Fees of the City's Code of Ordinances.

13. Construction of the Project.

13.1 The Developers shall construct the Project in accordance with the Approved Project Plans and applicable permits. Upon the commencement of construction of the Project, the Developers shall maintain a regular meeting schedule with the City to keep the City reasonably apprised of the progress of the construction of the Project in accordance with the terms and conditions contained herein, the City Code and the City's Land Development Regulations.

13.2 After the Closing, the City may inspect the Property in accordance with the City Code for the purpose of performing building permit inspections and code compliance investigation as is typical for all property located within the City of Cape Coral.

13.3 Completion of each phase/block of the Project shall occur when the Developers have obtained a temporary certificate of occupancy, a final certificate of occupancy, and/or a certificate of completion that individually or collectively encompass such phase/block of the Project, notwithstanding anything contained herein to the contrary.

13.4 The City shall cooperate with Developers' efforts to vacate all of the public rights of way and roadways within the boundaries of the Project Area. Developers shall be responsible for removal or capping of any existing utility lines or other facilities.

14. Amenities. The Developers shall be responsible for the design, permitting, financing, construction, operations, and long-term management of the Marina, Parking Garage(s) and bandshell facilities. The facilities shall be constructed and operated in strict compliance with all local, state, and federal regulatory requirements, including but not limited to approvals from the South Florida Water Management District and the U.S. Army Corps of Engineers. The Developers shall be responsible for the operation, management, programming, maintenance, and oversight of the bandshell, City installed mooring field, marina and parking structures. In order to offset the costs of the ongoing maintenance, the Developers shall be authorized to charge for and retain any and all revenues generated from the Marina, mooring field, bandshell and parking structures including any naming rights.

14.1 The Developers shall construct a Marina within Bimini Basin with fifty (50) boat slips, subject to issuance of all required governmental permits and approvals and the transfer by the City of slip credits to the Developers as contemplated below. The development of the Marina shall also include associated upland facilities, the final scope and specifications are subject to future determination and must be mutually approved by both parties. A minimum of fifty percent (50%) of the boat slips shall be reserved exclusively for public use and shall be made available to the general public. City shall provide a sufficient number of slip credits to the Developers, in order to meet the required number of boat slips for the Project.

14.2 The Developers shall construct up to a total of four (4) Parking Garages providing a minimum of 2,000 parking spaces. Of the total number of spaces provided in the Parking Garages, a minimum of 480 spaces shall be permanently dedicated for public use. Developers reserve the right to charge for the use of all parking spaces in the Parking Garages.

a. City Use of Parking Areas. The City and Developers shall enter into an agreement in such form and substance substantially consistent with the form attached as **Exhibit “R”** (the **“Parking Agreement”**), granting the City the right to use any parking within the Project owned and/or controlled by the Developers in order to stage emergency vehicles three (3) days prior to, during, and two (2) days after an emergency or a disaster as defined in Chapter 252, Florida Statutes upon such terms and conditions to be more specifically set forth in the Parking Agreement. By way of clarification, the Parking Agreement is an independent agreement and any future amendments, modifications, changes to the Parking Agreement shall not also require an amendment to this Agreement. The Parking Agreement shall be executed between the parties prior to the issuance of a certificate of occupancy or completion for the first Parking Garage to be completed by Developers within the Project Area.

14.3 The Developers shall be responsible for the operation, management, and maintenance of the City installed mooring field, which responsibilities shall be set forth within a separate agreement, which is in substantial conformance with the form agreement attached hereto as **Exhibit “S”** (the **“Operating Agreement”**). The Operating Agreement shall be executed between the parties prior to the issuance of a certificate of occupancy or completion for the Marina.

15. Police Substation. The Developers shall provide a standard retail office space to accommodate police services with a minimum of 4,000 square footage, at rental rates comparable to those offered to other third parties for retail space within the Project, reduced by any applicable Police Impact Fee Credits, with annual rental adjustments of three percent (3%) per year, for a term of twenty (20) years, with three (3) renewal options of ten (10) years each, as set forth within the draft lease agreement, which is in substantial conformance with the form lease attached hereto as **Exhibit “T”** and incorporated herein (the **“Police Substation Lease”**). The parties shall enter into the Police Substation Lease upon issuance of a Building Permit for the building in which the police substation will be located. The City shall operate and be responsible for the leased portion of property pursuant to the terms and conditions contained in the Police Substation Lease. The

Developers shall have no further obligation or liability in or with respect to the normal and ordinary operation, maintenance, repair and replacement of the Police Substation Lease, except (i) as otherwise provided in the Police Substation Lease, and (ii) at Developer's sole cost and expense, to diligently enforce and pursue all legal and equitable remedies related to the warranty provisions of the design contract, construction contract, or other applicable legal obligation; including civil litigation through appeal, applicable to the correction of defective conditions related to the Police Substation.

16. Applications for Community Development District and Environmental Permits.

16.1 The City and the Developers hereby acknowledge and agree that the Developers may, at the Developer's sole and absolute discretion, petition the City for the establishment of a community development district covering some or all of the Project Area (the "**CDD**") in accordance with the Uniform Community Development District Act of 1980, Chapter 190, Florida Statutes, as amended and supplemented (the "**CDD Act**"), which CDD shall, pursuant to the CDD Act, be authorized to issue bonds for the purpose, among others, of financing, funding, planning, establishing, acquiring, constructing or reconstructing, enlarging or extending and equipping basic public infrastructure projects within or outside the boundaries of the CDD (the "**CDD Bonds**"). The Developers' petition to the City for the establishment of the CDD shall be referred to herein as the "**CDD Application**". The City shall reasonably cooperate with the Developers' CDD Application. If the Developers submit the CDD Application before the Closing and/or to the extent required by the CDD Act, the City shall, as the owner of the Property, execute a consent and/or a joinder to the establishment of the CDD and filing of the CDD Application, unless City is otherwise prohibited by law from doing so. If permitted by law, the City shall not unreasonably withhold, condition or delay the City's execution of a consent and/or joinder to the establishment of the CDD and filing of the CDD Application as owner of the Property. The City shall process any such CDD Applications with reasonable diligence and shall timely schedule any hearings necessary to adopt an ordinance to establish the CDD.

If a CDD is established for the Project, then such CDD Bonds may finance, fund, plan, acquire, construct or reconstruct, enlarge or equip, operate and maintain systems and facilities for those purposes set forth in the CDD Act, generally and including specifically and without limitation those purposes in section 190.012(2), Florida Statutes. If created, the parties acknowledge that the CDD may be responsible for financing, funding, planning, acquiring, constructing or reconstructing, enlarging or equipping, operating and maintaining any such projects within or without the boundaries of the CDD required by the City and/or necessary to serve the Project. If created, the City shall maintain one (1) Supervisor seat on the CDD's Board of Supervisors.

At the Developers' option, all of the Project infrastructure, project, systems or facilities set forth in the CDD Act that the Developer's are required to provide, pay for, or otherwise cause to be provided under this Agreement and/or any related development permit, development order and/or

Building Permit are hereby expressly authorized to be assigned to and/or undertaken by the CDD established, or to be established, by the City without further action of the parties hereto and pursuant to Section 190.012(1)(g), Florida Statutes. In this event, the City and the CDD may enter into an Interlocal Agreement in a form substantially similar to **Exhibit “U”** attached hereto to formally acknowledge and memorialize the CDD’s rights, obligations, and responsibilities. The Interlocal Agreement will provide that, to the extent any such obligation is met or performed by the CDD, then the Developers shall no longer be subject to the obligation.

16.2 The City and the Developers hereby acknowledge and agree that the Developers are required to apply for the Environmental Permits in order to construct the Project. The City shall reasonably cooperate with the Developers in applying for the Environmental Permits, and if the Developers apply for the Environmental Permits before the Closing, the City shall sign such application(s) as the owner of the Property and/or a joinder to such application(s). The City shall not unreasonably withhold, condition or delay the City’s execution of such application(s) as owner of the Property or any joinder to such application(s).

If the Developers do not obtain the Environmental Permits, and/or the Environmental Permits contain any terms, conditions or obligations not consistent with the terms and conditions acceptable to Developers, in their sole and absolute discretion, then the Developers may elect to: (i) diligently prepare revised applications requesting the Environmental Permits for a revised Project that still conform with the Concept Plan; or (ii) exercise any rights of appeal the Developers may have.

17. Applications for Development Approvals and Development Permits. This Agreement contemplates that the Developers will file applications for Development Orders and Development Permits. The City shall use its best efforts to review all such applications and either issue the permit or a notice of insufficiency reasonably detailing items that are insufficient within thirty (30) calendar days from receipt thereof. Notwithstanding the foregoing, the Developers shall be solely responsible for obtaining all final, non-appealable Development Orders and Development Permits for the Project.

18. Laws Governing this Agreement. For the entire Term of this Agreement, the City hereby agrees that the City’s Land Development Regulations (as may be amended by the Land Development Regulation Amendments) governing the development of the Property (including the Project) as they exist as of the Effective Date of this Agreement shall govern the development of the Property (including the Project) during the entire Term of this Agreement. Notwithstanding the foregoing, the City may apply subsequently adopted laws or policies of general applicability to the Property (including the Project) (particularly as they may relate to quality of life issues such as, but not limited to noise, litter, and hours of operation) as permitted or required by the Act,

including, without limitation, Section 163.3233(2), Florida Statutes (2025), as same may be amended from time to time; provided, however, that in no event shall the City apply any subsequently adopted law or policies in a manner that requires any alterations or modifications to the Project or any amendments or modifications to the Concept Plan and this Agreement.

19. Compliance with Local Regulations Regarding Development Permits. This Agreement is not and shall not be construed as a Development Permit, Development Order, approval or authorization to commence any development, fill, or other land modification. The Developers and the City agree that the failure of this Agreement to address a particular permit, approval, procedure, condition, fee, term or restriction in effect on the Effective Date shall not relieve the Developers of the necessity of complying with any such permit, approval, procedure, condition, fee, term or restriction, subject however to the terms and provisions of this Agreement.

20. Reservation of Rights. This Agreement shall not affect any rights that may have accrued to any party to this Agreement under any applicable law, rule or regulation and each party hereto reserves any and all of such rights.

21. Consistency with the City's Comprehensive Plan. The City has adopted and implemented the Comprehensive Plan. The City hereby finds and declares that the provisions of this Agreement dealing with the Property (including the Project) are consistent with the City's Comprehensive Plan.

22. Concurrency. The Developers shall be solely responsible for obtaining all land use permits for the Project, including, but not limited to, all permits and approvals required pursuant to Section 163.3180, Florida Statutes (2025), with respect to concurrency requirements for roads, sanitary sewer, solid waste, drainage, potable water, parks and recreation, and schools (the "**Concurrency Requirements**"). Prior to applying for a Building Permit for the Project, the Developers shall apply to the appropriate governmental authorities and obtain letters or other evidence that the Developers have satisfied all applicable Concurrency Requirements with respect to the Project, and shall diligently and in good faith obtain such letters or other evidence that the Project meets all applicable Concurrency Requirements, and shall pay such impact fees or mobility fees as may then be due or applicable to meet Concurrency Requirements. The City shall reasonably cooperate with the Developers in applying for the Concurrency Requirements, and if the Developers apply for the Concurrency Requirements before the Closing, the City shall sign such application(s) as the owner of the Property and/or a joinder to such application(s). The City shall not unreasonably withhold, condition or delay the City's execution of such application(s) as owner of the Property or any joinder to such application(s).

23. Effective Date; Duration; and Term.

23.1 Within fourteen (14) days following approval of this Agreement at two (2) public hearings and the execution of this Agreement by all parties, the parties shall execute and record a Memorandum of this Agreement in the Public Records of Lee County, Florida. The form

of the Memorandum of Agreement is attached as **Exhibit “V”** hereto. The Developers shall be responsible for all recording fees related to the recording of the Memorandum.

23.2 This Agreement shall run for an initial term of twenty (20) years from the Effective Date (the “**Term**”); provided, however, that, if the Developers have made full payment of the Deferred Purchase Price as required by this Agreement, the Term of this Agreement shall automatically renew for two five (5) year periods, provided that the Agreement does not exceed a term of thirty (30) years, as set forth within Section 163.3229, Florida Statutes (2025). No notice of termination shall be required by either party upon the expiration of this Agreement, and after the expiration of this Agreement the parties shall have no further obligations under this Agreement, except for those obligations that expressly survive the expiration of this Agreement.

24. **Public Facilities to Serve the Project Area.** A description of the public facilities that will service the Project Area, including who shall provide such facilities, the date any new facilities, if needed, will be constructed, and a schedule to assure public facilities are available concurrent with the impacts of the development of the Property, is set forth in **Exhibit “W”** attached hereto and incorporated herein by this reference.

25. **Public Reservations and/or Dedications.** A description of the reservations and/or dedications of land for public purposes that are proposed under the terms of this Agreement is set forth in **Exhibit “X”** attached hereto and incorporated herein by this reference.

26. **Required Development Permits.** A listing and description of all local development permits approved or needed to be approved for the development of the Project is set forth in **Exhibit “Y”** attached hereto and incorporated herein by this reference.

27. **Default.** It shall be an “**Event of Default**” if the Developers shall fail to observe or perform any term, covenant or condition of this Agreement on the Developer’s part to be observed or performed and the Developers shall fail to cure or remedy the same within (i) ninety (90) days of the Developer’s receipt of written notice from the City with respect to monetary defaults, or (ii) sixty (60) Business Days of the Developer’s receipt of written notice from the City with respect to non-monetary defaults (each, a “**Default Notice**”). If such non-monetary default is susceptible to cure but cannot reasonably be cured within such sixty (60) Business Day period, then the Developers shall have additional time as is necessary to cure such failure and no Event of Default shall be deemed to exist hereunder so long as the Developers commences such cure within such initial sixty (60) Business Day period and diligently and in good faith pursues such cure to completion.

In the event the City shall claim any Event of Default shall have occurred under this Agreement, the City’s Default Notice shall state with specificity the provisions of this Agreement under which the Event of Default is claimed, the nature and character of such Event of Default, the date by which such Event of Default must be cured pursuant to this Agreement (if applicable), and, if elected by the City, that the failure of the Developers to cure such Event of Default by the

date set forth in such Default Notice will result in the City having the right to terminate this Agreement.

28. Enforcement of Performance; Damages; and Termination. If an Event of Default occurs under this Agreement, and such Event of Default has not been cured within any applicable notice and cure period, each party may elect (subject to the terms, conditions and limitations set forth in this Agreement) any one or more of the following remedies:

- (a) Enforce strict performance by the other party hereto; or
- (b) Pursue any other remedy available under this Agreement or at law or in equity.

A party's election of a remedy under this Agreement with respect to any one or more Events of Default shall not limit or otherwise affect the right to elect any of the other remedies available to it under this Agreement with respect to any Event of Default.

Notwithstanding anything to the contrary contained in this Agreement, in no event shall the City have the right to terminate this Agreement as long as the Developers are in compliance with their obligations under Section 10.2 of this Agreement or paid the entire Deferred Purchase Price to the City.

29. Strict Performance; Waiver. No failure by the City or the Developers to insist upon strict performance of any covenant, agreement, term or condition of this Agreement or to exercise any right or remedy available to such party by reason of the other party's default hereunder shall constitute a waiver of any such default or of such other covenant, agreement, term or condition hereunder.

30. Headings. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or content of this Agreement nor the intent of any provision hereof.

31. Notices. Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered or within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

If to the City at:	City of Cape Coral, City Hall
Physical Address:	1015 Cultural Park Boulevard
	Cape Coral, Florida 33990

Mailing Address:	PO Box 150027 Cape Coral, Florida 33915 Attn: City Manager
With a copy to:	City of Cape Coral, City Hall
Physical Address:	1015 Cultural Park Boulevard Cape Coral, Florida 33990
Mailing Address:	PO Box 150027 Cape Coral, Florida 33915 Attn: City Attorney
If to Developers at:	Larry S. Nygard Bimini Basin Redevelopment Company, LLC 1918 9 th Street East West Fargo, ND 58078
	Larry S. Nygard Crown Development, Inc. 1918 9 th Street East West Fargo, ND 58078
With a copy to:	Bolanos Truxton, PA 12730 New Brittany Blvd., Suite 102 Fort Myers, FL 33907 Attn: Gregg S. Truxton

32. Execution and Counterparts. To facilitate execution of this Agreement, the parties hereto agree that this Agreement may be executed and transmitted to the other parties and that the executed copy shall be binding and enforceable as an original; the parties agree to fully execute two originals of this Agreement. This Agreement may be executed in as many counterparts as may be required and it shall not be necessary that the signature of, or on behalf of, each party; or that the signatures of all persons required to bind any party, appear on each counterpart; it shall be sufficient that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single agreement.

33. Governing Laws, Construction and Litigation. This Agreement shall be governed and construed in accordance with the laws of the State of Florida, both substantive and remedial, without regard to principles of conflict of laws. The Developers and the City agree that Lee County, Florida is the appropriate and exclusive state court venue, and that the U.S. District Court, Middle Division of Florida is the appropriate and exclusive federal court venue, in connection with any

litigation between the parties with respect to this Agreement. 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 of the parties hereto. In construing this Agreement, captions, and section and paragraph headings shall be disregarded and the use of any gender shall include every other and all genders. All of the exhibits referenced in this Agreement are incorporated in, and made a part of, this Agreement. In the event of any litigation between the parties under this Agreement for a breach thereof, each party shall bear its own attorney's fees and court costs at all trial and appellate levels. The terms of this paragraph shall survive the expiration or earlier termination of this Agreement.

34. Severability. If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereto.

35. Time of Essence. Time shall be of the essence for each and every provision hereof.

36. Entire Agreement. This Agreement, together with the documents referenced herein, constitutes the entire agreement and understanding among the parties with respect to the construction and development of the Project, and there are no other agreements, representations or warranties other than as set forth herein. Neither party shall be bound by any agreement, condition, warranty nor representation other than as expressly stated in this Agreement. This Agreement may not be changed, altered or modified except by an instrument in writing signed by both parties hereto, subject to the requirements for the amendment of development agreements in the Act.

37. Other Agreements. This Agreement has no effect on any other agreement, the City's development orders, or declaration of restrictions otherwise encumbering the Property. Any and all agreements currently in the public records remain valid. The parties incorporate by reference each and every requirement set forth in the Act.

38. Integrated Agreement, Waiver, Modification. This Agreement (together with the documents specifically referred to herein) represents the complete and entire understanding and agreement between and among the parties hereto with regard to all matters involved in this Agreement and supersedes any and all prior or contemporaneous agreements, whether written or oral. This Agreement may not be modified or amended, nor may any provision contained herein be waived, except in writing signed by all parties, or if such modification, amendment, or waiver is for the benefit of one or more of the parties hereto and to the detriment of the others, then the same must be in writing signed by all parties to whose detriment the modification, amendment or waiver inures.

39. Binding Effect. The obligations imposed pursuant to this Agreement upon the Developers and upon the Property shall run with and bind the Property as covenants running with

the Property, and this Agreement shall be binding upon and enforceable by and against the parties hereto and their respective successors, assigns and heirs.

40. Attorney's Fees. In the event that any party finds it necessary to employ an attorney to enforce any provisions of this Agreement, each party shall bear the cost of its attorney's fees.

41. Force Majeure. All time periods set forth in this Agreement, or in any Project development timeline and in any approval or permit issued in connection with the Project will be tolled due to force majeure events (including, without limitation, strikes, lockouts, acts of God, hurricanes and severe weather, pandemics, epidemics, diseases or public health emergencies and any quarantines related thereto, government acts or inaction, moratorium, laws, regulations or shutdowns, public disorder, riot, labor disputes, material or labor shortages, supply chain disruptions, or civil commotion, acts of war, insurrection or terrorism and other causes beyond the control of either party).

42. Indemnification. Developers shall indemnify, defend and hold the City harmless from and against any actual damages, losses, liabilities, fees, costs and expenses incurred by the City in any action, suit or proceeding brought against the City by any third-party as a result of any breach of this Agreement by the Developers or negligent act or omission of the Developers and/or its officers, directors, managers, members, employees, contractors and agents in performing under this Agreement. The Developers shall directly pay all actual costs and expenses related to any expense or cost charged, or legal defense required by the City pursuant to the foregoing. The City shall reasonably cooperate and collaborate (but at no expense to the City) with the Developers in connection with any legal proceeding in which the Developers is defending the City. This paragraph shall survive the expiration or any earlier termination of this Agreement.

43. Corporate Obligations. It is expressly understood that this Agreement and the obligations issued hereunder are solely corporate obligations, and that no personal liability will attach to, or is or shall be incurred by, the incorporators, stockholders, officers, directors, managers, members, partners, trustees, beneficiaries, elected or appointed officials (including, without limitation, the Mayor and City Manager of the City) or employees, as such, of the Developers, the City, or any successor or assign of any of them, under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom; and that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any of all such rights and claims against, every such incorporators, stockholders, officers, directors, managers, members, partners, trustees, beneficiaries, elected or appointed officials (including, without limitation, the Mayor and City Manager of the City) or employees, as such, or under or by reason of the obligations, covenants or agreements contained in this Agreement or implied therefrom are expressly waived and released as a condition of, and as consideration for, the execution of this Agreement.

44. No Conflict of Interest. The Developers represent and warrants that no member, official or employee of the City has any direct or indirect financial interest in this Agreement nor

has participated in any decision relating to this Agreement that is prohibited by law. The Developers represent and warrant that no officer, agent, employee, or representative of the City has received any payment or other consideration for the making of this Agreement, directly or indirectly, from the Developers.

45. No Third Party Beneficiaries. This Agreement is not intended to, and shall not be construed to give, any third party (including, without limitation, any homeowners association, condominium association, or neighborhood association in the surrounding area, or any individual members thereof) any rights or interests whatsoever, nor is it intended that any third party shall be a third party beneficiary of any provisions hereof.

46. Limitations of Liability and Waiver of Consequential Damages

46.1 Any tort liability to which the City is exposed under this Agreement shall be limited to the extent permitted by applicable law and subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, as may be amended, which statutory limitations shall be applied as if the parties had not entered into this Agreement, and City expressly does not waive any of its rights and immunities thereunder.

46.2 The City will not in any event whatsoever be liable for any injury or damage to the Developers (unless caused by the gross negligence or willful misconduct of the City, its agents, contractors or employees), nor for any injury or damage to the Property (unless caused by the gross negligence or willful misconduct of the City, its agents, contractors or employees), caused by the use, misuse or abuse of the Property (unless caused by the gross negligence or willful misconduct of the City, its agents, contractors or employees).

46.3 The City will not be liable to the Developers for any injury or damage to the Property caused by or resulting from gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or similar storms or disturbances, or water, rain or snow which may leak or flow from any part of the Property, or leakage of gasoline or oil from pipes, appliances, sewer or plumbing works therein (unless caused by the gross negligence or willful misconduct of the City, its agents, contractors or employees).

46.4 Except as may be otherwise expressly provided herein, no approval to be made by the City in its proprietary capacity under this Agreement or any inspection of the Property or the Project by the City under this Agreement, shall render the City liable for its failure to discover any defects or nonconformance with any governmental requirement. Any approvals to be made by the City under this Agreement shall be made by the City Manager or their designee.

46.5 No member, official, elected representative or employee of the City shall be personally liable to the Developers or any successor, assign or heir thereof in the event of any default or breach of this Agreement by the City or for any amount which may become due to the Developers or successor, assign or heir thereof under this Agreement.

47. Police Power.

47.1 The parties recognize and agree that certain provisions of this Agreement require the City and its boards, departments or agencies, acting in their governmental capacity, to consider governmental actions. All such considerations and actions shall be undertaken in accordance with established requirements of state statutes and municipal ordinances in the exercise of the City's jurisdiction under the police power. Nothing contained in this Agreement shall entitle the Developers to compel the City to take any such actions, save and except for the execution of consents (if applicable) to the filing of applications for the Project Approvals, Development Permits and/or Development Orders as more fully set forth herein and to timely process such applications.

47.2 The parties further recognize and agree that these proceedings shall be conducted openly, fully, freely and fairly in full accordance with law and with both procedural and substantive due process to be accorded the applicant and any member of the public. Nothing in this Agreement shall be construed to prohibit the City from duly acting under its police power to approve, approve with conditions, or reject any public hearing application dealing with the Property.

48. Conflict. In the event of an inconsistency or conflict between the terms of this Agreement and the terms of the Purchase and Sale Agreement, the terms of this Agreement shall control.

49. No Development Risk by City. No development risk shall be assumed by the City by entering into this Agreement.

50. Periodic Review of a Development Agreement. The City shall review land subject to a development agreement at least once every twelve (12) months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. If the City finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the agreement may be revoked or modified by the City, as set forth within Section 163.3235, Florida Statutes (2025).

51. Audit. In the performance of this Agreement, Developers shall keep and maintain books, records and accounts of all activities related to this Agreement, in compliance with Generally Accepted Accounting Principles (GAAP). Throughout the term of this Agreement, books, records and accounts related to the performance of this Agreement shall be open to inspection at any reasonable time by an authorized representative of the City Auditor's Office and shall be retained by Developers for a period of three (3) years after termination or completion of this Agreement or until the full City audit is complete, whichever comes first. The City shall retain the right to audit the books during the three-year retention period. All books, records and accounts related to the performance of this Agreement shall be subject to the applicable provisions of the

Florida Public Records Act, Chapter 119, Florida Statutes. The provisions of this section shall expressly survive the expiration or earlier termination of this Agreement for a period of three (3) years.

52. Public Records. To the extent required by law, the Developers shall comply with all public records requests, whether made to the City, CRA or to the Developers, 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 Developers are required by law to comply with a public records request and fails to do so, the Developers shall indemnify the City, CRA and the Related Parties. The foregoing obligation shall expressly survive the expiration or earlier termination of this Agreement.

53. Nothing herein shall be construed as a waiver of the City's statutory sovereign immunity limitations as provided for by Florida Statutes 768.28.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

EXECUTED as of the date first above written in several counterparts, each of which shall be deemed an original, but all constituting only one agreement.

Signed, sealed and delivered
In the presence of:

CITY OF CAPE CORAL,
a Florida municipal corporation

Print Name:_____

By:_____
Michael Ilczyszyn, City Manager

Attest:_____
Kimberly Bruns, City Clerk

Approved as to Form:

Aleksandr Boksner, City Attorney

Signed, sealed and delivered
In the presence of:

DEVELOPER
CROWN DEVELOPMENT, INC.
a North Dakota profit corporation

Print Name: _____

By: _____
LARRY NYGARD, PRESIDENT

STATE OF _____)
_____)SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
2026, by _____, as _____ of
_____, on behalf of the company. He is personally known to
me or has produced _____ as identification and who did (did not) take an
oath.

NOTARY PUBLIC

Typed or Printed Name of Notary
My Commission expires:
Serial No., if any: _____

DEVELOPER
Bimini Basin Redevelopment Company, LLC

By: _____
LARRY NYGARD, PRESIDENT

The foregoing instrument was acknowledged before me this ____ day of _____, 2026, by _____, as _____ of _____, on behalf of the company. He is personally known to me or has produced _____ as identification and who did (did not) take an oath.

Typed or Printed Name of Notary
My Commission expires:
Serial No., if any: _____

EXHIBIT A

Exhibit “A”

Legal Description of the Property

Block 81, Lots 1 through 29, and Lots 34 through 59, Cape Coral Unit Six, Part One, according to the Plat thereof, as recorded in Plat Book 11, Pages 45 through 47, inclusive, of the Public Records of Lee County, Florida.

Block 82, Lots 1 through 50, Cape Coral Unit Five, according to the Plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

Block 83, Lots 1 through 9, Lots 20 through 32, and Lots 35 through 40, Cape Coral Unit Five, according to the Plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

Block 84, Lots 1 through 32, Cape Coral Unit Five, according to the Plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

EXHIBIT B

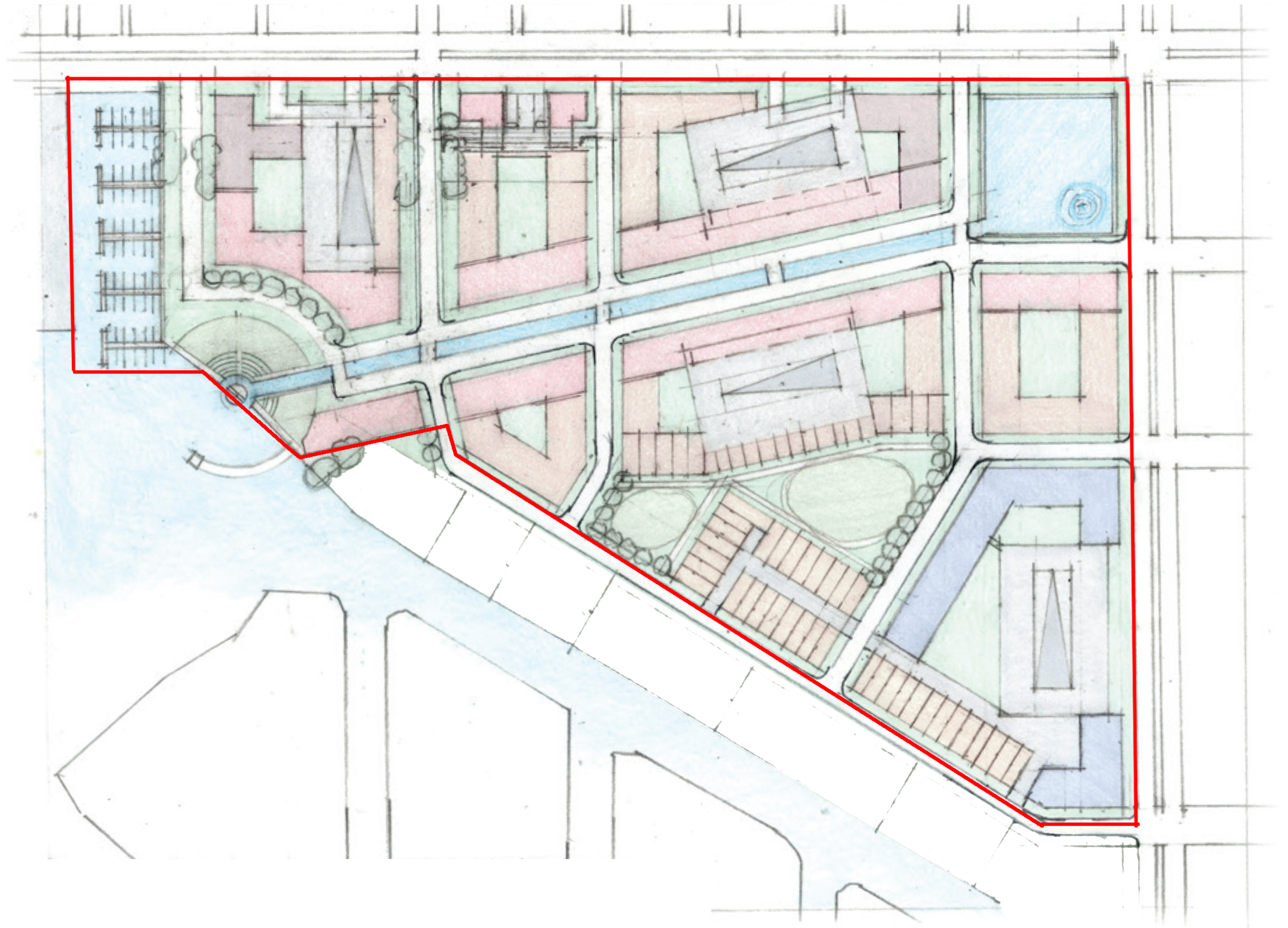


EXHIBIT C

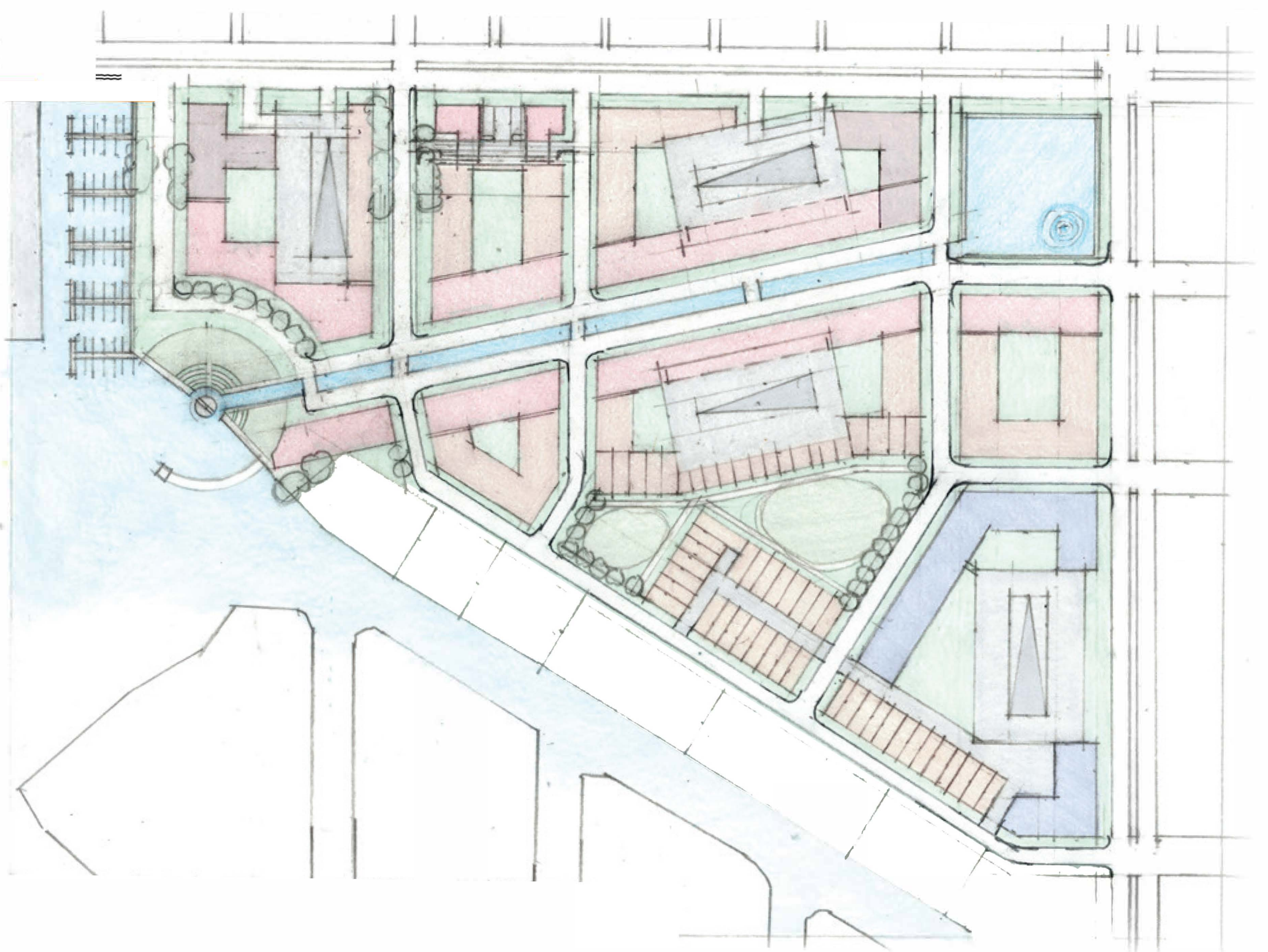


EXHIBIT D

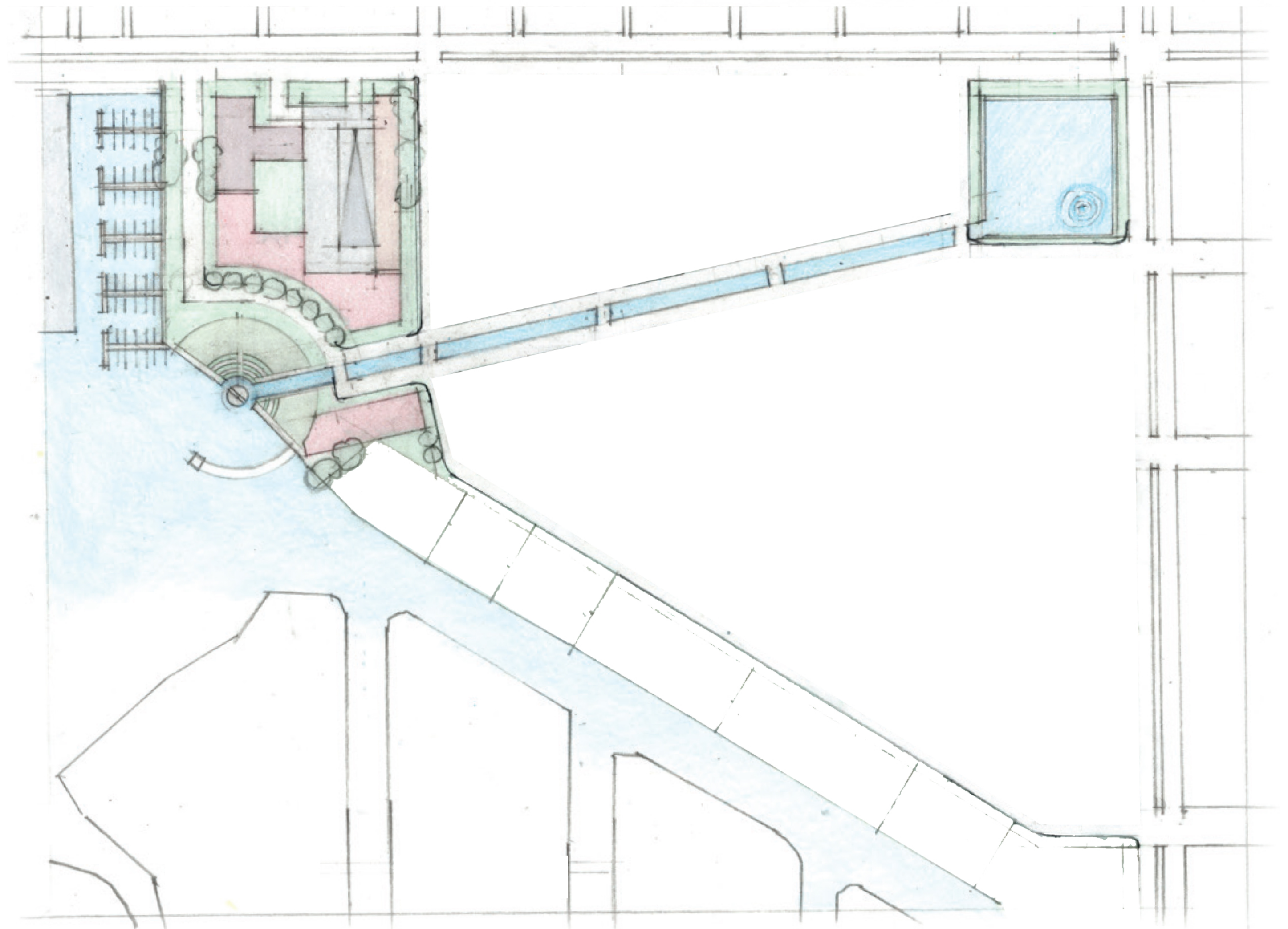


EXHIBIT E

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“**Agreement**”) is dated as of the Effective Date (as defined in Section 25) and entered by the CITY OF CAPE CORAL, a Florida municipal corporation (hereinafter referred to as “**Seller**”), with a mailing address of P.O. Box 150027, Cape Coral, Florida 33915-0027 and BIMINI BASIN REDEVELOPMENT COMPANY, LLC, a Florida limited liability company, with a mailing address of 1918 9th Street East, West Fargo, North Dakota, 58078, (hereinafter referred to as “**Buyer**”).

BACKGROUND:

A. This Agreement is the result of the Buyer’s formal response to Request for Proposal (“RFP”) No. RCR25176KMR for the Redevelopment of Bimini East, which envisioned the development of certain real property currently owned by Seller and commonly referred to as Bimini East.

B. Seller is currently the owner of approximately 20.1079 acres of unimproved land located at the southwest quadrant of Coronado Parkway and Cape Coral Parkway, in Cape Coral, Florida 33904, which is in Lee County, Florida, and which is more particularly described on Exhibit “A” attached hereto and made part hereof (the “**Property**”).

C. The parties to this Agreement have entered into a Development Agreement, dated _____, 2026 (the “**Development Agreement**”).

D. The parties to this Agreement have agreed to the sale and purchase of the Property on the terms and conditions which are set forth in this Agreement.

AGREEMENT:

1. **Purchase and Sale.** Subject to all the terms and conditions of this Agreement, Seller will sell to Buyer and Buyer will purchase from Seller the Property as described in Exhibit “A”, attached hereto and made part hereof, together with all appurtenances, rights, easements, restrictions, and development rights incident thereto, including, without limitation, the following:

a) All easements, rights of way, privileges, licenses, appurtenances and any other rights, privileges and benefits belonging to the owner of, running with title to, or in any way related to, the Property, if any.

b) All land use rights or other consents, authorizations, variances, waivers, licenses, permits, vested concurrency rights, approvals, development orders, or any other entitlements issued or granted by or from any governmental authority with respect to the Property, if any.

c) All percolation, soil, topographical, traffic, engineering and environmental reports, appraisals or studies in the possession or control of the Seller, and all riparian, littoral rights, title to submerged lands and other water rights related to or benefiting the Property, if any.

d) All other agreements, contracts, covenants, variances and rights, benefits and privileges, and all other intangible rights of Seller related to or benefiting the Property, if any, including the prospective abandonment of unwanted easements or rights of way.

2. **Purchase Price and Deferred Payment Schedule.**

a) The purchase price for the Property is Twenty-Four Million Three Hundred Thousand and No/100 (\$24,300,000.00) Dollars (“**Purchase Price**”). The Purchase Price shall be paid in accordance with the phased purchase price payment schedule detailed in Section 6 of the Development Agreement.

b) **Deposit.** Buyer shall provide the City a deposit in the amount of One Million and No/100 (\$1,000,000.00) Dollars (the “**Deposit**”), to be held in an interest bearing escrow account by the City, in order to secure control and initiate necessary pre-construction and site preparation work payable as follows: (i) an initial deposit in the amount of Two Hundred Fifty Thousand and No/100 (\$250,000.00) Dollars (the “**Initial Deposit**”) within two (2) business days following the Effective Date of this Agreement; and (ii) an additional deposit in the amount of Seven Hundred Fifty Thousand and No/100 (\$750,000.00) Dollars (the “**Additional Deposit**”) within five (5) business days after satisfaction of the conditions set forth in Section 6.7 of the Development Agreement. The Initial Deposit and the Additional Deposit shall be referred to together as the “**Deposit**”. The Deposit shall be non-refundable, when made, except in the event of a termination of this Agreement as a result of (i) a default by the Seller, (ii) the inability to satisfy those conditions set forth in Section 6.7 of the Development Agreement and Section 5 of this Agreement; (iii) as set forth in Section 3 of this Agreement relating to Seller’s unwillingness or inability to cure any Title Objections; or (iv) as set forth in Section 4 of this Agreement relating to the Additional Conditions. Buyer shall pay the Deposit to the Seller, in the form of a wire transfer of immediately available funds (“**Cash Deposit**”) or a letter of credit issued by a commercial bank doing business within the State of Florida (“**Letter of Credit**”). In the event, the Cash Deposit is delivered, it shall be invested in an interest-bearing account selected by the Seller. In the event Buyer delivers the Deposit in the form of a Cash Deposit, the entire amount of the Cash Deposit shall be applied against the Release Payment first due pursuant to Section 6.3 of the Development Agreement. Any interest earned on the Cash Deposit shall be paid to the Seller. In the event Buyer delivers the Deposit in the form of a Letter of Credit, then the amount of the Letter of Credit shall be reduced on an annual basis by the amount of any Release Payments (as defined below) made by Buyer to the City.

c) **Deferred Purchase Price.** The total Purchase Price shall be deferred (the “**Deferred Purchase Price**”), without interest, and paid by Buyer in accordance with Section 6 of the

Development Agreement. Notwithstanding the foregoing, the entire balance of the Purchase Price shall be paid in full no later than ten (10) years after the Closing Date.

Notwithstanding the foregoing, the Deferred Purchase Price shall be amortized and paid in accordance with the phased purchase price payment schedule detailed in Section 6 of the Development Agreement. Notwithstanding the phased payment schedule, the entire outstanding balance of the Purchase Price shall be paid in full no later than ten (10) years from the Closing Date. As a strict condition precedent to the commencement of construction of Vertical Improvements on any portion of the Property and prior to the issuance of any Building Permit to Commence Vertical Construction for any portion of the Property (together the "Release Parcel"), the Buyer shall pay to the Seller that portion of the Deferred Purchase Price allocated to the Release Parcel, determined by multiplying the Deferred Purchase Price by a fraction, the numerator of which is the acreage of the Release Parcel and the denominator of which is the total acreage included within the Property net of any road rights of way or other land to be dedicated to the Seller or to a community development district on any plat of the Property (the "Release Payment").

In the event the Buyer sells, conveys, leases for a term of more than five (5) years, or otherwise transfers, all or any portion of or interest in the Property to a third party, the Release Payment of such portion of the Property shall be due to the Seller within ten (10) days of closing, payable from the proceeds of the sale to the third party and credited toward the remaining outstanding balance of the Deferred Purchase Price.

Buyer's obligation to pay the Deferred Purchase Price shall be set forth in a Promissory Note and Mortgage encumbering the Property to be executed by the Buyer, at Closing, and recorded in the Public Records of Lee County, Florida. The Promissory Note shall be non-recourse to the Buyer such that, in the event Buyer fails to pay the full Deferred purchase Price to the Seller within ten (10) years after the Closing Date, the Seller may, at its sole discretion, foreclose the Mortgage to re-acquire title to the Property, less any portions thereof that have previously been released by the Seller.

3. Title and Title Insurance; Survey

a) Within five (5) calendar days from the Effective Date, Buyer shall, at its sole cost, cause the law firm of Bolanos Truxton, PA, ("**Title Agent**") as agent for Chicago Title Insurance Company (the "**Title Company**") to order a standard owner's preliminary title commitment ("**Title Commitment**") which shall describe the Property, list Buyer, or Buyer's assignee, as the prospective named insured, show as the policy amount the Purchase Price, contain the commitment of the title company to insure Buyer's fee simple interest in the Property upon the Closing, and show that title to the Property is good and marketable and insurable subject to no liens, encumbrances, exceptions or qualifications which would preclude the Buyer, in its sole discretion, from constructing and developing Bimini East.

b) Buyer shall have ten (10) calendar days from receipt of the Title Commitment in which to examine the condition of title and make its written objections ("**Title Objections**") to the

form or content of the Title Commitment by providing written notice to Seller setting forth the Title Objections (“**Objections Letter**”). If the Buyer fails to provide the Objections Letter to Seller within such time, then, for all purposes of this Agreement, the Buyer shall be deemed to have accepted title in the condition described in the Title Commitment. Any title exceptions which are not objected to within such time shall be deemed to be acceptable to Buyer and permitted exceptions (“**Permitted Exceptions**”).

c) If the Buyer timely notifies the Seller of any Title Objections, then the Seller agrees to use reasonable diligence to cure such Title Objections and otherwise make title good, marketable, and insurable, for which purpose the Seller shall have thirty (30) calendar days to cure or address said Title Objections. After reasonable diligence on the part of the Seller, if the Title Objections are not cured (as determined by Buyer), then at the end of such thirty (30) day period Buyer may elect to (1) terminate this Agreement and the Deposit shall be promptly returned to Buyer, and all parties hereto shall be released from any and all obligations and liabilities hereunder or (2) waive any Title Objections, by written notice to the Seller, in which event such Title Objections shall be deemed Permitted Exceptions and the Closing shall take place pursuant to this Agreement without any abatement in the Purchase Price. If Buyer fails to notify Seller of either election under the preceding sentence within such thirty (30) calendar day period, the Buyer shall be deemed to have waived any such Title Objections. If Buyer, timely delivers an Objection Letter, then, within five (5) calendar days after receipt thereof, Seller shall give to Buyer a written notice (the “**Title Cure Notice**”) that identifies which, if any, title defects objected to that Seller does not agree to, or cannot, cure; it being understood and agreed that Seller shall not be obligated to cure any defects, accept as provided herein. If Seller gives Buyer notice that Seller will not, or cannot, remove one or more title objections, then Buyer shall have the right, at its option, either to (1) terminate this Agreement by notice to Seller given within five (5) calendar days after receipt of the Title Cure Notice, in which event the Deposit shall be promptly returned to Buyer, and all parties hereto shall be released from any and all obligations and liabilities hereunder, or (2) proceed to close the transaction contemplated by this Agreement, in which event Buyer shall waive Buyer’s objections. Seller shall satisfy all “requirements” imposed on Seller as set forth in Schedule B-I of the Title Commitment prior to the Closing Date (as defined in Section 5 of this Agreement). Notwithstanding anything to the foregoing herein, Seller shall be required to satisfy, discharge or bond over liens, encumbrances, or other monetary items which can be satisfied by the payment of an ascertainable sum.

d) Prior to Closing Date, the Title Agent shall update the Title, and title to Property shall be free of all encumbrances other than the Permitted Exceptions. If any matter shall be recorded against the Property between the date of the Title Commitment and the Closing Date, which is not contained in the Title Commitment (“**New Matter**”), then each such New Matter shall be deemed to be objectionable to Buyer and shall be removed by Seller promptly upon Buyer’s request, but in all events, prior to the Closing Date.

e) Within ten (10) days after the Effective Date of this Agreement, Seller shall provide to Buyer copies of any existing surveys of the Property within Seller’s possession or control, if any.

Buyer may obtain a current survey of the Property at Buyer's option and expense, within sixty (60) days after the Effective Date. Buyer shall have ten (10) days after receipt of the survey to notify Seller of any encroachment of any improvements upon the land, any boundary disputes or violation of any easements, setback requirements or other covenants revealed by the survey. Any such objections shall be treated as a Title Objection as provided above.

4. **Additional Conditions.** Buyer's obligation under this Agreement is expressly subject to and conditioned upon the receipt by Buyer, at Buyer's expense, in form and substance satisfactory to Buyer, of the following; (i) a Phase One Environmental Site Assessment Report reflecting no recognized environmental conditions on or about the Property; and (ii) a wildlife species report reflecting that there are no protected species on or about the Property (collectively, the "**Environmental Reports**"). Buyer shall have period of ninety (90) days to obtain the Environmental Reports. In the event that the Environmental Reports are not satisfactory to Buyer, in Buyer's sole discretion, then Buyer may terminate this Agreement in which event the Deposit shall be promptly returned to the Buyer and the parties shall be released from any liability or obligation under this Agreement.

5. **Closing Date.** The Closing shall occur within thirty (30) days after the satisfaction of the following:

- a) Buyer and Crown Development, Inc., (collectively referred to as "Developers" in the Development Agreement) shall have entered into contracts to acquire control of additional parcels, as set forth in Section 6.5 of the Development Agreement;
- b) Developers shall have met with South Florida Water Management District ("SFWMD") and obtained from SFWMD preliminary assurances that the District would be willing to approve the marina within the Bimini development.

If the foregoing conditions have not been satisfied within one hundred eighty (180) days after the execution of this Agreement, then either party may terminate this Agreement and the Development Agreement, in which event the Deposit shall be promptly returned to the Buyer and the parties shall be released from any liability or obligation under this Agreement, unless the parties, by mutual agreement, agree to extend the deadline to satisfy the foregoing conditions.

6. **Closing Conditions.** The obligations of Buyer to pay the Purchase Price, and to perform Buyer's other obligations at the Closing are and shall be subject to the satisfaction of each of the following conditions on or prior to the Closing Date:

- a) Seller shall have delivered Seller's executed closing documents to Title Agent.
- b) Title to the Property shall be free of all encumbrances other than the Permitted Exceptions and the Property shall be free of violations of record of any applicable law.

c) The Title Agent shall be able to deliver at closing a Title Insurance Policy (“**Title Policy**”) insuring Buyer’s right, title, and interest in the Property in the amount of the Purchase Price, excepting no matters other than the Permitted Exceptions.

d) All the representations and warranties of Seller contained in this Agreement shall have been true and correct when made and shall be true and correct on the Closing Date with the same effect as if made on and as of such date.

7. **Buyer & Seller’s Closing Documents.** Buyer and Seller shall deliver to each other’s legal counsel at least three (3) days prior to the Closing copies of the following documents, dated as of the Closing Date, the delivery and accuracy of such executed documents which shall be a condition to the Buyer’s obligation to consummate the purchase and sale:

a) **Special Warranty Deed.** A Special Warranty Deed in recordable form, duly executed by the Seller, conveying to the Buyer title against claims and demands of the Seller and all persons claiming by, through and under the Seller to the Property subject to the Permitted Exceptions, with the legal description provided in the Title Commitment.

b) **Affidavit.** A “gap”, no-lien, and exclusive possession affidavit sufficient for the title company to delete any expectations for parties in possession, mechanic’s or materialmen’s liens and “gap” from the title policy. The no-lien affidavit shall relate to any activity of the Seller at the Property within the period that a mechanic’s lien can be filed based on such activity prior to the closing.

c) **Seller Authorization.** Evidence of Seller’s authorization to consummate this transaction, as required by the Title Agent.

d) **Additional Documents.** Such additional documents as are customarily required of sellers in transactions of this type in Lee County, Florida or as may be reasonably necessary to consummate the purchase and sale of the Property, together with any other documents, instruments, or agreements called for under this Agreement that have not been delivered previously.

8. **Seller’s Warranties.** Seller hereby represents and warrants to Buyer as follows:

a) There are no condemnation or eminent domain proceedings pending or to the best of Seller’s knowledge contemplated against the Property or any part thereof, and the Seller has received no notice of the desire of any public authority to take or use the Property or any part thereof.

b) There are no pending suits or proceedings against or affecting Seller or any part of the Property which (i) do or could affect title to the Property or any part thereof; or (ii) do or could

prohibit or make unlawful the consummation of the transaction contemplated by this Agreement or render Seller unable to consummate the same.

c) The Seller has full power and authority, and all necessary governmental actions on behalf of Seller have been taken, to execute and deliver this Agreement, to perform all obligations arising under this Agreement, and to complete the transfer of the Property contemplated by this Agreement. This Agreement has been duly executed and delivered by the Seller and constitutes a valid, binding, and enforceable obligation of the Seller.

d) Seller has no notice or actual knowledge of: (i) any pending improvement liens to be made by any governmental authority with respect to the Property, (ii) any violations of zoning ordinances or other governmental regulations with respect to the Property; (iii) any pending or threatened condemnation proceedings with respect to the Property; or (iv) any suit, action, claim or other proceeding which relates to or affects the Property.

e) No person or entity has any agreement, commitment, option, right of first refusal, right of first offer, or any other right, option or agreement, whether oral or written, with respect to the purchase of the Property or any portions thereof, other than Buyer, pursuant to this Agreement. Prior to Closing, no portion of the Property or any interest therein shall be alienated, encumbered, conveyed, or otherwise transferred by Seller, nor shall Seller enter into any agreement, commitment, option, right of first refusal, or any other right, option or agreement with respect to the purchase of all or any portion of the Property.

f) Seller has not entered any leases, licenses, options, or other occupancy agreements, either written or oral, affecting the Property and Seller has exclusive possession of the Property.

g) There are no agreements or contracts entered by Seller affecting the Property that will be binding on Buyer after Closing.

h) Seller has received no notice and has no knowledge of any use, storage or disposal on or about the Property of any hazardous or toxic substance or waste, or the presence of radon, asbestos and other hazardous or toxic substances on or about the Property.

Seller's representations and warranties shall be true and correct in all respects as of the Effective Date of this Agreement and as of the Closing Date and shall survive the Closing Date.

9. **Covenants of Seller.** Seller hereby covenants with the Buyer that between the date of this Agreement and the Closing:

a) Seller will not, without the Buyer's prior written consent, create by its consent any encumbrances on the Property. For purposes of this provision the term "encumbrances" shall mean any liens, claims, options, mortgages or other encumbrances, encroachments, rights-of-way, leases, easements, covenants, conditions, or restrictions. Furthermore, Seller shall not market the Property or enter any contracts, letters of intent, agreements, commitments, options, rights of first refusal, rights of first offer, or any other rights, options, or agreements to sell the Property or any portion thereof.

b) Seller shall not enter into any Contracts or other agreement affecting the Property or any portion thereof or the use thereof which will be binding on Buyer or the Property after Closing, without the prior written consent of the Buyer, which consent may be withheld in Buyer's sole and absolute discretion.

c) Seller shall not enter any leases, tenancy agreements, occupancy agreements, or other agreements affecting the Property or any portion thereof or the use thereof which will be binding on Buyer or the Property after Closing, without the prior written consent of the Buyer, which consent may be withheld in Buyer's sole and absolute discretion.

10. **Buyer's Representations.** Buyer hereby represents and warrants to the best of Buyer's knowledge that all the following are true and correct:

a) Buyer has full power and authority to enter into this Agreement and to assume and perform all its obligations hereunder.

b) The execution and delivery of this Agreement and the consummation of the transaction contemplated hereunder on the part of the Buyer does not and will not violate the corporate or organizational documents of Buyer and will not conflict with or result in the breach of any condition or provision, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any of the terms or any contract, mortgage, lien, lease, agreement, indenture, instrument or judgment to which the Buyer is a party.

c) No action by any federal, state, municipal or other governmental department, bureau or instrumentality is necessary to make this Agreement a valid instrument binding upon Buyer in accordance with its terms and conditions.

All the representations, warranties and covenants of Buyer contained in this Agreement or in any other document, delivered to Seller in connection with the transaction contemplated herein shall be true and correct in all material respects and not in default at the time of closing, just as though they were made at such time.

11. **Closing Costs, Taxes and Prorations.**

13.1 Seller's Closing Costs. Seller shall pay for the following items prior to or at the time of closing:

- a) Cost and expense related to providing clear and marketable title as provided herein, including but not limited to recording fees for documents necessary to cure title.
- b) Ad Valorem and Non-Ad Valorem Tax prorations for the year of Closing.

13.2 Buyer's Closing Costs. Buyer shall pay for the following items prior to or at the time of Closing:

- a) Title search, title updates, lien searches, loan expenses, and inspection fees, if any.
- b) Documentary Stamps on the deed as provided under chapter 201, Florida Statutes.
- c) Costs associated with survey, environmental reports (phase I and phase II) or any Buyer due diligence expenses.
- d) Recording fees of the Special Warranty Deed, Mortgage, if any, and any other instrument as required to be recorded in Public Records.
- e) Owner's and Lender's title insurance policy.
- f) Non-Ad Valorem Tax prorations for the year of Closing.

14. **Real Estate Commissions.** Buyer and Seller represent and warrant to each other that each has not dealt with any broker, agent, or similar person in connection with this transaction. The Buyer and Seller do mutually agree to indemnify and hold harmless the other party from and against any all liability, loss, cost, damage and expense, including but not limited to attorneys' fees and costs of litigation both prior to and on appeal, which either Buyer or Seller shall ever suffer or incur because of any claim by any agent, broker or finder engaged by either party whether or not meritorious, for any fee, commission or other compensation with respect to this Agreement or to the sale and purchase of the Property contemplated herein.

15. **Default.**

(a) If Buyer fails to materially perform or observe any of the covenants, restrictions, requirements and/or stipulations to be performed and/or observed by Buyer hereunder and such failure to perform or observe is not cured within ten (10) days after written notice thereof from Seller to Buyer (or in the case of a default which cannot be cured in ten (10) days, Buyer has failed to commence curing the default within such ten (10) day period), then, as Seller's sole remedy, Seller may terminate this Agreement and any Deposits placed under this Agreement shall be forfeited by Buyer as agreed upon and liquidated damages.

(b) If Seller fails to materially perform or observe any of the covenants, restrictions, requirement and/or stipulations to be performed and/or observed by Seller hereunder and such failure to perform or observe is not cured within ten (10) days after written notice thereof from Buyer to Seller (or in the case of a default which cannot be cured in ten (10) days, Buyer has failed to commence curing the default within such ten (10) day period), or if any of the Seller's representations or warranties set forth in this Agreement shall not be true and correct in all respects, then Buyer may, at its option, either: (i) terminate this Agreement in which event, the Deposit shall be promptly returned to Buyer, without thereby waiving any claim for damages as result of Seller's default; or (b) obtain specific performance of Seller's obligations hereunder.

16. **Entire Agreement.** This Agreement constitutes the entire agreement between the parties with respect to the transaction contemplated herein, and it supersedes all prior understandings or agreements between the parties.

17. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, devisees, personal representatives, successors, and permitted assigns.

18. **Waiver: Modification.** The failure by the Buyer or Seller to insist upon or enforce any of their rights shall not constitute a waiver thereof, and nothing shall constitute a waiver of the Buyer's right to insist upon strict compliance with the terms of this Agreement. Either party may waive the benefit of any provision or condition for its benefit which is contained in this Agreement. No oral modification of this Agreement shall be binding upon the parties and any modification must be in writing and signed by the parties.

19. **Governing Law:** Venue. This Agreement shall be governed by and construed under the laws of the State of Florida. The venue of any litigation arising out of this Agreement shall be Lee County, Florida.

20. **Headings.** The section headings as set forth in this Agreement are for convenience or reference only and shall not be deemed to vary the content of this Agreement or limit the provisions or scope of any section herein.

21. **Enforceability.** If any provision in this Agreement shall be held to be excessively broad, it shall be construed, by limiting and reducing it, to be enforceable to the extent compatible with applicable law. If any provision in this Agreement shall, notwithstanding the preceding sentence, be held illegal or unenforceable, such illegality or unenforceability shall not affect any other provision of this Agreement.

22. **Notices.** Any notice, request, demand, instruction, or other communication to be given to either party, except where required by the terms of the Agreement to be delivered at the Closing, shall be in writing and shall be sent as follows:

If to Buyer:	Larry S. Nygard
	Bimini Basin Redevelopment Company, LLC
	1918 9 th Street East
	West Fargo, North Dakota 58078

With a copy to: Bolanos Truxton, PA
12730 New Brittany Blvd., Suite 102
Fort Myers, FL 33907
Attn: Gregg S. Truxton

If to Seller: City of Cape Coral
Attention: City Manager
PO Box 150027
Cape Coral, Florida 33915-0027 (mailing address)
1015 Cultural Park Blvd.
Cape Coral, Florida 33990 (physical address)

With a copy to: City of Cape Coral
Attention: City Attorney
PO Box 150027
Cape Coral, Florida 33915-0027 (mailing address)
1015 Cultural Park Blvd.
Cape Coral, Florida 33990 (physical address)

Any such notice shall be either (a) sent by overnight deliver using a nationally recognized overnight courier, in which case notice shall be deemed delivered on the date such notice deposited with such courier, (b) sent by personal delivery, in which case notice shall be deemed delivered upon receipt or refusal of delivery of such notice. A party's address may be changed by written notice to the other party; provided, however, that no notice of a change of address shall be effective until received by the recipient thereof. Copies of the notices are for informational purposes only, and a failure to give or receive copies of any notice shall not be deemed a failure to provide notice, the attorney for a party has the authority to send and receive notices on behalf of such party.

23. **Assignment.** Neither party shall assign this Agreement without the prior written consent of the other party, which may be withheld in such party's sole discretion, except that Buyer may assign its rights under this Agreement with respect to the Property to one or more entities controlled by Buyer or its principals, or affiliates with the Buyer, or to any financial institution which may become a "partner" (which shall include an affiliation through any form of business organization) of the Buyer (or any of their affiliates), provided, however, a copy of the assignment and assumption agreement shall be delivered to Seller prior to Closing Date, if applicable.

24. **Attorney's Fees.** In the event of any litigation between the parties arising out of this Agreement, Buyer and Seller agree to pay for their own reasonable costs and attorney's fees, including through any appeal.

25. **Effective Date.** The Effective Date of the Agreement shall be the date upon which the last party to sign this Agreement has executed this Agreement. Buyer recognizes that though

it has negotiated the Agreement with Seller's representative and has signed it, Seller cannot execute this Agreement until it has fully complied with the provision of Section 4.17 of Seller's Charter. If the Cape Coral City Council approves this Agreement in accordance with Section 4.17 of the Charter, then the Effective Date shall be the date upon which Seller executes the Agreement.

26. **Time of the Essence.** Time is of the essence with respect to each provision of the Agreement. Provided, however, if the date for performance is on a Saturday, Sunday or federal holiday, the date for performance shall be extended to the next business day.

27. **No Third-Party Beneficiaries.** This Agreement is an agreement between Seller and Buyer only, and no third parties shall be entitled to assert any rights as a third-party beneficiary hereunder.

28. **Counterpart Execution.** This Agreement may be executed in two or more counterparts, all of which together shall constitute but one and the same Agreement. To facilitate the execution and delivery hereof, the parties may exchange executed counterparts hereof, or of any amendment hereto, by electronic transmission, which transmission shall be deemed delivery of an original executed counterpart by such party.

29. **Successors.** This Agreement shall apply to and bind the executors, administrators, successors and assigns of Seller and Buyer that have been approved in Section 23.

REMAINDER OF PAGE LEFT BLANK INTENTIONALLY

SIGNATURES ON THE FOLLOWING PAGE

The parties have executed this Agreement as of the day and year last written below.

BUYER:

Bimini Basin Redevelopment Company,
LLC, a Florida Limited Liability Company

By: _____
Larry S. Nygard, President

Date: _____

SELLER:

City of Cape Coral, Florida

By: _____
Michael Ilczyszyn, City Manager

Date: _____

APPROVED AS TO FORM:

Aleksandr Boksner, City Attorney

EXHIBIT “A”

Legal Description of the Property

Block 81, Lots 1 through 29, and Lots 34 through 59, Cape Coral Unit Six, Part One, according to the Plat thereof, as recorded in Plat Book 11, Pages 45 through 47, inclusive, of the Public Records of Lee County, Florida.

Block 82, Lots 1 through 50, Cape Coral Unit Five, according to the Plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

Block 83, Lots 1 through 9, Lots 20 through 32, and Lots 35 through 40, Cape Coral Unit Five, according to the Plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

Block 84, Lots 1 through 32, Cape Coral Unit Five, according to the Plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

Together with all of Seller's right, title and interest in any vacated rights-of-way adjacent to the foregoing property.

EXHIBIT F

[To Be Attached]

EXHIBIT G



October 1, 2026

Proposal

Mr. Larry Nygard
Crown Development, INC.
1918 9th Street East
West Fargo, ND 58078
Phone 701-361-4151
Email: lnygard@crowndevelopmentnd.com

Reference: Bimini, Cape Coral, Florida– Site Work Proposal

Dear Mr. Nygard,

Alessio Companies is pleased to provide you this proposal to furnish labor, equipment and materials to perform earthwork, site utilities, concrete curbs and sidewalk and asphalt paving on the above referenced project. This proposal is based on the documents provided as listed above. Our proposed Scope of Work is as follows:

1. Permits to be provided and fees paid by others.
2. Furnish layout for our work from control points set by others.
3. Mobilize Heavy Equipment to the site.
4. Install erosion control measures as called out in the design plans.
5. Demolish fencing and asphalt pavement at the proposed entrance. Clear and grub the site.
6. Cut and fill the site to proposed subgrade elevation and grade to +/- 0.10-foot of design subgrade. Import fill material as needed to complete. Building pad areas will be left 6-inches below finished floor elevation.
7. Install concrete curbs & gutter and sidewalk. Install asphalt subbase stone and asphalt pavement.
8. Topsoil and landscaping installation for right-away infrastructure.
9. Install sanitary, fire, storm and water utilities on-site.
10. Excavation, installation, and backfill of 3-acre ft of underground storm detention system.
11. Installation of 2 lift stations.
12. Installation of street lighting and dry utilities.
13. Installation of stripping, signage, irrigation, and irrigation wells.

Corporate Headquarters: 377 E Butterfield Rd Ste 930 • Lombard, IL 60148 • (815) 725-5513 • (815) 725-6742

Florida Location: 2501 Alessio Dr. Unit 115 • Fort Myers, FL 33905
www.alessiocompanies.com

14. **Bid Pricing:** Total bid price provided is a lump sum bid for the Civil Sitework as described above.

Description	Pricing
Earthwork Including Import	\$ 6,958,050.00
Concrete Flatwork	\$ 420,000.00
Underground Storm Detention System	\$ 10,600,000.00
Asphalt Paving and Curbs	\$ 1,362,750.00
On-Site Wet Utilities Including Lift Station	\$ 3,908,000.00
Street Lighting and Dry Utilities	\$ 545,000.00
Entrances and Turn Lanes	\$ 1,300,000.00
Landscaping	\$ 418,000.00
Irrigation and Irrigation Wells	\$ 265,000.00
Stripping and Signage	\$ 65,000.00
TOTAL	\$ 25,841,800.00

Exclusions: No, testing, handwork, hand compaction, sheeting, shoring, bracing, layout, discing, barricades, spoil handling, underpinning, tree protection, saw cutting, well points, utility location, removal or disconnection, unless specifically mentioned herein. All permits, fees and licenses by others.

Notes:

1. Soils at the site are assumed to meet the definition of Clean Construction and Demolition Debris (CCDD). Owner or general contractor to provide the proper reports and analytical data for submission to disposal locations for acceptance.
2. Removal and/or replacement of unsuitable material shall be done on either a time and material basis or as an extra to the contract.
3. Any handling of special waste, non-special waste, hazardous waste or contaminated soils will be done as an extra to the contract.
4. This proposal is to be incorporated as part of the contract.
5. This price is not based on adverse weather conditions.
6. This price is based on an 8-hour work day, Monday thru Friday. All overtime costs to be paid by others.
7. Alessio Development Florida, LLC is not responsible for damage to existing utilities not located by JULIE.
8. No overtime/ no downtime included.

Should you have any questions or require any additional information regarding this proposal, please do not hesitate to contact the undersigned at 815-725-5513.

Sincerely,

Corporate Headquarters: 377 E Butterfield Rd Ste 930 • Lombard, IL 60148 • (815) 725-5513 • (815) 725-6742

Florida Location: 2501 Alessio Dr. Unit 115 • Fort Myers, FL 33905
www.alessiocompanies.com

ALESSIO COMPANIES

Patrick Clarke

Patrick Clarke
Estimator/ Project Manager

Michael Alessio

Michael Alessio
President

Corporate Headquarters: 377 E Butterfield Rd Ste 930 • Lombard, IL 60148 • (815) 725-5513 • (815) 725-6742

Florida Location: 2501 Alessio Dr. Unit 115 • Fort Myers, FL 33905
www.alessiocompanies.com

EXHIBIT H

EXHIBIT H

TRUMBAL APARTMENTS PARCEL

PARCEL ONE: Lots 10 through 14, Block 83, CAPE CORAL SUBDIVISION, Unit 5, according to the plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

PARCEL TWO: Lots 18 and 19, Block 83, CAPE CORAL SUBDIVISION, Unit 5, according to the plat thereof, recorded in Plat Book 11, Pages 80 to 90, inclusive, of the Public Records of Lee County, Florida.

PARCEL THREE: Lot 15, 16 and 17, Block 83, CAPE CORAL SUBDIVISION, Unit 5, according to the plat thereof, as recorded in Plat Book 11, Pages 80 to 90, inclusive, of the Public Records of Lee County, Florida.

EXHIBIT I

EXHIBIT I

GEORGE'S GARAGE PARCEL

Lots 30, 31, 32 and 33, Block 81, Unit 6, Part 1, CAPE CORAL SUBDIVISION, per plat recorded in Plat Book 11, Page 46, Public Records of Lee County, Florida;

LESS AND EXCEPT THE FOLLOWING DESCRIBED PROPERTY:

A parcel of Land being a part of Lot 30, Block 81, Unit 6, Cape Coral Subdivision as recorded in Plat Book 11, Pages 45-47, inclusive, Public Records of Lee County, Florida, bring more particularly described as follows:

Commencing at the Southeast corner of said Lot 30. Thence N 00° 04' 43" E, along the East line of said Lot 30 a distance of 8.76 feet to the Point of Beginning, thence continue N00°04'43" E, a distance of 11 .50 feet to the point of curvature of a curve concave South having a radius of 25 00 feet, a central Angle of 89° 43' 26", A chord bearing of N 45° 05'16" W, and chord distance of 35.27 feet, thence along the arc of said curve an arc distance of 39.15 feet to the North line of said Lot 30; thence N 89° 24'26" W, along said North Line a distance of 100.09 feet to the West line of said Lot 30; Thence S00° 00'25" W, along said West line a distance of 11.00 feet; Thence S 89° 24' 01" E. a distance of 86.21 feet to the point of curvature of a curve concave South having a Radius of 43 .00 feet, a central Angle of 65° 27' 44", a chord bearing S 56° 40'17" E, and chord distance of 46.50 feet; thence along the arc of said curve an arc distance of 49.13 feet to the Point of Beginning.

EXHIBIT J

LEASE AGREEMENT

This Ground Lease Agreement ("Agreement"), made and entered into this _____ day of _____, 2026, by and between BIMINI BASIN REDEVELOPEMENT COMPANY, LLC, a Florida limited liability Company, whose mailing address is 1918 9th Street East, West Fargo, North Dakota 58078, hereinafter referred to as "LESSEE", and the CITY OF CAPE CORAL, a Florida municipal corporation, whose mailing address is P.O. Box 150027, Cape Coral, Florida 33915-0027, hereinafter referred to as "LESSOR."

WHEREAS, the Mayor and City Council adopted Ordinance 55-26 on October 21, 2026, which approved a Development Agreement between the LESSOR and LESSEE for a mixed-use project known as Bimini East; and

WHEREAS, Bimini East (the "Project") is generally located south of Cape Coral Parkway East, east of the Versaille Canal, west of Coronado Parkway, and north of Victoria Drive; and

WHEREAS, LESSOR owns real property known as Four Freedoms Park (the "Park parcel") located within the Project area; and

WHEREAS, LESSEE has requested LESSOR to enter into a Ground Lease Agreement to incorporate the Park parcel within the Project area; and

WHEREAS, LESSEE and LESSOR have mutually agreed on the terms and conditions set forth herein below for LESSEE to lease the Premises from LESSOR to incorporate the Park parcel within the Project.

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements hereinafter set forth, the LESSOR hereby demises and leases to the LESSEE the following described Premises, which lease agreement shall become effective on the dates as set forth herein on the following terms and conditions:

1. **Premises.** The LESSOR hereby leases to the LESSEE, and LESSEE hereby leases from the LESSOR, certain real property, as more particularly described in Exhibit "A", which is attached hereto and made a part hereof by reference (the "Park parcel"), subject to the terms, covenants, agreements and conditions set forth below. LESSEE hereby acknowledges and agrees that pursuant to section 4.17 of the City of Cape Coral Charter, the conveyance or lease of any lands of the City shall be by ordinance adopted by the Cape Coral City Council.
2. **Term.** The term of this Agreement shall be for ninety-nine (99) years, commencing on _____, 20____, and terminating on _____, 21____.
3. **Condition of Premises.** LESSEE has inspected and knows the condition of the Premises, and accepts the same in its present condition for the purposes set out in this Lease.
4. **Rent.** LESSEE covenants and agrees to pay to LESSOR as Rent for the Premises One Dollar

(\$1.00) per year for the entire term of the lease.

5. **Use of Premises.** LESSEE shall comply with the underlying restrictive covenant of the Park parcel, to be kept open for public use as a recreation area, and to be named Four Freedoms Park. LESSEE may, on occasion, apply for and obtain a Special Event Permit from the LESSOR and be allowed to close off a portion of the Park until the special event has concluded. LESSEE may, at LESSEE's sole cost and expense, make improvements, including but not limited to, an amphitheater, bandshell, new playground, boat docks/slips, ("LESSEE Improvements"), subject to Section 7, as may be necessary to fit said Premises for such use. All improvements, of any kind and nature, installed by LESSEE shall become the property of LESSOR upon the termination of this Lease.
6. **Zoning.** LESSEE shall comply with all applicable Federal, State, County, and City regulations. LESSEE shall bear all costs associated with any site plan, surveys, rezoning, PUD, Special Exceptions, or other such applications, permits, or processes, if required by such regulations.
7. **Construction of Lessee Improvements.** LESSEE may demolish or relocate existing improvements to facilitate construction of the LESSEE Improvements within the Premises pursuant to the Development Agreement for the Project. LESSEE shall construct the LESSEE Improvements within the Premises pursuant to the Development Agreement for the Project. Such construction shall meet City Code standards and all building permits shall be obtained. LESSEE shall have full control over the design, layout and materials used in the construction of the Lessee Improvements, subject to the aforementioned code standards, Development Agreement and City Manager's prior written approval, which shall not be unreasonably delayed or withheld.

Notwithstanding the above, if LESSEE commences construction on the Premises and fails to complete the Lessee Improvement(s), so the Lessee Improvement(s) are left in a partially constructed state, the LESSEE acknowledges and agrees to convey, by Bill of Sale, the partially completed Lessee Improvement(s) to the LESSOR and acknowledges and agrees the LESSOR may take any action regarding the partially completed Lessee Improvement(s) as the LESSOR deems appropriate. In such event, the LESSEE shall be deemed in default of this Lease and this Lease shall be terminated. Factors determining whether the LESSEE has failed to complete the Lessee Improvement(s) include, but are not limited to, cessation of construction activity to the Lessee Improvement(s) on the Premises for a period of six (6) months, or the expiration of any permit(s) without the LESSEE applying for and receiving an extension of the permit(s).

8. **Sublease and Use of Premises.** LESSEE shall not assign this Lease, in whole or in part, or sublet all or any portion of the Premises without the prior written consent of Landlord. LESSEE may not assign or sublease this Lease.
9. **Insurance and Indemnity.**
 - (A) LESSEE agrees to name LESSOR as an additional insured on a policy covering Premises with insurance coverage at a minimum of the following requirements:
 - i. Commercial General Liability Insurance, such insurance to insure against liability for bodily injury and death and for property damage in an amount not less than

\$1,000,000 combined single limit on a per occurrence and \$2,000,000 general aggregate.

- ii. Fire Coverage Endorsement sufficient to reconstruct the Lessee Improvements.
- iii. Automobile Liability Insurance for all owned, non-owned, and hired vehicles in an amount not less than \$1,000,000 combined single limit.
- iv. Workers' Compensation Insurance for all employees of the LESSEE and LESSEE's contractors, as required by Florida Statutes.
- v. LESSEE shall cause the company issuing such insurance to notify LESSOR at least thirty (30) days prior to any cancellation of the policy, which shall be evidenced by a certificate of insurance providing for such notice.

(B) LESSEE agrees to defend, indemnify and hold harmless LESSOR, its officials, agents and employees from and against any and all claims of and liabilities (including attorney fees and costs of defense) actually imposed by law to any person, including officers, agents, employees, contractors, or invitees of the LESSEE and any other third persons or parties, for death, bodily injury or property damage or any other loss whatsoever arising from or connected with the LESSEE's use of the Premises, including but not limited to any such claims and liabilities from the allegedly dangerous condition of the Premises.

10. **Utilities and Taxes.** The LESSEE will pay for all utility services including, but not limited to, electricity, water, gas, sewer, irrigation and solid waste (garbage) removal, if any, to serve the Premises. In addition, LESSEE agrees to pay for all ad valorem, non-ad valorem and personal property taxes, if any, as well as all local government assessments, if any, levied or assessed against the Premises during the lease term, or any taxes arising from the Premises as a result of the improvement or other activity of LESSEE on the Premises.

11. **Maintenance and Repairs.**

(A) **Lessee's Maintenance Obligations.** LESSEE shall at all times during the Term of this Lease maintain the Premises and the Lessee Improvements in good condition and repair, including, but not limited to, all landscaping, parking lot, sidewalks, driveways, lighting, and electrical wiring and equipment, if any exists.

(B) **Exterior and Grounds.** LESSEE shall be responsible for all landscaping, mowing of grass and lawn care, and trash and garbage removal from the Premises.

(C) **Lessor's Maintenance Obligations.** LESSOR shall have no obligation to maintain or repair the Lessee Improvements and the Premises leased to LESSEE hereunder. Notwithstanding any provision to the contrary in this Agreement, if LESSEE fails to maintain the Premises and the LESSEE Improvements in good order, condition, and repair, LESSOR may give LESSEE written notice specifying the failure. If LESSEE fails to correct, repair, or commence such maintenance within 14 days after receiving notice (or immediately in the event of an emergency), LESSOR may, at its option, enter the Premises to perform such maintenance or repairs. Any reasonable costs, expenses, or bills incurred by LESSOR to perform such work shall be immediately due and payable by LESSEE to LESSOR.

12. **Damage to Lessee's Improvements.** As soon as is reasonably possible after damage or destruction to any or all of Lessee's Improvements on the Premises, but no later than six (6) months after such damage or destruction, LESSEE shall, at LESSEE's sole cost and expense, commence to either repair and restore the Lessee's Improvements as completely as possible to their condition immediately prior to the damage, or, in the alternative, replace the Lessee's Improvements. If the Premises have become wholly untenable due to the damage or destruction of the Lessee's Improvements, LESSEE may elect to not make the repairs or replacements and terminate this Lease thirty (30) days after serving LESSOR with written notice of LESSEE's intent to terminate the Lease. In no case shall the LESSOR be obligated to make the repairs or replacements or otherwise rebuild the Lessee's Improvements, or to restore the Premises to its original condition, upon the LESSEE terminating this Lease. LESSEE agrees that upon termination or expiration of this Lease, all Lessee Improvements shall become the property of the LESSOR.
13. **Environmental Matters.** LESSOR warrants and represents to LESSEE that to the best of LESSOR's knowledge as of the commencement of the Term of the Lease, the Premises do not have any underground storage tanks and are not subject to any environmental hazardous conditions.
14. **Liens.** LESSOR'S interest in the Premises shall not be subject to any lien for any construction, alterations, installations, improvements, or work as provided in section 713.10, Florida Statutes. LESSEE shall notify all persons and entities constructing improvements or performing work on the Premises, or supplying materials, equipment rental, or other services for the improvements or work, that this Lease does not allow any liens to attach to LESSOR's property. Further, LESSEE acknowledges and shall advise all such persons and entities that the Premises is governmental property not subject to any lien or right to claim a lien. LESSEE shall cause its contractor(s) to provide a final waiver and release of all claims, in the form approved by the LESSOR, upon completion of the improvements and before making final payment to LESSEE's contractor(s). Such final release shall certify that full and final payment was made to all of the contractor(s) subcontractors. If, notwithstanding the foregoing, and mechanic's, materialman's, laborer's, or any other lien, or any order or judgment for payment of money, shall be recorded against the Premises or any part thereof or against LESSOR's leasehold interest or otherwise asserted against LESSOR's interest (whether or not legally effective), then LESSEE shall, at LESSEE's own cost and expense, cause the same to be satisfied, cancelled, and discharged of record and, further, shall indemnify and hold the LESSOR harmless from and against any and all costs, expenses, claims, losses or damages, including reasonable attorneys' fees and expert fees, through trial and appeal, resulting therefrom or by reason thereof.
15. **Sale by Lessor.** In the event of any sale or other transfer of LESSOR'S interest in the Premises, the transferee shall assume all obligations of the LESSOR under this Agreement. The covenants and obligations contained in this Agreement on the part of the LESSOR shall be binding on the LESSOR and the LESSOR'S successors and assigns.
16. **Attorney's Fees.** In the event of any litigation between the parties arising out of this Agreement LESSOR and LESSEE agree to pay for its own reasonable costs and attorney's fees, including through any appeal.

17. **Counterparts.** This Agreement may be executed in two or more counterparts, all of which together shall constitute but one and the same Agreement. To facilitate the execution and delivery hereof, the parties may exchange executed counterparts hereof, or of any amendment hereto, by electronic transmission, which transmission shall be deemed delivery of an original executed counterpart by such party.
18. **Default.** In the event of default by either party, each shall have such remedies as are available under the law. It shall be an “Event of Default” if either party shall fail to observe or perform any term, covenant or condition of this Agreement on the defaulting party’s part to be observed or performed and the defaulting party shall fail to cure or remedy the same within (i) ninety (90) days of receipt of written notice from the non-defaulting party with respect to monetary defaults, or (ii) sixty (60) business days of the defaulting party’s receipt of written notice from the non-defaulting party with respect to non-monetary defaults (each, a “**Default Notice**”). If such non-monetary default is susceptible to cure but cannot reasonably be cured within such sixty (60) business day period, then the defaulting party shall have additional time as is necessary to cure such failure and no Event of Default shall be deemed to exist hereunder so long as the defaulting party commences such cure within such initial sixty (60) business day period and diligently and in good faith pursues such cure to completion.
19. **Entire Agreement.** This Agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.
20. **Notice.** All notices required or permitted hereunder and required to be in writing to the LESSOR may be given by first-class certified mail (Return Receipt Requested) addressed to the City Manager, and to LESSEE at the addresses above set forth or such address as the applicable party shall designate in writing.
21. **Venue.** This Agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Florida and venue for any lawsuit arising therefrom shall lie exclusively in Lee County, Florida.
22. **Severability.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, except that Lessee may elect to declare the Lease void in the event a provision that affects the value of the Tenant Improvements to Lessee is held invalid, and seek reimbursement for the value of such Improvements from Lessor.
23. **Compliance With Laws.** The parties hereby agree that they will comply with all applicable federal, state and local laws relating to the activities hereunder.

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IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Signed, Sealed and Delivered
in the presence of:

BIMINI BASIN REDEVELOPMENT
COMPANY, LLC

Print Name: _____

By: _____
Larry S. Nygard, President

Print Name: _____

ATTESTED TO BY:

CITY OF CAPE CORAL, FLORIDA

Kimberly Bruns, MMC, City Clerk

By: _____
Michael Ilczyszyn, City Manager

APPROVED AS TO FORM:

Aleksandr Boksner, City Attorney

EXHIBIT "A"

A TRACT OF LAND CONTAINING ALL OF LOTS 6 THROUGH 19, EXCEPTING THE NORTHERLY 35.47 FEET OF LOT 6 THEREFROM, BUT INCLUDING ALL OF TRACT C, BLOCK 102, CAPE CORAL SUBDIVISION, UNIT 5, ACCORDING TO PLAT BOOK 11, PAGES 80 THROUGH 90, OF THE PUBLIC RECORDS OF LEE COUNTY, FLORIDA, TOGETHER WITH A PORTION OF VICTORIA DRIVE RIGHT OF WAY ADJACENT TO LOTS 6, 7, 8 AND 9, VACATED BY CITY OF CAPE CORAL RESOLUTION NO. 1-73, AND THAT PART OF VICTORIA DRIVE RIGHT OF WAY, VACATED BY LEE COUNTY BOARD OF COUNTY COMMISSIONERS, COUNTY COMMISSIONERS MINUTE BOOK 23, PAGES 32, 32A AND 32B, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE EAST LINE OF SUNNYBROOK AVENUE EXTENDED SOUTHERLY, WITH THE SOUTH LINE OF BEACH COURT EXTENDED WESTERLY; THENCE S89°59'53"E A DISTANCE OF 338.67 FEET ALONG THE SOUTH LINE OF BEACH COURT TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 25.00 FEET; THENCE ALONG SAID CURVE TO THE RIGHT A DISTANCE OF 39.26 FEET, THROUGH A CENTRAL ANGLE OF 89°58'57", SAID CURVE IS SUBTENDED BY A CHORD WHICH BEARS S45°00'25"E A DISTANCE OF 35.35 FEET TO THE POINT OF TANGENCY; THENCE S00°00'57"E A DISTANCE OF 231.85 FEET ALONG THE WEST LINE OF TARPON COURT TO THE POINT OF INTERSECTION WITH THE RADIAL LINE COMMON TO LOTS 19 AND 20 PROJECTED NORTHEASTERLY; THENCE S51°07'43"W A DISTANCE OF 210.89 FEET ALONG THE RADIAL LINE COMMON TO LOTS 19 AND 20 TO A POINT ON THE NORTH LINE OF BIMINI BASIN, BEING A POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE SOUTHWEST HAVING A RADIUS OF 700.00 FEET; THENCE NORTHWESTERLY ALONG THE NORTH LINE OF BIMINI BASIN AND SAID CURVE TO THE LEFT A DISTANCE OF 433.71 FEET THROUGH A CENTRAL ANGLE OF 35°29'59", SAID CURVE IS SUBTENDED BY A CHORD WHICH BEARS N56°37'17"W A DISTANCE OF 426.81 FEET TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE TO THE NORTHEAST HAVING A RADIUS OF 25.00 FEET; THENCE ALONG SAID CURVE TO THE RIGHT A DISTANCE OF 32.46 FEET, THROUGH A CENTRAL ANGLE OF 74°23'45", SAID CURVE IS SUBTENDED BY A CHORD WHICH BEARS N37°10'24"W A DISTANCE OF 30.23 FEET TO THE POINT OF TANGENCY; THENCE N00°01'29"E A DISTANCE OF 163.68 FEET ALONG THE EAST LINE OF VERSAILLE CANAL; THENCE S89°58'31"E A DISTANCE OF 125.00 FEET TO A POINT ON THE WEST LINE OF SUNNYBROOK AVENUE; THENCE S00°01'29"W A DISTANCE OF 33.00 FEET ALONG THE WEST LINE OF SUNNYBROOK AVENUE PROJECTED SOUTHERLY; THENCE S04°48'12"E A DISTANCE OF 60.71 FEET TO THE NORTHEAST CORNER OF LOT 9, BLOCK 102; THENCE N36°47'19"E A DISTANCE OF 75.12 FEET TO THE POINT OF BEGINNING, SAID TRACT OF LAND CONTAINING 145,600 SQUARE FEET, OR 3.343 ACRES, MORE OR LESS.

EXHIBIT K

EXHIBIT K

ADDITIONAL PARCELS

Additional Parcel 1

STRAP No. 13-45-23-C2-00083.0330

Lots 33 and 34, Block 83, CAPE CORAL SUBDIVISION, UNIT 5, according to the map or plat thereof, as recorded in Plat Book 11, Pages 80 through 90, of the Public Records of Lee County, Florida.

Additional Parcel 2

STRAP No. 13-45-23-C2-00000.30B0

Tract B, Cape Coral, Unit 5, a Subdivision According to the Plat thereof as recorded in Plat Book 11, Pages 80 through 90, inclusive, less and except that certain parcel as described in Warranty Deed recorded in Official Records Book 3281, Page 1107, Public Records of Lee County, Florida.

Additional Parcel 3

STRAP No. 13-45-23-C2-00000.30B1

A tract or parcel of land being part of Tract B, CAPE CORAL UNIT FIVE, as recorded in Plat Book 11, beginning at Page 80, of the Public Records of Lee County, Florida, lying in Section 13, Township 45 South, Range 23 East, City of Cape Coral, Lee County, Florida, which tract or parcel is further described as follows:

From the Northwest corner of said Tract B run South 89 degrees 24 minutes 01 seconds East along the South line of Cape Coral Parkway and the North line of said Tract B for 76.09 feet to the Point of Beginning. From Said Point of Beginning run South 15 degrees 22 minutes 28 seconds East for 48.89 feet; thence run South 11 degrees 44 minutes 41 seconds East for 29.57 feet; thence run South 00 degrees 57 minutes 21 seconds East for 57.24 feet; thence run South 01 degrees 31 minutes 06 seconds East for 44.20 feet; thence run South 27 degrees 36 minutes 53 seconds East for 27.22 feet; thence run South 22 degrees 01 minutes 27 seconds East for 21.86 feet to an intersection with the North line of Beach Court; thence run West along the South line of Tract B and the North line of said Beach Court for 118.27 feet to a point of curvature; thence run Westerly, Northwesterly and Northerly along the arc of a curve to the right of radius 25.00 feet (chord bearing North 45 degrees 00 minutes 00 seconds West) (chord 35.36 feet) (delta 90 degrees 00 minutes 00 seconds) for 39.27 feet to a point of tangency; thence run North along the East line of Sunnybrook Avenue and the West line of said Tract B for 172.69 feet to a point Of Curvature; thence run Northerly, Northeasterly and Easterly along the arc of a curve to the right of radius of 25.00 feet (chord bearing North 45 degrees 1 8 minutes 00 seconds East) (chord 35.54 feet) (delta 90 degrees 35 minutes 59 seconds) for 39.53 feet to a point of tangency; thence run South 89 degrees 24 minutes 01 seconds East along the South line of Cape Coral Parkway and the North line of said Tract B for 76.09 feet to the Point of Beginning.

Additional Parcel 4

STRAP No. 13-45-23-C2-00102.0010

Lots 1, 2, 3, 4, and 5, and the Northerly 35.47 feet of Lot 6, Block 102, Cape Coral Subdivision, Unit 5, a subdivision according to the plat thereof as recorded in Plat Book 11, pages 80 through 90, inclusive. Public Records Lee County, Florida

EXHIBIT L

Intentionally deleted

EXHIBIT M

TAX INCREMENT REBATE AGREEMENT

BETWEEN

**THE CAPE CORAL COMMUNITY REDEVELOPMENT AGENCY
("CRA")**

AND

**THE CITY OF CAPE CORAL, FLORIDA
("City")**

AND

**CROWN DEVELOPMENT, INC.
("Developer")**

AND

**BIMINI BASIN REDEVELOPMENT COMPANY, LLC
("Owner")**

TABLE OF CONTENTS

ARTICLE I	DEFINITIONS
ARTICLE II	PROJECT INCREMENT REVENUES
2.1	Purpose of Funding Agreement
2.2	Allocated Percentage of Project Increment Revenues
2.3	Maximum Project Increment Revenues
2.4	Calculation of Annual Project Tax Increment Revenues
2.5	Completion of Eligible Improvements.
2.6	Vertical Improvements Deadline and Termination
2.7	Annual Payments
ARTICLE III	NON-DISCRIMINATION
3.1	Non-Discrimination
ARTICLE IV	EVENTS OF DEFAULTS; BREACH; REMEDIES
4.1	Default
4.2	Default in Payment of Ad Valorem Taxes; Forfeitures of Increment Payout.
4.3	Litigation; Attorneys' Fees and Costs
4.4	Delay
4.5	Strict Performance
4.6	Remedies Under Bankruptcy Code
4.7	Dispute Resolution.
ARTICLE V	REPRESENTATIONS
5.1	No Brokers
5.2	Indemnification
5.3	Authority to Execute
5.4	Representation
5.5	No Liability
5.6	Survival
ARTICLE VI	CERTIFICATES BY AGENCY AND DEVELOPER
6.1	Certificate of Developer
6.2	Certificate of Agency
ARTICLE VII	NOTICES, CONSENTS AND APPROVALS
7.1	Notices and Other Communications
ARTICLE VIII	MISCELLANEOUS
8.1	Governing Law
8.2	Amendments and Waivers
8.3	Captions
8.4	Severability
8.5	Counterparts
8.6	Effective Date
8.7	Termination
8.8	Vested Rights; Timeline
8.9	Attorney-in-Fact

TAX INCREMENT REBATE AGREEMENT

THIS TAX INCREMENT REBATE AGREEMENT ("Agreement") is made as of this _____ day of _____, 20__ (the "Effective Date"), between the **City of Cape Coral Community Redevelopment Agency** (hereinafter referred to as "CRA"), a public body corporate and politic created and existing pursuant to Part III, Chapter 163, Florida Statutes, **City of Cape Coral, Florida**, a Florida municipal corporation ("City"), **Crown Development, Inc.**, a corporation established under the laws of the State of North Dakota (hereinafter referred to as "Developer"), and **Bimini Basin Redevelopment Company, LLC**, a Florida limited liability company (hereinafter referred to as "Owner").

RECITALS:

WHEREAS, Owner and City are negotiating a Development Agreement, and the Owner intends to engage the Developer, to develop certain real property owned by the City, as described in **Exhibit A**, attached hereto and incorporated herein (the "Property"), on which Developer intends to construct, and Owner intends to operate, a mixed-use project containing a walkable and integrated open-air, mixed-use development as more particularly described in **Exhibit A**, attached hereto and incorporated herein, which shall include hotel(s), dining, retail, office space, medical and a marina with a fifty (50) slip transient boat dock (subject to the transfer by the City of Cape Coral of a sufficient number of slip credits to the Owner in order to construct the required number of boat slips for the Project, as discussed below), and related seawall improvements, including a pedestrian promenade to Bimini Square, and a minimum of 2,000 spaces throughout four (4) parking garages, as hereinafter described (the "Project"); and

WHEREAS, the CRA was created pursuant to Part III, Chapter 163, Florida Statutes (the "Redevelopment Act") for the purpose of planning, acquiring land, financing with increment tax revenue and redeveloping a blighted area within the boundaries of the City known as the "Downtown Redevelopment Area" (the "Redevelopment Area"), pursuant to the "Community Redevelopment Plan for the Downtown Redevelopment Area" (the "Redevelopment Plan"); and

WHEREAS, the CRA is empowered by the Redevelopment Act to collect in each year the "increment revenues" from each non-exempt "taxing authority" (as each term is defined in the Redevelopment Act) levying ad valorem real estate taxes within the Redevelopment Area (the "Tax Increment Revenues") for deposit into a trust fund established pursuant to Section 163.387, Florida Statutes, (the "Redevelopment Trust Fund") and to apply the amounts on deposit therein to the implementation of the Redevelopment Plan; and

WHEREAS, it is a specific goal of the Redevelopment Plan to facilitate quality development in the Redevelopment Area; and

WHEREAS, the Project is located within the Redevelopment Area, and as reflected by the City's adoption of the Redevelopment Plan, the City and the CRA have determined that there is a need to financially support mixed-use development in the Redevelopment Area; and

WHEREAS, the CRA desires to provide to Owner a portion of the Tax Increment Revenues, as hereinafter provided, as certain financial support and as an incentive for the proposed development; and

WHEREAS, the CRA, City, Owner and Developer now desire to enter into a definitive agreement prior to the commencement of construction of the Project with respect to the design, development, completion, and operation of the Project and the payment by the CRA of a certain amount of Tax Increment Revenues to Owner.

NOW, THEREFORE, it is hereby mutually covenanted and agreed by and between the parties hereto that this Agreement is made upon the terms, covenants and conditions hereinafter set forth.

ARTICLE I

The foregoing recitals are true and correct and incorporated herein as if completely restated.

DEFINITIONS

For all purposes of this Agreement, the following terms shall have the following meanings:

"Agency" means the City of Cape Coral Community Redevelopment Agency, and any assignee or transferee of all of the Agency's rights, obligations and interests herein, from and after the date of any such assignment or transfer thereof (by operation of law or otherwise).

"Agency Indemnified Party" or "Agency Indemnified Parties" means, collectively, the Agency and the City and their respective elected and appointed officials (including the Chair, the Members, the Mayor and the Council Members), directors, officers, shareholders, members, employees, permitted successors and assigns and agents and affiliates of such Persons (and the respective heirs, legal representatives, successors and assigns of any of the foregoing).

"Agreement" means, collectively, this Tax Increment Rebate Agreement and all exhibits and attachments hereto, as any of the same may hereafter be supplemented, amended, restated, severed, consolidated, extended, revised and otherwise modified, from time to time, either in accordance with the terms of this Agreement or by mutual written agreement of the Parties.

"Allocated Percentage" shall have the meaning set forth in Section 2.2 hereof.

“Business Day” or “business day” means a day other than Saturday, Sunday or a day on which banking institutions in the State are authorized or obligated by law or executive order to be closed.

“Certificate of Occupancy” shall mean a final certificate of occupancy for the entire Project, including, but not limited to the apartment homes, issued by the City.

“Chair” means the chairperson of the governing body of Agency.

“City” means the City of Cape Coral, Florida.

“Commence” or “Commencement,” as such terms relate to the commencement of construction required hereunder, means the issuance by the City of the permit required for the commencement of site work pursuant to and in accordance with such permit.

“Controlling Interest” means the ownership, directly or indirectly, of, or other legal right to direct the voting of, 50% or more of the voting interests in a Person or the governing body of such Person.

“Tax Increment Revenues” means the increment revenues attributable to the entire Redevelopment Area for deposit into the Redevelopment Trust Fund pursuant to Section 163.387, Florida Statutes.

“Default” means any condition or event, or failure of any condition or event to occur, which constitutes, or would, after the giving of notice, lapse of time or both, constitute a breach of this Agreement.

“Default Notice” has the meaning provided in Section 4.1 below.

“Developer” means Crown Development, Inc., a North Dakota corporation, and any assignee or transferee of the Developer that is permitted under this Agreement, from and after the date of such permitted assignment or transfer.

“Eligible Improvements” means any of the following improvements constructed or installed as part of the Project, including but not limited to: a) construction of public works or improvements; b) site preparation; c) infrastructure or utility improvements; d) bandshell; e) public park(s); f) recreational facilities; g) marina; h) hotel(s); i) garages; j) police substation; k) public promenade; l) retail space; m) professional offices; and n) medical uses.

“Mayor” means the Mayor of the City of Cape Coral, Florida.

“Member” means a member of the governing body of Agency.

“Notice” has the meaning provided in Section 7.1 below.

“Owner” means Bimini Basin Redevelopment Company, LLC, a Florida limited liability company, or any subsequent owner of any portion of the Project, and each of them may be referred to as an “Owner”.

“Party” means Developer, Owner, City, or Agency as indicated by the context. “Parties” means, collectively, the Developer, Owner and the Agency.

“Person” means an individual, corporation, partnership, joint venture, limited liability company, limited liability partnership, estate, unincorporated association or other entity; any federal, state, county or municipal government or any bureau, department, political subdivision or agency thereof; and any fiduciary acting in such capacity on behalf of any of the foregoing.

“Project” means the development known as the “Bimini East” approved by the City of Cape Coral, Florida, as may be amended from time to time, which are intended to include a mixed-use project containing retail and professional space, a minimum of 130,000 square feet of commercial space, a minimum of 150,000 square feet to a maximum of 200,000 square feet of medical space, a maximum of 900 residential units (including multi-family residential units, single-family detached or attached units, townhomes, condominiums, and apartment), a pedestrian promenade to Bimini Square, four (4) parking garages containing a minimum of 2,000 parking spaces, and shall contain a fifty (50) slip transient boat dock for use by the general public (subject to the transfer by the City of Cape Coral of a sufficient number of slip credits to the Owner in order to construct the required number of boat slips for the Project from other properties owned by the City provided, however, that any transfer of slip credits by the City is contingent upon the approval of Lee County, and if not approved by Lee County, the City’s obligation to transfer boat slip credits is null and void) and related seawall improvements. The inability of the City to transfer boat slip credits, and therefore the ability of Developer to construct a fifty (50) slip transient boat dock, shall not otherwise affect the rights and obligations of the Parties hereunder, including without limitation the obligation of the CRA under this Agreement to pay Project Tax Increment Revenues to Owner and the right of Owner to receive the Project Tax Increment Revenues contemplated hereunder.

“Project Increment Revenues” shall mean the Allocated Percentage of the amount deposited in the Redevelopment Trust Fund pursuant to Section 163.387, Florida Statutes, which is attributable to the Project using January 1, 2026 as the base year for calculation of such increment revenues.

“Property” means the real property described as **Exhibit A** attached hereto.

“Redevelopment Area” means the blighted area within the boundaries of the City known and referred to as the “Downtown Redevelopment Area”.

“Redevelopment Plan” means the “Community Redevelopment Plan for the Downtown Redevelopment Area” adopted by the Mayor and City Council of the City of

Cape Coral, Florida by Ordinance No. 16-19 on April 15, 2019, and as may be amended from time to time.

“Redevelopment Trust Fund” means the trust fund established pursuant to Section 163.387, Florida Statutes, in which increment revenues attributable to the Redevelopment Area are deposited.

“State” means the State of Florida.

“Substantial Completion” shall mean the completion of the construction of the Project, as evidenced by the issuance by the City of a final Certificate of Occupancy for the apartment homes, which will permit the Project to be open for business to the public.

“Tax Roll” means the real property ad valorem tax assessment roll prepared and maintained by the Property Appraiser of Lee County, Florida, for the purpose of the levy and collection of ad valorem taxes on taxable real property.

“Unavoidable Delay” means delay due to any of the following (provided that such delay is beyond a Party’s reasonable control): strikes, slowdowns, lockouts, acts of God, pandemic conditions, governmental moratorium or inaction, inability to obtain labor or materials, war, enemy action, civil commotion, terrorist acts, fire, casualty, abnormal weather conditions including, but not limited to, hurricanes, tropical storms, or other inclement weather resulting in extended delays, a court order which causes a delay (unless resulting from disputes between or among the party alleging an Unavoidable Delay, present or former employees, officers, members, partners or shareholders of such alleging party or Affiliates or present or former employees, officers, partners, members or shareholders of such Affiliates of such alleging party), or other such cause beyond such Party’s reasonable control.

“Vertical Improvement” means any above ground building or structure built upon the Property, above the foundation or slab level, which include residential units, commercial/retail space and parking garages, consistent with the Concept Plan, as defined in the Development Agreement.

ARTICLE II PROJECT INCREMENT REVENUES

2.1 Purpose of Funding Agreement. In consideration for the Developer and Owner’s mutual agreements herein provided, the City and the CRA covenant and agree to transfer Increment Revenues into the Revenue Trust Fund on or before each January 31, commencing on January 31st following the year the Certificate of Occupancy or Temporary Certificate of Occupancy for any improvements are issued, and continuing through the termination of this Agreement as herein provided.

2.2 Allocated Percentage of Project Tax Increment Revenues. The Allocated Percentage of Project Tax Increment Revenues payable to Owner shall not

exceed 95% of the Project Increment Revenues in any one year through September 30, 2042.

2.3 Maximum Project Tax Increment Revenues. The Project Increment Revenues payable to Owner during the term of this Agreement shall not exceed Forty-Five Million Seven Hundred Fifty Thousand Dollars (\$45,750,000.00) in the aggregate. The obligation of the CRA under this Agreement to pay Project Tax Increment Revenues to Owner under this Agreement is expressly limited to the amount generated under the formulas identified in Section 2.4, and in the event that pursuant to said formula the Project does not result in sufficient Project Tax Increment Revenue during the remaining term, the CRA shall have no obligation to pay to Owner an amount greater than the amount of the actual Project Tax Increment Revenues, in that fiscal year. This Agreement shall terminate upon the payment of \$45,750,000.00 or September 30, 2042. The Owner acknowledges and agrees that Owner shall be entitled to all the Project Tax Increment Revenues pursuant to this Agreement.

2.4 Calculation of Annual Project Tax Increment Revenues. The base value for determining Project Increment Revenues attributed to the Project shall be the assessed value of the Property on January 1, 2026 as reflected on the Tax Roll for Lee County, Florida. Annual Project Tax Increment Revenues shall be calculated for this Property in accordance with the annual tax increment calculation provided in Section 163.387, Florida Statutes.

2.5 Completion of Eligible Improvements. Upon completion of any Eligible Improvement(s) defined in Article I, Definitions, the Developer shall provide the CRA with a Certificate of Occupancy (CO), Temporary Certificate of Occupancy (TCO), Certificate of Completion (CC), or other equivalent industry standard certificate confirming the completion of such improvement(s).

2.6 Vertical Improvements Deadline and Termination. If a Certificate of Occupancy, or Temporary Certificate of Occupancy for any Vertical Improvements is not issued on, or before, October 1, 2032, this Agreement shall be null and void, unless otherwise extended by the CRA upon good cause shown, or for Unavoidable Delays.

2.7. Annual Payments. Annual Payments by the CRA to Owner as provided in the Agreement shall commence upon receipt by the CRA of the following to its reasonable satisfaction:

- A) Certification of Occupancy or Temporary Certificate of Occupancy for any Vertical improvements; and
- B) Annual payment of Lee County Ad Valorem taxes.

ARTICLE III NON-DISCRIMINATION

3.1 Non-Discrimination. Developer and Owner shall be an equal opportunity employer and shall not engage in any unlawful discrimination against any person because of race, creed, national origin, sex, age, disability, marital status or sexual orientation. Developer and Owner shall act in compliance with all Federal, state and local anti-discrimination laws, including, without limitation, the State or Lee County's equal opportunity statute or ordinance.

ARTICLE IV EVENTS OF DEFAULTS; BREACH; REMEDIES

4.1 Default. In the event of any Default under this Agreement the defaulting party, upon written notice from the other (the "Default Notice"), shall proceed immediately to cure the default and shall cure the default within 60 days after receipt of the Default Notice (the "Cure Period"). If the defaulting party is the Developer or Owner, then the CRA's obligation to make Project Increment Revenue payments to Owner shall cease and the CRA may pursue all available legal remedies. If the CRA is the defaulting party and fails to cure such default within the Cure Period, the Developer and Owner, as applicable, shall have all available legal remedies.

4.2 Default in Payment of Ad Valorem Taxes; Forfeiture of Increment Payout. If Owner fails to pay all the ad valorem real property taxes assessed against the Owner's Property fully, timely, and prior to delinquency for any given tax year, Owner shall automatically forfeit its right to receive any Tax Increment Revenue payout under this Agreement attributable to that tax year. Notwithstanding the foregoing, if Owner conveys any portion(s) of the Property to an unaffiliated third party in a bona fide, arm's-length transaction and the ad valorem taxes attributable to that conveyed portion(s) become delinquent, Owner shall forfeit only the portion(s) of the Tax Increment Revenue payout attributable to such conveyed parcel(s).

4.3 Litigation; Attorneys' Fees and Costs. In the event of any litigation between the parties under this Agreement for a breach thereof, each party shall bear its own attorney's fees and court costs at all trial and appellate levels. The terms of this paragraph shall survive the expiration or early termination of this Agreement.

4.4 Delay. In the event of delay in performance by either party hereto under this Agreement due to Unavoidable Delay, the time for performance of such obligations shall be extended for the period of the enforced delay, provided the Party seeking the benefit of the provisions of this section shall, within 30 days after the beginning of any such Unavoidable Delay, have notified the other party in writing of the causes and the extension.

4.5 Strict Performance. No failure by either Party to insist upon strict performance of any covenant, agreement, term or condition of this Agreement or to

exercise any right or remedy available to such party by reason of Owner's Default, and no payment or acceptance of full or partial payments of amount due under this Agreement during the continuance (or with the CRA's knowledge of the occurrence) of any Default, shall constitute a waiver of any such Default or of such covenant, agreement, term or condition or of any other covenant, agreement, term or condition. No covenant, agreement, term or condition of this Agreement to be performed or complied with by the parties, and no Default by either party, shall be waived, altered or modified except by a written instrument executed by the other party. No waiver of any Default shall affect or alter this Agreement, but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent Default. Payment by Owner to the CRA of any amounts due under this Agreement shall be without prejudice to, and shall not constitute a waiver of, any rights of Owner against the CRA provided for under this Agreement or at law or in equity. Owner's compliance with any request or demand made by the CRA shall not be deemed a waiver of Owner's right to contest the validity of such request or demand.

4.6 Remedies Under Bankruptcy Code. If an order for relief is entered or if any stay of proceeding or other act becomes effective against Owner or in any proceeding which is commenced by or against Owner, under the present or any future federal bankruptcy code or in a proceeding which is commenced by or against Owner, seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any other present or future applicable federal, state or other bankruptcy statute or law, the CRA shall be entitled to any and all rights and remedies available to it under such bankruptcy code, statute or law or this Agreement.

4.7 Dispute Resolution.

(a) Mediation. In the event of any dispute, controversy or question of interpretation of or relating to this Agreement (the "Dispute"), the Parties shall first attempt to settle the Dispute in an amicable manner through mediation pursuant to Florida Rules for Certified and Court-Appointed Mediators. The mediation shall be conducted in Lee County, Florida, by a single mediator, certified by the Florida Supreme Court as a mediator of circuit court matters, mutually agreed upon between the Parties, within thirty (30) days after the selection of a mutually agreed upon mediator. In the event of a Dispute, either Party may initiate mediation by providing written notice to the other Party (the "Notice of Dispute") setting forth the nature of the Dispute to be resolved at mediation and the name of at least three (3) mediators that would be acceptable to the Party initiating the mediation. Upon receipt of the Notice of Dispute, the other Party, shall within five (5) days, either select one of the three (3) mediators proposed by the Party initiating the mediation, or if none of the proposed mediators is acceptable, provide the names of at least three (3) proposed mediators who would be acceptable, which process shall continue until such time as the parties have agreed upon the selection of a single mediator. No mediator may be a shareholder, director, officer, employee or family member of a party to the mediation. All mediation fees shall be shared equally by the Parties.

(b) Arbitration. In the event that the Parties are not able to agree upon a single mediator within thirty (30) days after the Notice of Dispute, or in the event that the

Dispute is not resolved at the mediation session, then the Dispute shall be settled by arbitration, in Lee County, Florida, by a single arbitrator in accordance with the procedures of the American Arbitration Association. Either Party may initiate the arbitration proceeding by filing a request for arbitration with the American Arbitration Association in Lee County, Florida. No arbitrator may be a shareholder, director, officer, employee or family member of a party to the arbitration. Each Party shall be required to provide the other Party with copies of all documentation and other written or photographic materials that they intend to introduce into evidence at least ten (10) days in advance of the arbitration hearing. All arbitrator's fees and any other costs of the arbitration proceeding are to be paid by the non-prevailing Party or as otherwise determined by the arbitrator. Any determination rendered in accordance with the provisions of this Section shall be controlling and decisive of any dispute thereafter arising under this Agreement, if and to the extent that the same issues of law and fact are involved, and judgment upon, or confirmation of, the determination may be entered in any court of record of competent jurisdiction or application may be made in such court for judicial acceptance of the award and an order of enforcement as the law of such jurisdiction may require or allow. Notwithstanding anything contained in this Section to the contrary, each Party shall have the right to institute judicial proceedings against the other Party or anyone acting by, through or under such other Party, in order to enforce the instituting Party's rights hereunder through specific performance, injunction or other similar equitable relief. Any such proceedings shall be brought in the courts of record of the State of Florida in Lee County, and each Party consents to the jurisdiction of such court in any suit, action or proceeding and waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts.

(c) **Jury Trial.** The Parties hereby waive any right they may have under any applicable law to a trial by jury with respect to any suit or legal action which may be commenced by or against the other concerning the interpretation, construction, validity, enforcement or performance of this Agreement or any other agreement or instrument executed in connection with this Agreement.

ARTICLE V REPRESENTATIONS

5.1 No Brokers. The CRA, City, Developer and Owner each represents to the other that it has not dealt with any broker, finder or like entity in connection with this Agreement or the transactions contemplated hereby, and each party shall indemnify the other against any claim for brokerage commissions, fees or other compensation by any person alleging to have acted for or dealt with the other party in connection with this Agreement or the transactions contemplated hereby. The CRA and the City do not waive their sovereign immunity for liability for torts provided within Section 768.28, Florida Statutes, caselaw or other applicable law, and acknowledge that sovereign immunity shall not apply to an action for breach of this Agreement.

5.2 Indemnification. The Developer and Owner hereby covenant and agree 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 "Related Parties") from and against all actual liability, losses, or damages, including reasonable 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 failure of Developer to perform under this Agreement. 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 rights of sovereign immunity as provided in Chapter 768 of the Florida Statutes. Additionally, the CRA does not waive sovereign immunity.

5.3 Authority to Execute. The CRA, City, Developer and Owner each represents to the other that each individual executing this Agreement on behalf of the CRA, Owner, or Developer (or in any representative capacity), as applicable, has full right and lawful authority to execute this Agreement. Developer and Owner agree to furnish to the CRA on or prior to the date of execution of this Agreement true and correct copies of such instruments or documents evidencing, to the CRA's reasonable satisfaction, the authority of each such person executing this Agreement on behalf of Developer and Owner (or in any representative capacity).

5.4 Representation. Developer and Owner confirm that, except for the representations contained in Sections 5.1 and 5.3 above, (a) no representations, statements or warranties, express or implied, have been made by, or on behalf of, the CRA with respect to the transactions contemplated by this Agreement and (b) Developer and Owner have relied on no such representation, statements or warranties.

5.5 No Liability. Developer and Owner hereby forever waive and releases the City and the CRA from any liability whatsoever, now or hereafter arising in connection with any lawsuit filed to challenge this Agreement by any third party and hereby covenant and agree not to initiate any legal proceedings against the City or CRA in connection with any such challenges to this Agreement (other than as a result of a default by the CRA with respect to its obligations under this Agreement).

5.6 Survival. The provisions of this Article shall survive the termination of this Agreement.

ARTICLE VI CERTIFICATES BY AGENCY AND DEVELOPER

6.1 Certificate of Developer. Developer and/or Owner shall, within fifteen (15) days after request by the CRA for reasonable purposes, execute, acknowledge and deliver to the CRA, or such other Person specified by the CRA, a written statement (a) certifying that this Agreement is unmodified and in full force and effect (or if there are modifications, that this Agreement, as modified, is in full force and effect and stating such modifications) (and, if so requested, that the annexed copy of this Agreement is a true, correct and complete copy of this Agreement), and (b) stating (i) whether Developer or

Owner have given the CRA written notice of any Default, or any event that, with the giving of notice or the passage of time, or both, would constitute a Default, by the CRA in the performance of any covenant, agreement, obligation or condition contained in this Agreement, which Default or event has not been cured, and (ii) whether, to the actual knowledge of Developer or Owner (but without independent inquiry), the CRA is in Default in performance of any covenant, agreement obligation or condition contained in this Agreement, and if so, specifying in detail each such Default.

6.2 Certificate of Agency. The CRA shall, within fifteen (15) days after request by Developer or Owner for reasonable purposes, including, without limitation, project financing, execute, acknowledge and deliver to Developer and Owner, or such other Person specified by the Developer or Owner, a written statement (a) certifying that this Agreement is unmodified and in full force and effect (or if there are modifications, that this Agreement, as modified, is in full force and effect and stating such modifications) (and, if so requested, that the annexed copy of this Agreement is a true, correct and complete copy of this Agreement), and (b) stating (i) whether a Default has occurred or whether the CRA has given Developer or Owner written notice of any Default, or any event that, with the giving of notice or the passage of time, or both, would constitute a Default, which Default has not been cured, and (ii) whether, to the actual knowledge of the CRA (but without independent inquiry), Developer or Owner are in Default in the performance of any covenant, agreement, obligation or condition contained in this Agreement, and, if so, specifying, in detail, each such Default.

ARTICLE VII NOTICES, CONSENTS AND APPROVALS

7.1 Notices and Other Communications.

(a) Whenever it is provided herein that notice, demand, request, consent, approval or other communication shall or may be given to, or served upon, either of the parties by the other, or whenever either of the parties desires to give or serve upon the other any notice, demand, request, consent, approval or other communication with respect hereto or to the Project, each such notice, demand, request, consent, approval or other communication (referred to in this Section 7.1 as a "Notice") shall be in writing (whether or not so indicated elsewhere in this Agreement) and shall be effective for any purpose only if given or served by (i) certified or registered United States Mail, postage prepaid, return receipt requested, (ii) personal delivery with a signed receipt or (iii) a recognized national courier service, addressed as follows:

If to Developer: Crown Development, Inc.
c/o Larry S. Nygard, President
1918 9th Street E
West Fargo, ND 58078

And

Bolanos Truxton, P.A.
c/o Gregg S. Truxton, Esq
12800 University Drive, Suite 350
Ft. Myers, FL 33907

Owner: Bimini Basin Redevelopment Company, LLC
c/o Larry S. Nygard, Manager
1918 9th Street E
West Fargo, ND 58078

And

Bolanos Truxton, P.A.
c/o Gregg S. Truxton, Esq
12800 University Drive, Suite 350
Ft. Myers, FL 33907

If to The City: City Manager
City of Cape Coral
Mailing: PO Box 150027
Cape Coral, Florida 33915
Physical: 1015 Cultural Park Blvd.
Cape Coral, Florida 33990

If to Agency: Cape Coral
Community Redevelopment Agency
Mailing: PO Box 150027
Cape Coral, Florida 33915
Physical: 1015 Cultural Park Blvd.
Cape Coral, Florida 33990

With a copy to: City Attorney
City of Cape Coral
Mailing: PO Box 150027
Cape Coral, Florida 33915
Physical: 1015 Cultural Park Blvd.
Cape Coral, Florida 33990

(b) Any Notice may be given in the manner provided in this Section 7.1 on either party's behalf by its attorneys designated by such party by Notice hereunder.

(c) Every Notice shall be effective on the date actually received, as indicated on the receipt therefore or on the date delivery thereof is refused by the recipient thereof.

(d) All references in this Agreement to the "date" of Notice shall mean the effective date, as provided in the preceding subsection (c).

ARTICLE VIII MISCELLANEOUS

8.1 Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. Exclusive venue and jurisdiction for any dispute arising out of this Agreement shall be in Lee County, Florida.

8.2 Amendments and Waivers. This Agreement may not be amended, modified, altered, or changed in any respect whatsoever, except by a further agreement in writing duly executed by the Parties hereto. No failure by any Party hereto to insist upon the strict performance of any covenant, duty, agreement or condition of this Agreement or to exercise any right or remedy upon a breach thereof shall constitute a waiver of any such breach or of such or any other covenant, agreement, term or condition. Any Party hereto, by Notice, may, but shall not be under any obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other Party hereto. No waiver shall affect or alter this Agreement but each and every covenant, agreement, term and condition of this Agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof as may otherwise be provided herein. All the terms, provisions and conditions of this Agreement shall inure to the benefit of and be enforceable by the Parties hereto, and their respective successors and assigns. This Agreement may be assigned by Developer or by Owner to any entity that now or hereafter acquires or owns any portion of the Property or to a lender, or community development district (CDD), providing financing to Owner in connection with the Project; provided, however, that any successors or assignees of Owner that own only a portion of the Property shall be limited to Tax Increment Funds for such portion of the Property that it owns. This Agreement shall not be construed more strictly against one Party than against the other, merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both Parties have contributed substantially and materially to the preparation of this Agreement.

8.3 Captions. The captions of this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement or the intent of any provision hereof.

8.4 Severability. If any provision of this Agreement or the application thereof to any Person or circumstance shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

8.5 Counterparts. This Agreement may be executed in two (2) or more counterparts, each of which shall be considered to be an original, and all collectively deemed one instrument.

8.6 Effective Date. The Effective Date of this Agreement shall be the date first written in the first paragraph of this Agreement.

a. This agreement shall become effective, valid, and legally binding if, and only if, that certain Development Agreement associated with the Project by and among the City, Owner and Developer, is fully executed and delivered by all requisite parties thereto. In the event said Development Agreement is not fully executed, this Agreement shall be null, void, and of no legal force and effect *ab initio*.

8.7 Termination. Subject to the cure provisions set forth in Section 4.1, the obligations of Developer, Owner, City, and the CRA shall terminate upon the last of the Project Increment Revenues payments to Owner as provided in Article II hereof, or September 30, 2042, whichever occurs first.

8.8 Vested Rights. This Agreement does not create, nor is it intended to create, a vested property right in favor of the Developer.

8.9 Attorney-in-Fact. Owner hereby designates Developer as its attorney-in-fact, which appointment is coupled with an interest and shall be irrevocable so long as this Agreement remains in effect, to execute such further documents, including any amendments to this Agreement, applications or other authorizations, consents or approvals, as may be necessary or appropriate in connection with the performance by Developer of its obligations under this Agreement.

[SIGNATURE PAGE TO FOLLOW]

EXECUTION

IN WITNESS WHEREOF, The CRA and Developer, intending to be legally bound, have executed this Tax Increment Financing Agreement as of the day and year first above written.

**CAPE CORAL COMMUNITY
REDEVELOPMENT AGENCY**

Signed, sealed and delivered
in the presence of:

Witness:

Witness:

By _____
Name: Michael Ilczyszyn
Executive Director

**CITY OF CAPE CORAL, FLORIDA, a
municipal corporation**

Witness:

By: _____
Michael Ilczyszyn, City Manager

Witness:

APPROVED AS TO FORM:

Aleksandr Boksner, City Attorney

CROWN DEVELOPMENT, INC., a North
Dakota Corporation

Witness:

By: _____
Larry S. Nygard, its President

Witness:

**BIMINI BASIN REDEVELOPMENT
COMPANY, LLC**, a Florida limited liability
company

Witness:

By: _____
Larry S. Nygard, its Manager

Witness:

APPROVED AS TO FORM:

Gregg S. Truxton
Bolaños Truxton, PA

Exhibit A
Description of the Property

EXHIBIT N



PEDESTRIAN PROMENADE

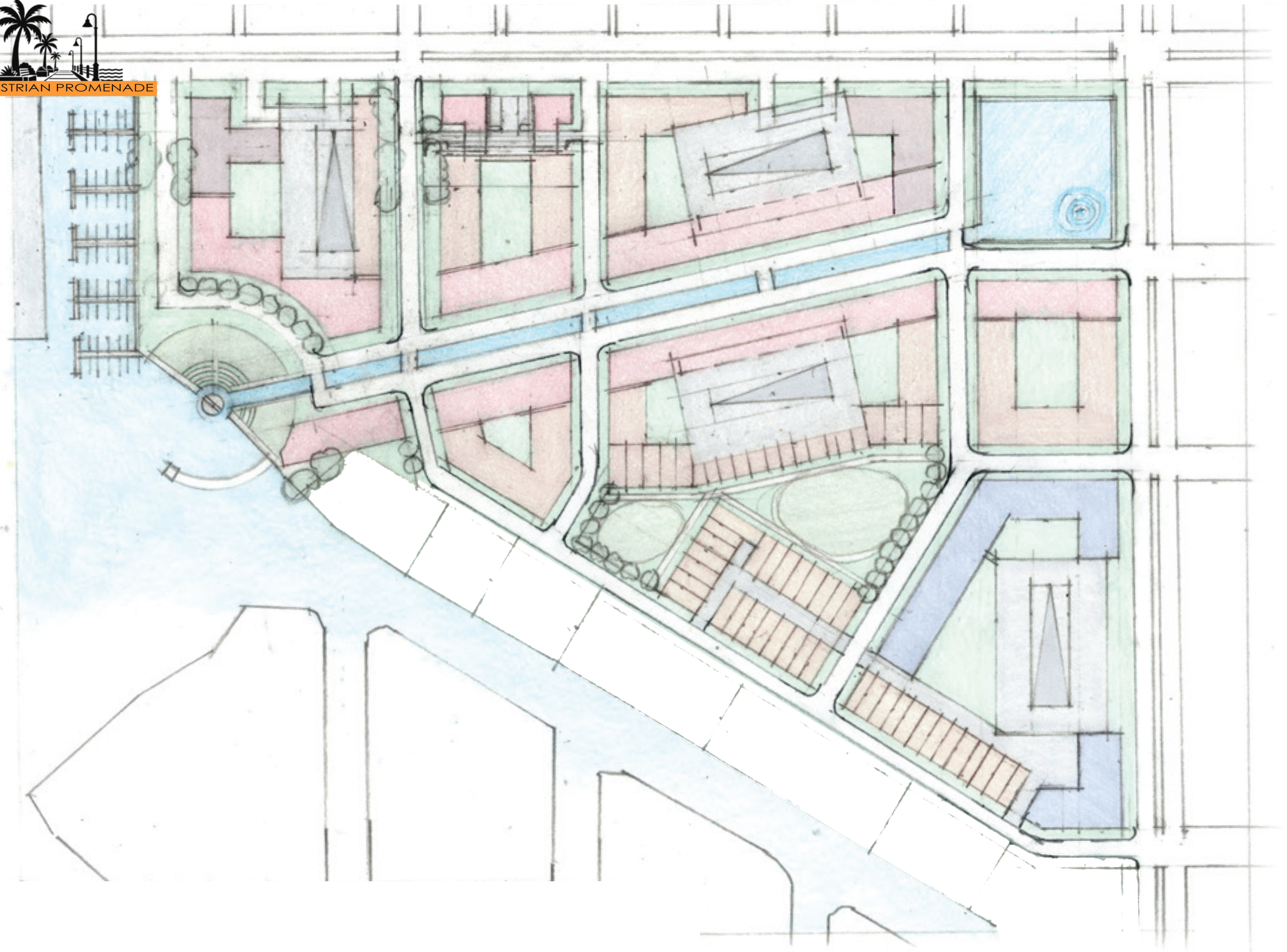


EXHIBIT O

[to be attached]

EXHIBIT P

Event # 360-1: Plan Review and Inspection Services

Question	Answer	Attachment
Do you acknowledge that if your firm is awarded this contract, your firm will have to complete and submit the attached - Anti-Human Trafficking Affidavit Per Florida Statute 787.06 (2024), (13).	Yes	
Florida Statute 787.06 (2024), (13) When a contract is executed, renewed, or extended between a nongovernmental entity and a governmental entity, the nongovernmental entity must provide the governmental entity with an affidavit signed by an officer or a representative of the nongovernmental entity under penalty of perjury attesting that the nongovernmental entity does not use coercion for labor or services as defined in this section. For purposes of this subsection, the term "governmental entity" has the same meaning as in s. 287.138(1).		

Response Attachments

Attachment
Minimum Qualifications.pdf

Line Responses

Line 1: Structural Plans Examiner
Description: Structural Plans Examiner - Estimated 6,000 hours/year.
Item: INSPECTION & PLAN REVIEW SERVICE Structural Plans Examiner
Commodity Code: 962-58 Professional Services (Not Otherwise Classified)
Quantity: 6,000.0000 Unit of Measure: HR

Event # 360-1: Plan Review and Inspection Services

Bid Quantity: 6,000.0000

Unit Price: 105.0000

Extended Amount: 630,000.00

No Charge: No

No Bid: No

Line 2: Structural Inspector

Description: Structural Inspector. Estimated 8,000 hours/year.

Item: STRUCTURAL INSPECTOR Structural Inspector

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 8,000.0000

Unit of Measure: HR

Bid Quantity: 8,000.0000

Unit Price: 95.0000

Extended Amount: 760,000.00

No Charge: No

No Bid: No

Line 3: Electrical Plans Examiner

Description: Electrical Plans Examiner. Estimated 1,200 hours/year.

Item: ELECTRICAL PLANS EXAMINER Electrical Plans Examiner

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 1,200.0000

Unit of Measure: HR

Bid Quantity: 1,200.0000

Unit Price: 110.0000

Extended Amount: 132,000.00

No Charge: No

No Bid: No

Line 4: Electrical Inspector

Description: Electrical Inspector. Estimated 2,500 hours/year.

Item: ELECTRICAL INSPECTOR Electrical Inspector

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 2,500.0000

Unit of Measure: HR

Event # 360-1: Plan Review and Inspection Services

Bid Quantity: 2,500.0000

Unit Price: 90.0000

Extended Amount: 225,000.00

No Charge: No

No Bid: No

Line 5: Mechanical Plans Examiner

Description: Mechanical Plans Examiner. Estimated 2,000 hours/year.

Item: MECHANICAL PLANS EXAMINER Mechanical Plans Examiner

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 2,000.0000

Unit of Measure: HR

Bid Quantity: 2,000.0000

Unit Price: 110.0000

Extended Amount: 220,000.00

No Charge: No

No Bid: No

Line 6: Mechanical Inspector

Description: Mechanical Inspector. Estimated 2,000 hours/year.

Item: MECHANICAL INSPECTOR Mechanical Inspector

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 2,000.0000

Unit of Measure: HR

Bid Quantity: 2,000.0000

Unit Price: 90.0000

Extended Amount: 180,000.00

No Charge: No

No Bid: No

Line 7: Plumbing Plans Examiner

Description: Plumbing Plans Examiner. Estimated 1,300 hours/year.

Item: PLUMBING PLANS EXAMINER Plumbing Plans Examiner

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 1,300.0000

Unit of Measure: HR

Event # 360-1: Plan Review and Inspection Services

Bid Quantity: 1,300.0000 **Unit Price:** 110.0000 **Extended Amount:** 143,000.00
No Charge: No **No Bid:** No

Line 8: Plumbing Inspector
Description: Plumbing Inspector. Estimated 2,000 hours/year.

Item: PLUMBING INSPECTOR Plumbing Inspector
Commodity Code: 962-58 Professional Services (Not Otherwise Classified)
Quantity: 2,000.0000 **Unit of Measure:** HR

Bid Quantity: 2,000.0000 **Unit Price:** 90.0000 **Extended Amount:** 180,000.00
No Charge: No **No Bid:** No

Line 9: Floodplain Plans Examiner
Description: Floodplain Plans Examiner. Estimated 1,300 hours/year.

Item: FLOODPLAIN PLANS EXAMINER Floodplain Plans Examiner
Commodity Code: 962-58 Professional Services (Not Otherwise Classified)
Quantity: 1,300.0000 **Unit of Measure:** HR

Bid Quantity: 1,300.0000 **Unit Price:** 115.0000 **Extended Amount:** 149,500.00
No Charge: No **No Bid:** No

Line 10: Floodplain Inspector
Description: Floodplain Inspector. Estimated 800 hours/year.

Item: FLOODPLAIN INSPECTOR Floodplain Inspector
Commodity Code: 962-58 Professional Services (Not Otherwise Classified)
Quantity: 800.0000 **Unit of Measure:** HR

Event # 360-1: Plan Review and Inspection Services

Bid Quantity: 800.0000

Unit Price: 90.0000

Extended Amount: 72,000.00

No Charge: No

No Bid: No

Line 11: Engineering Inspector

Description: Engineering Inspector. Estimated 2,500 hours/year.

Item: ENGINEERING INSPECTOR Engineering Inspector

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 2,500.0000

Unit of Measure: HR

Bid Quantity: 2,500.0000

Unit Price: 110.0000

Extended Amount: 275,000.00

No Charge: No

No Bid: No

Line 12: Engineering Plans Examiner

Description: Engineering Plans Examiner. Estimated 4,000 hours/year.

Item: ENGINEERING PLANS EXAMINER Engineering Plans Examiner

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 4,000.0000

Unit of Measure: HR

Bid Quantity: 4,000.0000

Unit Price: 120.0000

Extended Amount: 480,000.00

No Charge: No

No Bid: No

Line 13: Landscaping Inspector

Description: Landscaping Inspector. Estimated 2,500 hours/year.

Item: LANDSCAPING INSPECTOR Landscaping Inspector

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 2,500.0000

Unit of Measure: HR

Event # 360-1: Plan Review and Inspection Services

Bid Quantity: 2,500.0000

Unit Price: 110.0000

Extended Amount: 275,000.00

No Charge: No

No Bid: No

Line 14: Landscaping Plans Examiner

Description: Landscaping Plans Examiner. Estimated 1,500 hours/year.

Item: LANDSCAPING PLANS EXAMINER Landscaping Plans Examiner

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 1,500.0000

Unit of Measure: HR

Bid Quantity: 1,500.0000

Unit Price: 110.0000

Extended Amount: 165,000.00

No Charge: No

No Bid: No

Line 15: Chief- Structural

Description: Chief- Structural. Estimated 400 hours/year.

Item: CHIEF- STRUCTURAL Chief- Structural

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 400.0000

Unit of Measure: HR

Bid Quantity: 400.0000

Unit Price: 120.0000

Extended Amount: 48,000.00

No Charge: No

No Bid: No

Line 16: Chief - Mechanical

Description: Chief - Mechanical. Estimated 400 hours/year.

Item: CHIEF - MECHANICAL Chief - Mechanical

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 400.0000

Unit of Measure: HR

Event # 360-1: Plan Review and Inspection Services

Bid Quantity: 400.0000

Unit Price: 110.0000

Extended Amount: 44,000.00

No Charge: No

No Bid: No

Line 17: Chief - Electrical

Description: Chief - Electrical. Estimated 400 hours/year.

Item: CHIEF - ELECTRICAL Chief - Electrical

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 400.0000

Unit of Measure: HR

Bid Quantity: 400.0000

Unit Price: 110.0000

Extended Amount: 44,000.00

No Charge: No

No Bid: No

Line 18: Chief - Plumbing

Description: Chief - Plumbing. Estimated 400 hours/year.

Item: CHIEF - PLUMBING Chief - Plumbing

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 400.0000

Unit of Measure: HR

Bid Quantity: 400.0000

Unit Price: 110.0000

Extended Amount: 44,000.00

No Charge: No

No Bid: No

Line 19: Assistant Building Official

Description: Assistant Building Official. Estimated 240 hours/year.

Item: ASSISTANT BUILDING OFFICIAL Assistant Building Official

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 240.0000

Unit of Measure: HR

Event # 360-1: Plan Review and Inspection Services

Bid Quantity: 240.0000

Unit Price: 145.0000

Extended Amount: 34,800.00

No Charge: No

No Bid: No

Line 20: Building Official

Description: Building Official. Estimated 240 hours/year.

Item: BUILDING OFFICIAL Building Official

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 240.0000

Unit of Measure: HR

Bid Quantity: 240.0000

Unit Price: 145.0000

Extended Amount: 34,800.00

No Charge: No

No Bid: No

Line 21: Permit Technician

Description: Permit Technician. Estimated 2,000 hours/year.

Item: PERMIT TECHNICIAN Permit Technician

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 2,000.0000

Unit of Measure: HR

Bid Quantity: 2,000.0000

Unit Price: 55.0000

Extended Amount: 110,000.00

No Charge: No

No Bid: No

Line 22: Emergency or Natural Disaster Inspections

Description: Emergency or Natural Disaster Inspections. Estimated 6,000 hours/year.

Item: EMERGENCY/NATURAL DISASTER INSP. Emergency or Natural Disaster Inspections

Commodity Code: 962-58 Professional Services (Not Otherwise Classified)

Quantity: 6,000.0000

Unit of Measure: HR

Event # 360-1: Plan Review and Inspection Services

Bid Quantity: 6,000.0000

Unit Price: 130.0000

Extended Amount: 780,000.00

No Charge: No

No Bid: No

EXHIBIT Q

[to be attached]

EXHIBIT R

DRAFT

PARKING AGREEMENT

This Parking Agreement (“Agreement”) is entered into as of _____, 20____, (“Effective Date”) by and between the City of Cape Coral, a Florida municipal corporation, whose address is 1015 Cultural Park Boulevard, Cape Coral, Florida 33915 (“City”), and _____, a Community Development District (“the District”) established and existing pursuant to the provisions of Chapter 190, *Florida Statutes*, whose address is _____. The City and the District are each a “Party” and collectively the “Parties.”

RECITALS

WHEREAS, the City enacted Ordinance Number _____ which was effective on _____ (the “**Ordinance**”) establishing the District; and

WHEREAS, the District consists of that real property wholly within the boundaries described in the Ordinance (the “**Property**”); and

WHEREAS, the District is an independent special district and a local unit of special-purpose government which is created pursuant to Chapter 190, *Florida Statutes*, and is limited to the performance of those specialized functions authorized by to Chapter 190, *Florida Statutes*, and the Ordinance; and

WHEREAS, the governing body of the District is created, organized, constituted and authorized to function specifically as prescribed in Chapter 190, *Florida Statutes*, and the Ordinance for the delivery of urban community development infrastructure and services; and

WHEREAS, the District owns, controls, or is otherwise authorized to permit the temporary use of the property described in Exhibit A of the Development Agreement; and

WHEREAS, the City, Crown Development, Inc., and Bimini Basin Redevelopment Company, LLC, entered into that certain Development Agreement, dated as of _____ and recorded on _____ under Document Number _____, in the Public Records of Lee County, Florida (the “**Development Agreement**”), which, among other matters, requires the execution of this Parking Agreement by the City and the District which grants the City the right to use any parking within the Project owned/controlled by the Developer in order to stage emergency vehicles three (3) days prior to, during, and two (2) days after an emergency or disaster as defined in Chapter 252, *Florida Statutes*; and

WHEREAS, the City provides emergency response, public safety, public works, disaster response, and related governmental services; and

WHEREAS, in preparation for, during, and immediately following a declared state of emergency or natural disaster, the City may require a secure location at which to park, position, deploy, and support emergency vehicles and related equipment; and

WHEREAS, the District desires to authorize the City's temporary use of the Staging Area, subject to the terms and conditions of this Agreement, to facilitate emergency preparation, response, recovery, and continuity of governmental operations; and

WHEREAS, each Party has determined that entering into this Agreement serves a valid public purpose and is in the public interest.

Accordingly, in consideration of the mutual covenants contained in this Agreement, the Parties agree as follows:

ARTICLE 1

DEFINITIONS

1. Authorized Personnel. "Authorized Personnel" means the City's elected and appointed officials, employees, emergency responders, contractors, mutual-aid participants, agents, and representatives who are authorized by the City to enter or use the Staging Area in connection with an Emergency Event.

2. Emergency Event. "Emergency Event" means:

- a.** A state of emergency declared by the President of the United States, the Governor of the State of Florida, Lee County, or the City; or
- b.** A hurricane, tropical storm, tornado, flood, wildfire, severe weather event, or other natural disaster that the City Manager, emergency management official, fire chief, police chief, public works director, or their respective designee reasonably determines presents an imminent or existing threat to public health, safety, property, infrastructure, or governmental operations.

3. Emergency Vehicles. "Emergency Vehicles" means City-owned, City-leased, or City-authorized vehicles, trailers, mobile command units, fire and rescue apparatus, law enforcement vehicles, public works vehicles, utility-response vehicles, transport vehicles, generators, fuel-support vehicles, and other vehicles or mobile equipment used for emergency preparation, response, recovery, or continuity of operations.

4. Staging Area. "Staging Area" means the parking and staging area located within the Project Area, as more particularly described or depicted in Exhibit A.

5. Staging Period. "Staging Period" means the temporary period during which the City may occupy and use the Staging Area for an Emergency Event, beginning three (3) calendar days before the Emergency Event and ending two (2) calendar days after the Emergency Event has concluded. If the timing of an Emergency Event cannot reasonably be predicted, the Staging Period shall begin when the City activates the Staging Area by notice to the District. The City shall determine the anticipated commencement and conclusion of an Emergency Event in good faith based on then-available emergency-management information.

ARTICLE 2

GRANT AND SCOPE OF USE

1. **Temporary License.** Subject to this Agreement, the District grants the City a nonexclusive, temporary, revocable license to enter and use the Staging Area during each Staging Period. The license includes the right to:

- a. Park, stage, inspect, dispatch, and retrieve Emergency Vehicles;
- b. Position temporary operational equipment reasonably necessary to support the Emergency Vehicles;
- c. Permit Authorized Personnel to enter and remain within the Staging Area.
- d. Conduct communications, briefings, shift changes, minor field servicing, and other activities reasonably incidental to emergency preparation, response, and recovery; and
- e. Access the Staging Area at all hours during the Staging Period.

2. **Permitted Use.** The City will use the Staging Area for governmental emergency preparation, response, recovery, and continuity-of-operations purposes associated with an Emergency Event.

3. **No Guaranteed Capacity.** The City may stage the number, size, and type of Emergency Vehicles that the Staging Area can reasonably and safely accommodate without obstructing required fire lanes, emergency access routes, drainage facilities, utility infrastructure, or ingress and egress serving adjacent property.

4. **Nonexclusive Use.** Except to the extent necessary for safety or emergency operations, the City's rights are nonexclusive. The District may continue using portions of the property that do not materially interfere with the City's authorized use of the Staging Area.

5. **No Assignment.** The City shall not assign this Agreement or grant an independent right to use the Staging Area to another person or entity. This restriction does not prohibit access by Authorized Personnel or vehicles and personnel participating in a City-authorized mutual-aid or emergency-response operation.

ARTICLE 3

ACTIVATION AND OPERATIONAL COORDINATION

1. **Activation Notice.** When practicable, the City shall notify the District before activating the Staging Area. The notice may be given by telephone, electronic mail, or any other reasonable means under the circumstances and shall identify, to the extent then known:

- a. The nature of the Emergency Event;

- b. The anticipated beginning and ending dates of the Staging Period;
- c. The anticipated types and approximate number of Emergency Vehicles; and
- d. The City’s operational contact.

2. **Emergency Activation.** A failure to provide advance notice shall not prevent the City from activating the Staging Area when advance notice is impracticable because of the nature or timing of the Emergency Event. The City shall provide notice as soon as reasonably practicable after activation.

3. **District Contact.** The District’s operational contact for access and coordination is:

[INSERT CONTACT INFORMATION]

4. **City Contact.** The City’s operational contact is:

Director of Emergency Management and Resilience
City of Cape Coral, Florida
PO Box 150027
Cape Coral, FL 33915
Phone: (239) 573-3001

5. **Site Coordination.** The Parties shall cooperate in good faith regarding access routes, gate controls, vehicle positioning, safety conditions, and measures that are reasonably necessary to minimize interference with District operations. Emergency-response and public-safety decisions remain within the City’s discretion and operational command.

6. **Relocation Within Property.** If conditions make any portion of the Staging Area unsafe or operationally unavailable, the Parties may designate another suitable portion of the property by written or electronic confirmation of their operational contacts, provided that the District has authority to permit use of the substitute area.

ARTICLE 4

ACCESS, SECURITY, AND CONDITION OF STAGING AREA

1. **Access.** During a Staging Period, the District shall provide the City with reasonable access to the Staging Area, including available gate codes, keys, access credentials, or other entry instructions necessary for continuous operations.

2. **Security.** The City shall be responsible for operational security relating to its Emergency Vehicles, equipment, supplies, and Authorized Personnel. The District does not

warrant or undertake to provide security, surveillance, or protection against theft, vandalism, weather, or other loss.

3. District Operations. The City will use reasonable efforts to avoid unnecessary interference with District operations, residents, invitees, contractors, utilities, and facilities, provided that emergency-response requirements and public safety shall control during an actual emergency.

4. Existing Condition. The City accepts the Staging Area in its existing condition at the beginning of each Staging Period. The District makes no representation or warranty concerning the Staging Area's suitability for any particular Emergency Vehicle, load, operation, weather condition, or emergency purpose. The District shall disclose to the City's operational contact any known latent condition that presents a material safety risk to the intended use.

5. Hazardous Activities. Except as reasonably necessary for emergency operations, the City will not conduct major vehicle repairs, discharge fuel or regulated substances, or store bulk fuel or hazardous materials within the Staging Area. Ordinary quantities of fuel, lubricants, batteries, fire-suppression materials, and similar operational substances contained in or carried by Emergency Vehicles are permitted.

6. Spill Response. The City shall promptly contain, report, and remediate any spill or release caused by the City's use of the Staging Area, in accordance with applicable law and emergency conditions. This obligation does not apply to a preexisting condition or a release caused by the District or a third party not under the City's direction or control.

ARTICLE 5

UTILITIES AND SERVICES

1. Utility Charges. Unless otherwise agreed in writing for a particular activation, the City shall not be charged for incidental use of authorized utilities or services. The City shall reimburse the District for extraordinary, separately measurable utility costs requested by the City only if the Parties approve the estimated cost in writing before the expense is incurred, except when prior approval is impracticable because of emergency conditions.

2. Independent Support. The City may deploy temporary generators, lighting, communications equipment, sanitation facilities, and similar support systems, provided that their placement and operation are reasonably safe and do not unnecessarily damage the Staging Area.

ARTICLE 6

FEE AND EXPENSES

1. No Use Fee. The District shall provide the temporary license granted under this Agreement without rent, parking fees, or other use charges.

2. Separate Expenses. Except as expressly provided in this Agreement, each Party shall bear its own costs and expenses arising from the negotiation, execution, administration, and performance of this Agreement.

ARTICLE 7

DAMAGE, RESTORATION, AND REMOVAL

- 1. City-Caused Damage.** Following each Staging Period, the City shall repair or reimburse the District for direct physical damage to the Staging Area caused by the negligent or wrongful acts or omissions of the City or Authorized Personnel, subject to the limitations and protections stated in Article 8.
- 2. Excluded Conditions.** The City shall not be responsible for:
 - a.** Ordinary wear and tear;
 - b.** Damage caused by the Emergency Event, weather, flooding, wind, fallen trees, utility failure, civil disturbance, or other conditions not caused by the City;
 - c.** Preexisting defects or deterioration;
 - d.** Damage caused by the District or persons not under the City's direction or control; or
 - e.** Damage necessarily incurred to protect life or prevent materially greater damage during emergency operations, except to the extent responsibility is imposed by applicable law.
- 3. Inspection and Notice.** The Parties should, when practicable, document the condition of the Staging Area before and after a Staging Period. The District shall notify the City in writing of claimed damage within thirty (30) calendar days after the City vacates the Staging Area, describing the nature and location of the damage and providing reasonably available supporting documentation.
- 4. Restoration Standard.** For damage for which the City is responsible under this Agreement, the City may elect to perform the repairs or reimburse the District for reasonable and documented repair costs. Restoration shall return the affected area substantially to its condition immediately before the applicable Staging Period, ordinary wear and tear excepted.

ARTICLE 8

RESPONSIBILITY, LIABILITY, AND SOVEREIGN IMMUNITY

1. Any tort liability to which the City is exposed under this Agreement shall be limited to the extent permitted by applicable law and subject to the provisions and monetary limitations of Section 768.28, Florida Statutes, as may be amended, which statutory limitations shall be applied as if the parties had not entered into this Agreement, and City expressly does not waive any of its rights and immunities thereunder.
2. The City will not in any event whatsoever be liable for any injury or damage to the District (unless caused by the gross negligence or willful misconduct of the City, its agents, contractors or employees), nor for any injury or damage to the Property (unless caused by the gross negligence or willful misconduct of the City, its agents, contractors or employees), caused by the use, misuse or abuse of the Property (unless caused by the gross negligence or willful misconduct of the City, its agents, contractors or employees).
3. The City will not be liable to the District for any injury or damage to the Property caused by or resulting from gasoline, oil, steam, gas, electricity, or hurricane, tornado, flood, wind or similar storms or disturbances, or water, rain or snow which may leak or flow from any part of the Property, or leakage of gasoline or oil from pipes, appliances, sewer or plumbing works therein (unless caused by the gross negligence or willful misconduct of the City, its agents, contractors or employees).
4. Except as may be otherwise expressly provided herein, no approval to be made by the City in its proprietary capacity under this Agreement or any inspection of the Property or the Project by the City under this Agreement, shall render the City liable for its failure to discover any defects or nonconformance with any governmental requirement. Any approvals to be made by the City under this Agreement shall be made by the City Manager or their designee.
5. No member, official, elected representative or employee of the City shall be personally liable to the District or any successor, assign or heir thereof in the event of any default or breach of this Agreement by the City or for any amount which may become due to the District or successor, assign or heir thereof under this Agreement.
6. Nothing herein shall be construed as a waiver of the City's statutory sovereign immunity limitations as provided for by Florida Statutes 768.28.

ARTICLE 9 INSURANCE

1. **Required Coverage.** The District shall obtain and maintain, at its sole expense, insurance as required by the City's Procurement Division and/or Risk Management Division.
2. **Policy Requirements.** During the Term of this Agreement, the City or any of its contractors, shall maintain the following insurance coverage:
 - a. Worker's Compensation Insurance in accordance with the laws of the State of Florida.
 - b. Employer's Liability Coverage Insurance with limits of at least \$1,000,000 (one million dollars) per accident or disease.
 - c. Employment Practices Liability Insurance with limits of at least \$1,000,000 each claim and \$2,000,000 in the aggregate.
 - d. Commercial General Liability Insurance covering the City's legal liability for bodily injuries, with limits of not less than \$1,000,000 combined single limit bodily injury and property damage liability, and covering at least the following hazards:
 - i. Independent Contractor Coverage for bodily injury and property damage in connection with the City's operation of the Emergency Facility.
 - e. Automobile Liability Insurance for bodily injuries in limits of not less than \$1,000,000 combined single limit bodily injury and for property damage, providing coverage for any accident arising out of or resulting from the operation, maintenance, or use by the County of any owned, non-owned, or hired automobiles, trailers, or other equipment required to be licensed.
 - f. Public Officials Liability Insurance with limits of at least \$1,000,000 each claim and \$2,000,000 in the aggregate.
 - g. The following insurance related the crime:
 - i. Employee Dishonesty Insurance of \$1,000,000 per claim;
 - ii. Forgery or Alteration Insurance of \$1,000,000 per occurrence;
 - iii. Theft, Disappearance & Destruction Insurance of \$1,000,000 per occurrence; and

- iv. Computer Fraud (including Funds Transfer) Insurance of \$1,000,000 per claim.

2. Additional Insured Requirement. The City shall furnish the District with the Certificate of Insurance evidencing compliance with this requirement. No certificate shall be acceptable to the District unless it provides that any change or termination within the policy periods of the insurance coverage, as certified, shall not be effective within thirty (30) days of prior written notice to the District. Insurance coverage shall be from a reputable insurance carrier, licensed to conduct business in the State of Florida, and such carrier shall have a Best's Insurance Reports rating of at least A-VII.

ARTICLE 10

TERM AND TERMINATION

1. Term. This Agreement begins on the Effective Date and continues for an initial term of twenty (20) years, unless earlier terminated in accordance with this Article. Thereafter, this Agreement shall automatically renew for successive five (5) year periods, unless earlier terminated in accordance with this Article.

2. Termination for Material Breach. Either Party may terminate this Agreement for a material breach that remains uncured ten calendar days after written notice describing the breach. If the breach cannot reasonably be cured within ten calendar days, the breaching Party shall not be in default if it commences corrective action within that period and diligently pursues completion.

3. Effect of Active Staging Period. A termination notice delivered during an active Staging Period shall not terminate the City's right to continue using the Staging Area through the end of that Staging Period.

5. Survival. The provisions concerning damage and restoration, responsibility and liability, sovereign immunity, public records, accrued payment obligations, governing law, and dispute resolution shall survive expiration or termination to the extent necessary to give them effect.

ARTICLE 11

PUBLIC RECORDS

1. Public Records. To the extent required by law, the District shall comply with all public records requests, whether made to the City, CRA or to the District, for the District'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 District is required by law to comply with a public records request and fails to do so, the District shall indemnify the City, CRA and the Related Parties. The foregoing obligation shall expressly survive the expiration or earlier termination of this Agreement.

ARTICLE 12

COMPLIANCE AND AUTHORITY

1. Compliance with Laws. Each party shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations in performing its obligations under this Agreement.

ARTICLE 13

NOTICES

1. Formal Notices. Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered or within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

a. If to the City:

City of Cape Coral, Florida
Attention: City Manager
PO Box 150027
Cape Coral, FL 33915

With a copy to:

City of Cape Coral, Florida
Attention: City Attorney
PO Box 150027
Cape Coral, FL 33915

b. If to the District:

With a copy to:

2. Effective Date of Notice. Notice is effective upon actual delivery, refusal of delivery, or confirmation that delivery was attempted at the proper address.

3. Change of Address. Either Party may change its notice information by providing notice in accordance with this Article.

ARTICLE 14

GENERAL PROVISIONS

1. Governing Law and Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Florida, both substantive and remedial, without regard to principles of conflict of laws. The Developers and the City agree that Lee County, Florida is the appropriate and exclusive state court venue, and that the U.S. District Court, Middle Division of Florida is the appropriate and exclusive federal court venue, in connection with any litigation between the parties with respect to this Agreement. 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 of the parties hereto. In construing this Agreement, captions, and section and paragraph headings shall be disregarded and the use of any gender shall include every other and all genders. All of the exhibits referenced in this Agreement are incorporated in, and made a part of, this Agreement. In the event of any litigation between the parties under this Agreement for a breach thereof, each party shall bear its own attorney's fees and court costs at all trial and appellate levels. The terms of this paragraph shall survive the expiration or earlier termination of this Agreement.

2. Dispute Resolution. Before initiating litigation, the Parties shall attempt in good faith to resolve any dispute through discussions between their respective designated representatives. This requirement does not prevent either Party from seeking immediate relief when necessary to protect public health, safety, property, or legal rights.

3. Entire Agreement. This Agreement constitutes the entire agreement and understanding among the parties with respect to the parking garage(s), and there are no other agreements, representations or warranties other than as set forth herein. Neither party shall be bound by any agreement, condition, warranty nor representation other than as expressly stated in this Agreement. This Agreement may not be changed, altered or modified except by an instrument in writing signed by both parties hereto.

4. Amendment. This Agreement may be amended only by a written instrument approved and executed by both Parties.

5. Integrated Agreement, Waiver, Modification. This Agreement represents the complete and entire understanding and agreement between and among the parties hereto with regard to all matters involved in this Agreement and supersedes any and all prior or contemporaneous agreements, whether written or oral. This Agreement may not be modified or amended, nor may any provision contained herein be waived, except in writing signed by all parties, or if such modification, amendment, or waiver is for the benefit of one or more of the parties hereto and to the detriment of the others, then the same must be in writing signed by all parties to whose detriment the modification, amendment or waiver inures.

6. Severability. If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent

jurisdiction, such portion shall be deemed separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereto.

7. Attorney's Fees. In the event that any party finds it necessary to employ an attorney to enforce any provisions of this Agreement, each party shall bear the cost of its attorney's fees.

8. Assignment. Neither Party may assign this Agreement without the prior written consent of the other Party, except to a governmental successor that assumes the assigning Party's applicable functions and obligations.

9. Force Majeure. The performance of any act by the City or Harbormaster hereunder may be delayed or suspended at any time while, but only so long as, such party is hindered in or prevented from performance of its obligations under this Agreement by a Force Majeure Event, (including, without limitation, strikes, lockouts, acts of God, hurricanes and severe weather, pandemics, epidemics, diseases or public health emergencies and any quarantines related thereto, government acts or inaction, moratorium, laws, regulations or shutdowns, public disorder, riot, labor disputes, material or labor shortages, supply chain disruptions, or civil commotion, acts of war, insurrection or terrorism and other causes beyond the control of either party).

10. Headings. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or content of this Agreement nor the intent of any provision hereof.

11. Compliance with Laws. Each party shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations in performing its obligations under this Agreement.

12. Counterparts and Electronic Signatures. To facilitate execution of this Agreement, the parties hereto agree that this Agreement may be executed and transmitted to the other parties and that the executed copy shall be binding and enforceable as an original. This Agreement may be executed in as many counterparts as may be required and it shall not be necessary that the signature of, or on behalf of, each party; or that the signatures of all persons required to bind any party, appear on each counterpart; it shall be sufficient that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single agreement.

13. Effective Date. The Effective Date is the date on which the last Party executes this Agreement following all required approvals.

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Signatures

IN WITNESS WHEREOF, the Parties have executed this Emergency Vehicle Parking and Staging Agreement through their duly authorized representatives.

**CITY OF CAPE CORAL,
A FLORIDA MUNICIPAL CORPORATION**

By: _____
Michael Ilczyszyn, City Manager

Date: _____

ATTEST:

By: _____
Kimberly Bruns, City Clerk

Date: _____

Approved as to form:

By: _____
Aleksandr Boksner, City Attorney

WITNESS :

_____ ,

By: _____

A Community Development District

Date: _____

By: _____

Name:

Title:

Date:

By: _____

Name:

Title:

Date:

Approved as to form:

By: _____

Name:

Title:

Date:

EXHIBIT A

Staging Area – to be provided at a later date

EXHIBIT S

MOORING FIELD OPERATING AGREEMENT

This Mooring Field Operating Agreement (this "**Agreement**") is entered into as of this _____ day of _____, 20__ (the "**Effective Date**"), by and between the City of Cape Coral, a Florida municipal corporation (the "**City**"), and Bimini Basin Redevelopment Company, LLC, a Florida limited liability company, (the "**Harbormaster**").

RECITALS

WHEREAS, Section 327.4108 of the Florida Statutes, authorizes counties to enact ordinances establishing anchoring limitation areas adjacent to urban area that have residential docking facilities and significant recreational boating traffic; and

WHEREAS, the City of Cape Coral, Florida, ("City") and Lee County, Florida, entered into an Interlocal Agreement dated June 18, 2024, to establish the responsibilities of the parties associated with the enforcement of the anchoring limitation area restrictions, necessary permits, signage, buoys, and costs associated with the acquisition of any required permits, signage and buoys; and

WHEREAS, the Lee County Board of County Commissioners adopted Ordinance 24-17 on November 19, 2024, which established the anchoring limitation area for the Bimini Basin; and

WHEREAS, the City has contracted with a consultant for design and permitting for a mooring field located at Bimini Basin (the "**Mooring Field**"), consisting of 15 mooring units and related infrastructure as more particularly described in **Exhibit A** attached hereto; and

WHEREAS, the City desires to engage the Harbormaster to operate, manage, and maintain the Mooring Field for the benefit of the public and in accordance with applicable federal, state, and local laws and regulations; and

WHEREAS, the parties desire to set forth the terms and conditions governing the Harbormaster's responsibilities and the City's oversight of the Mooring Field operations.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 DEFINITIONS

For purposes of this Agreement, the following capitalized terms shall have the meanings set forth below:

1. "**Agreement**" means this Mooring Field Operating Agreement, including all exhibits, schedules, and amendments hereto.

2. **"Applicable Laws"** means all federal, state, and local laws, statutes, ordinances, rules, regulations, orders, permits, licenses, and approvals applicable to the operation, management, and maintenance of the Mooring Field, including without limitation maritime regulations, environmental protection laws, navigation rules, harbor regulations, public access requirements, and safety standards.
3. **"City"** means City of Cape Coral, a Florida municipal corporation.
4. **"Effective Date"** shall mean the date contained in the introductory paragraph herein.
5. **"Emergency"** means any event, condition, or circumstance that poses an immediate threat to public safety, the environment, the Mooring Field infrastructure, or vessel safety, including severe weather, vessel collisions, environmental contamination, equipment failure, or other urgent situations requiring immediate corrective action.
6. **"Force Majure Event"** shall mean strikes, lockouts, acts of God, hurricanes and severe weather, pandemics, epidemics, diseases or public health emergencies and any quarantines related thereto, government acts or inaction, moratorium, laws, regulations or shutdowns, public disorder, riot, labor disputes, material or labor shortages, supply chain disruptions, or civil commotion, acts of war, insurrection or terrorism and other causes beyond the control of either party.
7. **"Harbormaster"** means _____.
8. **"Mooring Field"** means the mooring field owned by the City and located at in Bimini Basin, consisting of 15 mooring units, associated tackle, buoys, anchors, and related infrastructure, as more particularly described in **Exhibit A**.
9. **"Mooring Unit"** means an individual mooring installation within the Mooring Field, including the anchor, chain, pennant, buoy, and related hardware.
10. **"Permits"** means all federal, state, and local permits, licenses, approvals, and authorizations required for the operation, management, and maintenance of the Mooring Field.
11. **"Term"** means the initial term of this Agreement as set forth in Article 3.
12. **"User Fees"** means fees charged to vessels and vessel Harbormasters for use of the Mooring Field, as established in accordance with Article 5.

ARTICLE 2

GRANT OF OPERATING RIGHTS

- 1. Grant.** Subject to the terms and conditions of this Agreement, the City hereby grants to the Harbormaster, and the Harbormaster hereby accepts, the exclusive right and obligation to operate, manage, and maintain the Mooring Field during the Term of this Agreement.
- 2. Scope of Operations.** The Harbormaster's rights and obligations under this Agreement include:
 - A. Operation.** Day-to-day operation of the Mooring Field, including assignment of Mooring Units to vessels, enforcement of mooring rules and regulations, coordination with vessel Harbormasters, and provision of customer service.
 - B. Management.** Administrative and financial management of the Mooring Field, including record-keeping, fee collection (if applicable), budgeting, reporting, and regulatory compliance.
 - C. Maintenance.** Routine and extraordinary maintenance, inspection, repair, and replacement of Mooring Units and related infrastructure.
 - D. Enforcement.** Harbormaster shall enforce Mooring Field rules and regulations consistent with Chapter 10, Land, Waterway Use Restrictions, Article V, Mooring Fields, of the City of Cape Coral, Florida, Code of Ordinances.
- 3. Reservation of City Rights.** The City reserves the following rights:
 - A. Ownership.** The City retains all ownership rights, title, and interest in and to the Mooring Field, including all Mooring Units, equipment, and infrastructure.
 - B. Oversight.** The City retains the right to inspect, audit, and oversee the Harbormaster's performance under this Agreement at any time upon reasonable notice.
 - C. Public Access.** The City retains the right to ensure that the Mooring Field remains accessible to the public in accordance with applicable public access requirements and City policies.
 - D. Regulatory Authority.** The City retains all governmental and regulatory authority over the Mooring Field and its use.
- 4. No Transfer.** The Harbormaster shall not transfer, assign, sublicense, or delegate any of its rights or obligations under this Agreement without the prior written consent of the City, which consent may be withheld in the City's sole discretion.

ARTICLE 3 TERM AND TERMINATION

1. **Initial Term.** The Initial Term of this Agreement shall commence on the Effective Date and shall continue for a period of twenty (20) years, unless earlier terminated in accordance with this Article 3.
2. **Renewal Options.** The Initial Term of this Agreement shall automatically renew for successive five (5) year period(s), until either party provides notice of termination in accordance with this Article 3.
3. **Termination for Cause.** Either party may terminate this Agreement for cause upon written notice to the other party if:
 - A. **Material Breach.** The other party materially breaches any term or condition of this Agreement and fails to cure such breach within _____ days after receipt of written notice specifying the breach in reasonable detail; provided, however, that if the breach cannot reasonably be cured within such _____-day period, the breaching party shall have such additional time as is reasonably necessary to cure the breach, provided the breaching party commences cure within the initial _____-day period and diligently pursues cure to completion.
 - B. **Insolvency.** The other party becomes insolvent, makes a general assignment for the benefit of creditors, files a petition in bankruptcy, is adjudicated bankrupt or insolvent, or has a receiver or trustee appointed for substantially all of its property.
 - C. **Regulatory Violation.** The other party violates any Applicable Law related to the Mooring Field operations and fails to cure such violation within _____ days after receipt of written notice, or such shorter period as may be required by regulatory authorities.
4. **Termination for Convenience by City.** The City may terminate this Agreement for convenience upon _____ prior written notice to the Harbormaster.
5. **Effect of Termination.** Upon termination or expiration of this Agreement:
 - A. **Transition.** The Harbormaster shall cooperate with the City to ensure an orderly transition of Mooring Field operations, including transfer of all records, keys, equipment, and other property belonging to the City.
 - B. **Final Accounting.** The Harbormaster shall provide a final accounting to the City within _____ days after the termination or expiration date.
 - C. **Return of Property.** The Harbormaster shall return all City property, including the Mooring Field and all equipment, in good condition, reasonable wear and tear excepted.
 - D. **Survival.** The provisions of Articles 8 (Indemnification), 9 (Insurance), 11 (Confidentiality), and 14 (Miscellaneous) shall survive termination or expiration of this Agreement.

ARTICLE 4
OPERATING STANDARDS AND PERFORMANCE

- 1. Operating Standards.** The Harbormaster shall operate, manage, and maintain the Mooring Field in accordance with:
 - A. Applicable Laws.** All Applicable Laws, including without limitation federal navigation and maritime regulations, state and local ordinances, environmental protection requirements, public access mandates, Permits, and safety standards.
 - B. Maintenance Standards.** Routine and extraordinary maintenance, inspection, repair, and replacement of Mooring Units and related infrastructure.
 - C. Best Practices.** Industry best practices for mooring field operations, management, and maintenance.
- 2. Compliance Obligations.** The Harbormaster shall:
 - A. Obtain and Maintain Permits.** Obtain and maintain in full force and effect all Permits necessary for the operation, management, and maintenance of the Mooring Field, and promptly provide copies of all Permits to the City.
 - B. Regulatory Filings.** Prepare and timely file all reports, applications, and other submissions required by regulatory authorities having jurisdiction over the Mooring Field.
 - C. Inspections.** Cooperate with all inspections and audits conducted by regulatory authorities and the City, and promptly remedy any deficiencies identified in such inspections or audits.
 - D. Notice of Violations.** Immediately notify the City of any notice of violation, citation, enforcement action, or claim received from any regulatory authority concerning the Mooring Field.
- 3. Maintenance and Inspections.** The Harbormaster shall:
 - A. Regular Inspections.** Conduct regular inspections of all Mooring Units and related infrastructure in accordance with the Maintenance Standards which shall be mutually agreed upon.
 - B. Preventive Maintenance.** Perform all preventive maintenance required to maintain the Mooring Field in safe, functional, and aesthetically acceptable condition.
 - C. Repairs and Replacements.** Promptly repair or replace any damaged, worn, or defective Mooring Units, equipment, or infrastructure.
 - D. Records.** Maintain detailed records of all inspections, maintenance, repairs, and replacements, and provide copies of such records to the City upon request.
- 4. Emergency Response.** The Harbormaster shall:

- A. Emergency Procedures.** Develop and maintain written emergency response procedures addressing vessel emergencies, severe weather events, equipment failures, environmental incidents, and other reasonably foreseeable emergencies.
 - B. Immediate Response.** Respond immediately to all Emergencies affecting the Mooring Field, taking all necessary and appropriate action to protect public safety, the environment, and City property.
 - C. Notice to City.** Notify the City immediately upon becoming aware of any Emergency, and provide timely updates on response efforts and resolution.
 - D. Coordination.** Coordinate with the City, Coast Guard, harbor master, emergency services, and other appropriate authorities in responding to Emergencies.
- 5. Customer Service.** The Harbormaster shall:
 - A. Public Relations.** Provide courteous, professional, and responsive customer service to all users of the Mooring Field and members of the public.
 - B. Information.** Provide clear and accurate information to vessel Harbormasters regarding Mooring Field operations, rules, fees, availability, and reservation procedures (if applicable).
 - C. Complaint Resolution.** Establish and implement procedures for receiving and resolving user complaints and disputes.
- 6. Operational Hours.** The Harbormaster shall maintain operational hours and staffing levels sufficient to ensure safe and efficient operation of the Mooring Field, such hours of operation shall be approved by the City in writing.

ARTICLE 5

FEES AND FINANCIAL TERMS

1. User Fees.

- A. Fee Schedule.** The Harbormaster may charge User Fees for use of the Mooring Field in accordance with the fee schedule which shall be mutually agreed upon, and may be amended from time to time with the prior written approval of the City.
- B. Fee Collection.** The Harbormaster shall be responsible for collecting all User Fees from vessel Harbormasters utilizing the Mooring Field.
- C. Fee Adjustment.** The fee schedule may be adjusted annually upon mutual written agreement of the parties, subject to approval by the City Manager.

- 2. Compensation Structure.** The Harbormaster shall retain all revenues associated with the Mooring Field in order to offset the costs associated with the ongoing operations, maintenance, and management costs associated to the Mooring Field.
- 3. Financial Records.** The Harbormaster shall:
 - A. Accounting Records.** Maintain complete and accurate accounting records of all revenues, expenses, and financial transactions related to the Mooring Field in accordance with generally accepted accounting principles.
 - B. Separate Accounting.** Maintain separate accounting records for the Mooring Field that are distinct from the Harbormaster's other business activities.
 - C. Books and Records.** Maintain all books, records, invoices, receipts, and other financial documentation for a period of not less than _____ years following the end of each fiscal year.
- 4. Audit Rights.** The City shall have the right, at its sole expense, to audit the Harbormaster's financial records related to the Mooring Field at any time during normal business hours upon 3 days' prior written notice.
- 5. Taxes.** The Harbormaster shall be responsible for payment of all taxes, assessments, and governmental charges arising from or related to the Harbormaster's activities under this Agreement.

ARTICLE 6 REPORTING AND OVERSIGHT

- 1. Regular Reports.** The Harbormaster shall provide the following reports to the City:
 - A. Monthly Operations Report.** By the 28th day of each month, a written report summarizing the prior month's operations, including the number of vessels moored, occupancy rates, User Fees collected (if applicable), maintenance activities performed, incidents, complaints, and other relevant operational information.
 - B. Quarterly Financial Report.** Within 14 days after the end of each calendar quarter, a financial report detailing all revenues and expenses related to the Mooring Field for the quarter.
 - C. Annual Report.** Within 30 days after the end of each calendar year, a comprehensive annual report summarizing operations, financial performance, maintenance activities, regulatory compliance, and recommendations for improvements or capital investments.
- 2. Special Reports.** The Harbormaster shall promptly provide such additional reports, information, and documentation as the City may reasonably request from time to time.

- 3. City Inspections.** The City shall have the right to inspect the Mooring Field and review the Harbormaster's operations, records, and performance at any time upon 7 days notice, provided that the City may conduct inspections without notice in the event of an Emergency or suspected violation of this Agreement or Applicable Laws.
- 4. Performance Review.** The City shall conduct an annual performance review of the Harbormaster's compliance with this Agreement and may recommend corrective actions or improvements.

ARTICLE 7 REPRESENTATIONS AND WARRANTIES

1. Harbormaster Representations. The Harbormaster represents and warrants to the City that:

- A. Organization and Authority.** The Harbormaster is duly organized, validly existing, and in good standing under the laws of the State of Florida, and has full power and authority to enter into and perform its obligations under this Agreement.
- B. Authorization.** The execution, delivery, and performance of this Agreement have been duly authorized by all necessary corporate or organizational action of the Harbormaster.
- C. No Conflicts.** The execution, delivery, and performance of this Agreement do not and will not conflict with or result in a breach of any law, regulation, court order, or contractual obligation binding upon the Harbormaster.
- D. Qualifications.** The Harbormaster possesses the necessary expertise, experience, personnel, equipment, and financial resources to perform its obligations under this Agreement.
- E. Licenses.** The Harbormaster holds and will maintain all licenses, permits, and qualifications required to perform its obligations under this Agreement.

2. City Representations. The City represents and warrants to the Harbormaster that:

- A. Authority.** The City has full power and authority to enter into and perform its obligations under this Agreement.
- B. Authorization.** The execution, delivery, and performance of this Agreement have been duly authorized by all necessary municipal action.
- C. Ownership.** The City is the lawful owner of the Mooring Field and has the right to grant the operating rights conveyed under this Agreement.

ARTICLE 8 INDEMNIFICATION & HOLD HARMLESS

- 1. Indemnification by Harbormaster.** Harbormaster shall indemnify, defend and hold the City harmless from and against any actual damages, losses, liabilities, fees, costs and expenses incurred by the City in any action, suit or proceeding brought against

the City by any third-party as a result of any breach of this Agreement by the Harbormaster or negligent act or omission of the Harbormaster and/or its officers, directors, managers, members, employees, contractors and agents in performing under this Agreement. The Harbormaster shall directly pay all actual costs and expenses related to any expense or cost charged, or legal defense required by the City pursuant to the foregoing. The City shall reasonably cooperate and collaborate (but at no expense to the City) with the Harbormaster in connection with any legal proceeding in which the Harbormaster is defending the City. This paragraph shall survive the expiration or any earlier termination of this Agreement.

- A. In the event of tropical storm or hurricane watch or warning, all vessels within the mooring field should be properly secured for the incoming inclement weather. It is the responsibility of the individual owner's to be aware of such warning and to make arrangements for the proper securing of the vessel or removal of the vessel to another location. The City will not be held liable for any consequences in their attempt to protect life and property in the event of tropical storm or hurricane including a warning or watch. In the event it becomes necessary to move a privately owned vessel, for safety purposes or otherwise, the vessel is unattended, the Harbormaster is authorized but not required to effect the necessary move the expense of the owner of the privately owned vessel.

ARTICLE 9 INSURANCE

1. **Required Coverage.** The Harbormaster shall obtain and maintain, at its sole expense, insurance as required by the City's Procurement Division and/or Risk Management Division.
2. **Policy Requirements.** All insurance policies required under this Article 9 shall:
 - a. Worker's Compensation Insurance in accordance with the laws of the State of Florida.
 - b. Employer's Liability Coverage Insurance with limits of at least \$1,000,000 (one million dollars) per accident or disease.
 - c. Employment Practices Liability Insurance with limits of at least \$1,000,000 each claim and \$2,000,000 in the aggregate.
 - d. Commercial General Liability Insurance covering the City's legal liability for bodily injuries, with limits of not less than \$1,000,000 combined single limit bodily injury and property damage liability, and covering at least the following hazards:

- i. Independent Contractor Coverage for bodily injury and property damage in connection with the City's operation of the Emergency Facility.
 - e. Automobile Liability Insurance for bodily injuries in limits of not less than \$1,000,000 combined single limit bodily injury and for property damage, providing coverage for any accident arising out of or resulting from the operation, maintenance, or use by the County of any owned, non-owned, or hired automobiles, trailers, or other equipment required to be licensed.
 - f. Public Officials Liability Insurance with limits of at least \$1,000,000 each claim and \$2,000,000 in the aggregate.
 - g. The following insurance related the crime:
 - i. Employee Dishonesty Insurance of \$1,000,000 per claim;
 - ii. Forgery or Alteration Insurance of \$1,000,000 per occurrence;
 - iii. Theft, Disappearance & Destruction Insurance of \$1,000,000 per occurrence; and
 - iv. Computer Fraud (including Funds Transfer) Insurance of \$1,000,000 per claim.
3. **Certificates of Insurance.** Prior to the Effective Date and thereafter upon each policy renewal, the Harbormaster shall provide the City with certificates of insurance evidencing the required coverage. The certificates shall reference this Agreement and shall be sent to:

City of Cape Coral, Florida
 Attn: Risk Management
 PO Box 150027
 Cape Coral, FL 33915

4. **Failure to Maintain Insurance.** The Harbormaster's failure to obtain or maintain the required insurance shall constitute a material breach of this Agreement and shall entitle the City to terminate this Agreement immediately upon written notice.
5. **No Limitation.** The insurance requirements of this Article 9 shall not be construed to limit the Harbormaster's indemnification obligations under Article 8 or the Harbormaster's liability under this Agreement or applicable law.

ARTICLE 10 ENVIRONMENTAL COMPLIANCE

- 1. Environmental Standards.** The Harbormaster shall operate, manage, and maintain the Mooring Field in compliance with all federal, state, and local environmental laws, regulations, and standards, including without limitation those relating to water quality, marine habitat protection, hazardous materials, waste disposal, and prevention of pollution.
- 2. Environmental Permits.** The Harbormaster shall obtain and maintain all environmental permits required for Mooring Field operations and shall comply with all conditions and requirements of such permits.
- 3. Spill Prevention and Response.** The Harbormaster shall:
 - A. Prevention.** Implement all reasonable measures to prevent spills, releases, or discharges of petroleum products, hazardous materials, or other pollutants from the Mooring Field.
 - B. Spill Response Plan.** Develop and maintain a spill prevention and response plan approved by the City and applicable regulatory authorities.
 - C. Immediate Response.** Immediately respond to and remediate any spill, release, or discharge in accordance with applicable laws and the spill response plan.
 - D. Notice.** Immediately notify the City and appropriate regulatory authorities of any spill, release, or discharge.
- 4. Hazardous Materials.** The Harbormaster shall not use, store, or dispose of hazardous materials at or from the Mooring Field except in compliance with applicable laws and with the prior written approval of the City.

ARTICLE 11 HARBORMASTER'S COMPLIANCE WITH FLORIDA PUBLIC RECORDS LAW

1. To the extent required by law, the Developers shall comply with all public records requests, whether made to the City, CRA or to the Developers, 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 Developers are required by law to comply with a public records request and fails to do so, the Developers shall indemnify the City, CRA and the Related Parties. The foregoing obligation shall expressly survive the expiration or earlier termination of this Agreement.

IF THE HARBORMASTER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE HARBORMASTER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

CITY OF CAPE CORAL
ATTENTION: CITY CLERK
1015 CULTURAL PARK BLVD.
CAPE CORAL, FL 33990
E-MAIL: KBRUNS@CAPECORAL.GOV
PHONE: 239 - 574-0411

ARTICLE 12
FORCE MAJEURE

- 1. Force Majeure.** The performance of any act by the City or Harbormaster hereunder may be delayed or suspended at any time while, but only so long as, such party is hindered in or prevented from performance of its obligations under this Agreement by a Force Majeure Event, (including, without limitation, strikes, lockouts, acts of God, hurricanes and severe weather, pandemics, epidemics, diseases or public health emergencies and any quarantines related thereto, government acts or inaction, moratorium, laws, regulations or shutdowns, public disorder, riot, labor disputes, material or labor shortages, supply chain disruptions, or civil commotion, acts of war, insurrection or terrorism and other causes beyond the control of either party).
- 2. Waiver of Loss from Hazards.** The Harbormaster hereby expressly waives all claims against the City or its officers, officials, employees, contractors or agents, for loss or damage sustained by the Harbormaster resulting from any Force Majeure Event or Labor Dispute, and the Harbormaster hereby expressly waives all rights, claims, and demands against the City or its officers, officials, employees, contractors, or agents, and forever releases and discharges the City and its officers, officials, employees, contractors, or agents, from all demands, claims, actions and causes of action arising from any of the aforesaid causes.

ARTICLE 13
DISPUTE RESOLUTION

- 1. Informal Resolution.** The parties shall attempt in good faith to resolve any dispute, controversy, or claim arising out of or relating to this Agreement through direct negotiation between senior representatives of each party.
- 2. Mediation.** If the parties are unable to resolve a dispute through informal negotiation within sixty (60) days after written notice of the dispute, the parties shall submit the dispute to non-binding mediation before a mutually acceptable mediator. The costs of mediation shall be shared equally by the parties.
- 3. Litigation.** If mediation does not resolve the dispute within thirty (30) days after commencement of the mediation, either party may pursue its remedies through litigation in the courts of competent jurisdiction located in Lee County, Florida.
- 4. Continued Performance.** Pending resolution of any dispute, the parties shall continue to perform their respective obligations under this Agreement unless

performance is excused by a Force Majeure Event or the Agreement has been terminated in accordance with its terms.

ARTICLE 14 MISCELLANEOUS

- 1. Governing Laws and Litigation.** This Agreement shall be governed and construed in accordance with the laws of the State of Florida, both substantive and remedial, without regard to principles of conflict of laws. The Developers and the City agree that Lee County, Florida is the appropriate and exclusive state court venue, and that the U.S. District Court, Middle Division of Florida is the appropriate and exclusive federal court venue, in connection with any litigation between the parties with respect to this Agreement. 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 of the parties hereto. In construing this Agreement, captions, and section and paragraph headings shall be disregarded and the use of any gender shall include every other and all genders. All of the exhibits referenced in this Agreement are incorporated in, and made a part of, this Agreement. In the event of any litigation between the parties under this Agreement for a breach thereof, each party shall bear its own attorney's fees and court costs at all trial and appellate levels. The terms of this paragraph shall survive the expiration or earlier termination of this Agreement.
- 3. Notices.** Any notices which may be permitted or required hereunder shall be in writing and shall be deemed to have been duly given as of the date and time the same are personally delivered or within three (3) days after depositing with the United States Postal Service, postage prepaid by registered or certified mail, return receipt requested, or within one (1) day after depositing with Federal Express or other overnight delivery service from which a receipt may be obtained, and addressed as follows:

If to City:

Mailing Address: City of Cape Coral, Florida
 Attn: City Manager
 PO Box 150027
 Cape Coral, FL 33915

Physical Address: 1015 Cultural Park Blvd.
 Cape Coral, FL 33990

With a copy to:

City of Cape Coral, Florida
Attn: City Attorney
PO Box 150027
Cape Coral, FL 33915

Physical Address: 1015 Cultural Park Blvd.
Cape Coral, FL 33990

If to Harbormaster: _____

4. **Integrated Agreement, Waiver, Modification.** This Agreement represents the complete and entire understanding and agreement between and among the parties hereto with regard to all matters involved in this Agreement and supersedes any and all prior or contemporaneous agreements, whether written or oral. This Agreement may not be modified or amended, nor may any provision contained herein be waived, except in writing signed by all parties, or if such modification, amendment, or waiver is for the benefit of one or more of the parties hereto and to the detriment of the others, then the same must be in writing signed by all parties to whose detriment the modification, amendment or waiver inures.
5. **Severability.** If any sentence, phrase, paragraph, provision or portion of this Agreement is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion hereto.
6. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding among the parties with respect to the construction and development of the Mooring Field, and there are no other agreements, representations or warranties other than as set forth herein. Neither party shall be bound by any agreement, condition, warranty nor representation other than as expressly stated in this Agreement. This Agreement may not be changed, altered or modified except by an instrument in writing signed by both parties hereto.
7. **Execution and Counterparts.** To facilitate execution of this Agreement, the parties hereto agree that this Agreement may be executed and transmitted to the other parties and that the executed copy shall be binding and enforceable as an original. This Agreement may be executed in as many counterparts as may be required and it shall not be necessary that the signature of, or on behalf of, each party; or that the signatures of all persons required to bind any party, appear on each counterpart; it shall be sufficient that the signature of, or on behalf of, each party, or that the signatures of the persons required to bind any party, appear on one or more of such counterparts. All counterparts shall collectively constitute a single agreement.
8. **Assignment.** The Harbormaster may not assign, transfer, or delegate any of its rights or obligations under this Agreement without the prior written consent of the City, which consent may be withheld in the City's sole discretion. The City may assign this Agreement to any successor municipal entity or governmental authority without the consent of the Harbormaster.

- 9. No Conflict of Interest.** The Harbormaster represents and warrants that no member, official or employee of the City has any direct or indirect financial interest in this Agreement nor has participated in any decision relating to this Agreement that is prohibited by law. The Harbormaster represents and warrants that no officer, agent, employee, or representative of the City has received any payment or other consideration for the making of this Agreement, directly or indirectly, from the Harbormaster.
- 10. Compliance with Laws.** Each party shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations in performing its obligations under this Agreement.
- 11. No Third-Party Beneficiaries.** This Agreement is not intended to, and shall not be construed to give, any third party (including, without limitation, any homeowners association, condominium association, or neighborhood association in the surrounding area, or any individual members thereof) any rights or interests whatsoever, nor is it intended that any third party shall be a third party beneficiary of any provisions hereof.
- 12. Public Entity Provisions.** The Harbormaster acknowledges that the City is a public entity subject to public records laws, open meetings laws, conflict of interest requirements, and other legal constraints applicable to municipal governments. The Harbormaster agrees to cooperate with the City's compliance with such requirements.
- 13. Time is of the Essence.** Time shall be of the essence for each and every provision hereof.
- 14. Headings.** Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or content of this Agreement nor the intent of any provision hereof.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS THEREOF, this Agreement is entered into as of the day and year the last party signs this Agreement as stated below.

WITNESSES:

CITY OF CAPE CORAL, FLORIDA
a Florida Municipal Corporation

By: _____
Michael Ilczyszyn, City Manager

Printed name

Date: _____

ATTEST:

By: _____
Kimberly Bruns, City Clerk

APPROVED AS TO FORM:

Aleksandr Boksner
City Attorney

STATE OF FLORIDA
COUNTY OF LEE

The foregoing instrument was acknowledged before me this _____ day of _____, 202_, by Michael Ilczyszyn, City Manager for the City of Cape Coral, Florida who is personally known to me.

Notary Public
Print Name: _____
My Commission expires: _____

IN WITNESS THEREOF, this Agreement is entered into as of the day and year the last party signs this Agreement as stated below.

WITNESSES:

BIMINI BASIN REDEVELOPMENT CO.,
LLC, a Florida Limited Liability Company

By: _____
Name, Title

Printed name

Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 2026, by _____, as _____ of _____, on behalf of the company. Who is personally known to me or has produced _____ as identification.

Notary Public
Print Name: _____
My Commission expires: _____

EXHIBIT A

DESCRIPTION OF MOORING FIELD

- Aerial of Mooring Field with Mooring Units
- Depth of water
- Navigation markers
- Surrounding waterways
- Aerial showing pump out location
- Environmental sensitive areas

EXHIBIT T

Lease

THIS Lease (the “**Lease**”) is made as of the ____ day of _____, 2026 (the “**Effective Date**”), by and between **BIMINI BASIN REDEVELOPMENT COMPANY, LLC**, a Florida limited liability company (referred to herein as the “**Landlord**”), and **THE CITY OF CAPE CORAL, FLORIDA**, a Florida municipal corporation (referred to herein as the “**Tenant**”).

1. Introductory Provisions.

1.1 Fundamental Lease Provisions. Certain fundamental provisions are presented in this Section in summary form to facilitate convenient reference by the parties. In the event of any conflict between the contents of this Section 1.1 and the remaining provisions of this Lease, the remaining Lease provisions shall govern.

- (a) Commencement Date: The date of delivery of the Premises to the Tenant in accordance with Section 8.1.
- (b) Rent Commencement Date: That date which is ninety (90) days after the Commencement Date.
- (c) Initial Term: Twenty (20) Lease Years beginning on the Commencement Date.
- (d) Renewal Option: Three (3) ten (10) year terms.
- (e) Premises: Unit No. TBD consisting of approximately 4,000 rentable square feet located on the first floor of the Building as shown on Exhibit “B”.
- (f) Permitted Use: Municipal Police Substation.
- (g) Annual Base Rent: \$_____ (\$_____ per rentable square foot) payable at the rate of \$_____ per month.
- (h) Annual Percentage Increase: Three (3%) percent.
- (i) Additional Rent: Tenant’s Pro Rata Share of Operating Expenses (as defined in Section 4.2) and other expenses owed by Tenant to Landlord pursuant to the provisions of this Lease.
- (j) Tenant’s Pro Rata Share: Currently estimated to be ____% based upon 4,000 rentable sq. ft. of the Premises / _____ rentable sq. ft. of the Building, which amount shall be confirmed as of the Commencement Date.
- (k) Security Deposit: N/A.
- (l) Broker(s): None.

1.2 Agreement. In consideration of the rent and other sums payable to Landlord hereunder and the covenants and agreements to be observed and performed by Tenant, Landlord hereby Leases to Tenant, and Tenant hereby rents from Landlord, the Premises for the Term, at the rent and upon the conditions and agreements hereinafter set forth.

2. Premises.

2.1 Premises Defined. The term “**Premises**” means the premises located within that certain building to be constructed by Landlord (the “**Building**”), on the real property located at ____ Cape Coral Parkway, Cape Coral, Florida 33904, as more specifically described on **Exhibit “A”** hereto (the “**Property**”) consisting of approximately 4,000 rentable square feet of space as shown on the Site Plan attached as **Exhibit “B”** hereto. The Property is a portion of the Bimini Basin Redevelopment project. The Premises do not include any space above the interior surface of the first-floor ceiling, or any space beyond the center line of exterior walls, walls fronting on interior common areas, corridors, and service areas, and the center lines of party walls or common partitions, as they exist at the commencement of the Term.

Nothing herein contained shall be construed as a grant or rental by Landlord to Tenant of the roof and exterior walls of the Building of which the Premises form a part of, or of the walls and beyond the Premises, or of the Property.

3. **Term.**

- 3.1 **Commencement and Expiration Dates of Term.** The Initial Term of this Lease shall begin on the Commencement Date as defined in Section 1.1. Landlord shall deliver possession of the Premises to Tenant on the Commencement Date; provided, however, Landlord shall furnish Tenant with not less than sixty (60) days' written notice prior to the estimated Commencement Date. Tenant acknowledges that the Commencement Date is an estimated date only. The Initial Term shall continue for a period of twenty (20) Lease Years from the Commencement Date and shall end, unless extended or sooner terminated in accordance with the provisions herein contained, on the last day of the last Lease Year (as defined below). The parties agree to execute an Addendum to this Lease after the Commencement Date, and within ten (10) days after Landlord's request, to confirm, among other things, Tenant's acceptance of the Premises, the Commencement Date and Rent Commencement Date of this Lease, the final date of the Term, and the square footage of the Building and Premises, as built, and Tenant's Pro-Rata Share of Operating Expenses.
- 3.2 **Lease Year and Anniversary Date.** The term "**Lease Year**" shall mean a period of twelve (12) consecutive full calendar months. The term "**Anniversary Date**" shall mean the date twelve (12) months after the Commencement Date, and each twelve (12) months thereafter through the Term of this Lease. If the Commencement Date is not the first day of a calendar month, then the first Lease Year shall consist of twelve (12) consecutive full calendar months beginning on the Commencement Date and ending on the last day of that partial month, and the first Anniversary Date shall be the first day of the calendar month coinciding with or following the date which is twelve (12) months after the Commencement Date. Each subsequent Anniversary Date shall be the date that is twelve (12) months after the first Anniversary Date, and each succeeding Lease Year shall commence upon the Anniversary Date.
- 3.3 **Quiet Enjoyment.** Upon Tenant's paying the Rent reserved hereunder and observing and performing all of the covenants, conditions, and provisions on Tenant's part to be observed and performed hereunder, Tenant shall have quiet possession of the Premises for the entire Term hereof, subject to the provisions of this Lease.
- 3.4 **Renewal Option.** Provided that Tenant is current and not in default hereunder, and has not defaulted during the Term of the Lease, Tenant shall have the option to renew this Lease (the "Renewal Options") for three (3) ten (10) year terms (each a "Renewal Term") on the same terms and conditions as set forth in the this Lease. In order to exercise each Renewal Option, Tenant shall provide written notice to Landlord of its exercise of the Renewal Option not less than twelve (12) months prior to the expiration of the then current term.

4. **Rent.** Tenant shall pay to Landlord at the office of Landlord, or at such other place designated by Landlord, without notice, demand, deduction, or set-off except as expressly set forth herein, the following rentals (collectively, the "**Rent**"):

- 4.1 **Annual Base Rent.** The Annual Base Rent and Additional Rent, as set forth in Section 1.1 shall be paid in monthly installments commencing on the Rent Commencement Date, in advance, on or before the first (1st) day of each calendar month during the Term. If the Rent Commencement Date is other than the first day of a calendar month, the Rent for the period from the Rent Commencement Date to the first day of the next succeeding month shall be prorated on a per diem basis and shall be payable with and in addition to the first monthly installment of Rent on the Rent Commencement Date.
- 4.2 **Annual Rent Increase.** Annual Base Rent shall increase each Lease Year, effective on the Anniversary Date of the Rent Commencement Date, by an amount equal to the Annual Percentage Increase (as stated in Section 1.1(i)) multiplied by the Annual Base Rent for the previous Lease Year.
- 4.3 **Operating Expenses.** Tenant shall pay to Landlord, as Additional Rent, Tenant's Pro Rata Share of the Operating Expenses. The term "**Operating Expenses**" shall mean the sum of: (i) Common Area Maintenance Expenses; (ii) Real Estate Charges; and (iii) Insurance Expenses, each of which are defined

in this Section 4.3. All Operating Expenses shall be commercially reasonable and out-of-pocket expenditures only.

4.3.1 Common Area Maintenance Expenses. The term “**Common Area Maintenance Expenses**” shall mean the total cost and expenses reasonably incurred by Landlord in connection with the normal and reasonable administration, operation, preventative and corrective maintenance and repair of the Property, whether paid to employees of Landlord or parties engaged by Landlord, including, without limitation: lawn care, landscaping, maintenance and normal and customary repairs to the roof, foundation and structural components of the Building, other than capital expenditures; roof cleaning and repairs; building sign repair and maintenance; parking lot and parking garage maintenance including bumping, top coating, resurfacing and line painting; building exterior cleaning and painting; supplies; lighting; sanitary control; removal of trash, rubbish, garbage and other refuse; depreciation or rental of machinery or equipment used in such maintenance; the cost of personnel to implement such services (including social security, unemployment and disability insurance); capital improvements that result in savings or reductions in operating expenses or that are required by governmental authorities, provided that such capital expenditures shall be amortized over their useful life; water, potable and irrigation and sewer. Maintenance Expenses shall not include (i) any sales, rental and leasing commissions and costs paid by Landlord; (ii) any tenant improvements or other amounts expended by Landlord on behalf of any individual tenant(s) or for which Landlord would be entitled to reimbursement from any individual tenant(s), or by insurance or condemnation proceeds, or third parties; (iii) any portion of principal or interest paid by Landlord in connection with any mortgage loan encumbering the Property; (iv) depreciation; (v) attorneys’ fees and other costs incurred in connection with negotiations or disputes with present or prospective tenants or other occupants of the Building or the Property; (vi) capital expenditures (as determined by generally accepted accounting principles consistently applied); or (vii) except as otherwise provided herein, other expenses that under generally accepted accounting principles consistently applied that would not be considered normal maintenance, repair, management or Operating Expenses.

4.3.2 Real Estate Charges. The term “**Real Estate Charges**” shall mean and include all general and special assessments, any tax or charge for governmental services (such as street maintenance, water, sewage or fire protection) related to the Building and/or the Property, and any charge which replaces any of such above described charges; provided, however, that Real Estate Charges shall not be deemed to include any franchise, estate, ad valorem taxes, inheritance or general income tax or any tax increment revenue payments. Furthermore, Real Estate Charges shall include Landlord’s commercially reasonable costs and expenses associated with any tax or appraisal contest or appeal. Notwithstanding the foregoing, for any special assessment for improvements that are payable in annual installments, Landlord’s recovery of the expense shall be limited to the amount payable on an annual basis. The Landlord shall pass through to Tenant, and Tenant shall be entitled to the benefit of, all relief from ad valorem taxes, general and special assessments, and any tax or charge for governmental services received by the Landlord concerning this Lease and the Tenant’s status as a Florida municipal corporation.

4.4 Verification. Upon ten (10) days’ prior written request, Tenant or its representative shall have the right to examine Landlord’s books and records with respect to the items in the foregoing statement of Additional Rent, during normal business hours, at any time and from time to time within sixty (60) days following the furnishing by Landlord to the Tenant of the statement. Unless Tenant shall take written exception to any item within sixty (60) days after the furnishing of the statement, the statement shall be considered as final and accepted by Tenant. Any amount due to Landlord as shown on any statement, whether or not written exception is taken thereto, shall be paid by Tenant within fifteen (15) days after Landlord shall have furnished the statement without prejudice to any such written exception.

4.5 Proration. If the first year of the Term of this Lease commences on any day other than the first day of January, or if the last year of the Term of this Lease ends on any day other than the last day of December, any payment due to Landlord by reason of any Additional Rent or estimated installment thereof shall be prorated, and Tenant shall pay any amount due to Landlord within thirty (30) days after being billed therefor. This covenant shall survive the expiration or termination of this Lease.

- 4.6 Late Charge. Any payment of Rent, including Base Rent and Additional Rent, which is not received by Landlord within five (5) days after the date when due, may be subject to a late charge in an amount equal to five (5%) percent of the amount then due.
- 4.7 Sales Tax. As of October 1, 2025, commercial leases in Florida will no longer be subject to sales tax. Tenant will pay all sales/use tax that may at any time in the future be imposed on the Rent, Operating Expenses (which includes, without limitation, real estate taxes and insurance), if any, and any other amounts paid under this Lease as Rent unless Tenant is exempt.
5. Additional Tenant Expenses. In addition to the payment of Rent, Tenant shall contract directly, and make payment for, janitorial services, pest extermination, and all separately metered utility services to its Premises, including, without limitation, electricity, internet and telephone service, food waste removal, and the costs for heating, ventilation and air conditioning.
6. Common Areas.
- 6.1 Use of Common Areas. Tenant, its guests, visitors, and business invitees shall have the non-exclusive right to use the Common Areas, including sidewalks, driveways, parking areas, service roads, loading facilities, hallways and corridors, lobbies, and other areas within the Building or located on the Property that are used in common with other occupants of the Building, together with such other facilities as may be designated from time to time by Landlord (collectively referred to as the "Common Areas"), in common with other persons entitled to the use thereof, and provided, however, that use of the Common Areas shall be subject to the Rules and Regulations for the use thereof as may be prescribed by Landlord from time to time to the extent such Rules and Regulations are not inconsistent with this Lease or Tenant's Permitted Use and are uniformly applied to all tenants of the Property. Notwithstanding the foregoing, the Tenant's right to use the Common Areas shall specifically exclude any Common Areas designated for the exclusive use of residential occupants of the Building. All Common Areas which Tenant may be permitted to use and occupy are to be used and occupied under a revocable license, and if any such license be revoked or if the amount of such areas be changed or diminished, the same shall not be deemed constructive or actual eviction and Landlord shall not be subject to any liability nor shall Tenant be entitled to any compensation or diminution or abatement of Rent. Landlord reserves the right to designate employee parking areas and to grant exclusive use of the Common Area during certain time periods when deemed by Landlord to be in the best interest of the Building as a whole.
- 6.2 Alterations by Landlord. Landlord reserves the right at any time and from time to time to make additions, alterations, changes, or improvements to the Property including, without limitation, to the Building in which the Premises are situated, and further reserves the right to enlarge, diminish or reconfigure all portions of the Common Area, including the parking areas, and to construct other buildings and improvements on the Property and to make alterations thereto.
7. Use of Premises.
- 7.1 Use. Tenant shall use and occupy the Premises only for the Permitted Use set forth in Section 1.1 hereof, and shall not use or occupy the Premises or permit the same to be used for any other purpose. Tenant agrees that it will use the Premises in such a manner so as not to interfere with or infringe on the rights of other tenants within the Building to the extent not inconsistent with Tenant's Permitted Use. Tenant shall not use or occupy the Premises in violation of any law, ordinance, regulation, or directives of any governmental authority having jurisdiction thereof or of any condition of the certificate of occupancy issued for the Building of which the Premises are a part, and shall, upon five (5) business days' written notice from Landlord, discontinue any use of the Premises which is declared by any governmental authority having jurisdiction to be in violation of any law, ordinance, regulation, or directive of said certificate of occupancy. During the Term, Tenant shall be in continuous use and occupancy of the Premises and shall not vacate or abandon the same. Landlord does not warrant the suitability of the Premises for the Tenant's intended use as set forth in Section 1.1, nor does Landlord warrant that the Premises is properly zoned for the Tenant's intended use as set forth in Section 1.1.
- 7.2 Signage. Tenant shall install and maintain in a good state of repair at its own expense on the exterior of the Premises, within the area designated by the Landlord, a sign displaying its trade name. Tenant's sign shall be illuminated from dusk to dawn. Tenant shall be responsible for any maintenance and repair to the exterior of the Premises resulting from the installation and location of the sign. Tenant's sign shall be installed in compliance with the Landlord's rules and regulations regarding signs and

advertising, and the requirements of all applicable governmental authorities. Landlord shall have the right to approve the location and design of all signage, and Tenant shall promptly remove any sign that has not been approved, in writing, by Landlord if Landlord does not subsequently provide approval following installation. Tenant shall not install any awning, canopy, or other decoration on the exterior of the Premises unless approved by Landlord in writing.

- 7.3 **Rubbish and Food Waste Removal.** Tenant shall keep the Premises clean, both inside and outside, and will remove all garbage and rubbish from the Premises at Tenant's expense. Tenant shall not burn any materials of any kind upon the Premises or Common Areas. Tenant agrees to keep all accumulated garbage and rubbish in covered containers and to have the same removed regularly and in no event less frequently than as required by the Rules and Regulations. Should Tenant fail to abide by its obligations in this Section after ten (10) days' written notice by Landlord, then Landlord may, in addition to any other rights and remedies, cause the same to be done for or on account of Tenant, and Tenant hereby agrees to pay the expense thereof on demand as Additional Rent.
- 7.4 **Sidewalks.** Tenant shall neither encumber nor obstruct the sidewalks adjoining the Premises nor allow the same to be obstructed or encumbered in any manner. Tenant shall not place or cause to be placed any merchandise, vending machines, or anything else on the sidewalks or exterior of the Premises without prior written consent of Landlord.
- 7.5 **Utilities.** To the extent not paid as part of Operating Expenses, Tenant shall pay the cost of electricity and other separately metered utilities furnished to the Premises or used by Tenant in connection therewith. Tenant shall not install any equipment nor shall Tenant use the Premises in a manner that will exceed or overload the capacity of any utility facilities. If Tenant's use of the Premises shall require additional facilities, the same shall be installed only after obtaining Landlord's prior written approval, which shall not be unreasonably withheld, and shall be installed at Tenant's expense in accordance with all applicable codes, rules, and regulations, and in accordance with the plans and specifications approved in writing by Landlord. If Tenant's use and occupancy of the Premises results in an increase to Landlord of any utilities expense or results in connection or tap-in-fees, changes for increased usage or capacity, or assessments of any kind whatsoever, Tenant shall pay the entire amount thereof within ten (10) days of Landlord's written demand. In no event shall Landlord be liable for any interruption of failure in the supply of utilities to the Premises unless due to Landlord's negligence or intentional misconduct.
- 7.6 **HVAC System.** Tenant, at its sole cost and expense, shall maintain, repair and replace, if necessary, the air conditioning unit(s) and ducts for the Premises, including air compressors, air handlers, duct work, heat pumps, ventilation equipment, and heating unit(s) (the "HVAC System") in good and operational condition and repair (to the extent such repairs are required in the ordinary course) throughout the Term. Tenant shall engage a qualified air conditioning technician to provide appropriate maintenance to the HVAC System and, upon request of Landlord, provide Landlord with copies of all maintenance records. Tenant shall take no action as to the HVAC System that would void the warranty of the HVAC System.

8. **Condition of Premises; Alterations, Repairs, and Maintenance.**

- 8.1 **Landlord Improvements.** Landlord shall be responsible, at Landlord's sole expense, for designing and constructing the Building and the Premises in accordance with the plans and specifications to be prepared by Landlord consistent with the Site Plan, provided that at a minimum, Landlord shall be responsible for completing the Premises in cold dark shell condition, subject to the Landlord's Work set forth on Exhibit "D" hereto (the "**Landlord's Work**"). Except as set forth herein, Landlord shall not be obligated to make any alterations, installations, additions, or improvements to prepare the Premises for the Tenant's occupancy. Upon completion of the Landlord's Work, the Tenant shall have an opportunity to inspect the Premises. The taking of possession of the Premises by Tenant shall conclusively establish that Landlord has fulfilled its obligations under this Section 8.1 and that the Premises were, at such time, in satisfactory condition free from defects, and suitable for Tenant's use and occupancy.
- 8.2 **Tenant Improvements.** Prior to the Commencement Date, the Tenant shall prepare plans, specifications and working drawings (the "Proposed Plans") for the Tenant Improvements. Landlord shall have thirty (30) days after receipt of the Proposed Plans to provide Tenant with any comments. Tenant shall endeavor to accommodate Landlord's reasonable comments to the Proposed Plans, and re-submit the revisions to the Proposed Plans (the "Final Plans") to Landlord for final approval, which approval will

not be unreasonably withheld, delayed or conditioned. After approval of the Final Plans, no further changes shall be made to the planned construction, except with the written consent of Landlord. Upon approval of the Final Plans, Tenant shall engage a licensed contractor to construct the Tenant Improvements. Landlord reserves the right to approve the general contractor which approval shall not be unreasonably withheld, delayed, or conditioned. Tenant shall be responsible for obtaining all permits that may be required to construct the Tenant Improvements. Tenant shall commence construction of the Tenant Improvements after the approval by both parties of the Final Plans, subject to issuance of all appropriate permits. Tenant shall endeavor to keep Landlord reasonably apprised of the status of the construction and the anticipated completion date. Landlord shall have the right to inspect the construction from time to time, upon reasonable advance notice to Tenant.

- 8.3 Subsequent Alterations. Tenant shall have the right, from time to time, to paint and redecorate the interior of the Premises without Landlord's consent. Subsequent to completion of the Tenant Improvements, any additions, alterations, partitions, changes, or improvements in or to the Premises, or any part thereof, shall require the prior written consent of Landlord, such consent not to be unreasonably withheld, and shall be performed only by a licensed contractor approved, in advance, by Landlord. Tenant shall not have the right to make any additions, alterations, partitions, changes, or improvements that affect the structure, structural strength, or outward appearance of the Premises or the Building except as may be set forth otherwise in this Lease. Tenant shall submit to Landlord plans and specifications for such work at the time approval is sought. Any additions, alterations, changes, or improvements made in or to the Premises by Tenant shall be in compliance with all regulations and ordinances of governmental authorities and shall, upon the expiration or sooner termination of the Term, become the property of Landlord unless removed by Tenant in Tenant's discretion. In the event Tenant elects to remove any such addition or improvement, Tenant shall promptly repair any damage to the Premises resulting from such removal.
- 8.4 Maintenance and Repairs by Landlord. Landlord shall, as part of the Maintenance Expenses, keep and maintain in good order and repair the roof, structural components (interior and exterior), slabs, all utility lines up to the point they enter the Premises, and exterior walls (exclusive of all Tenant signs, doors, and glass), the exterior of the Building, and surrounding areas of the Building. Landlord gives to Tenant exclusive control of the Premises and shall be under no obligation to inspect the Premises. Tenant shall promptly report in writing to Landlord any defective condition known to Tenant that Landlord is required to repair pursuant to this Section 8.5. Tenant's failure to report to Landlord any such condition or defect within a reasonable period of time shall make Tenant responsible to Landlord for any liabilities, costs, expenses and attorney's fees incurred by Landlord as a result of such defect. Landlord's obligation to repair is expressly limited to those items set forth in this Section 8.6.
- 8.5 Maintenance and Repairs by Tenant. Tenant shall, at its own cost and expense, keep and maintain the interior portion of the Premises and appurtenances thereto and every part thereof, in good order and repair, with the exception of any damages by a casualty event, as described in Section 11, unless caused by the intentional act or negligence of Landlord its employees, agents, or business invitees. Without limiting the foregoing, Tenant agrees to keep in good order and repair and to replace as needed all fixtures pertaining to water, sewer, electrical, and sprinkler systems (if any) within the Premises, and Tenant shall be liable for any damage to such systems. All damage or injury to the Premises or the Building caused by the intentional act or negligence of Tenant, its employees, agents, or business invitees, shall be promptly repaired by Tenant at its sole cost and expense. Landlord may make such repairs that are not made by Tenant after fifteen (15) days written notice and charge Tenant for the cost thereof, and Tenant hereby agrees to pay such amounts on demand as Additional Rent hereunder. Notwithstanding the foregoing, the Tenant shall have fifteen (15) days (or such additional time as is reasonably required to correct any such failure) before Landlord may do so.

9. Tenant's Property.

- 9.1 Taxes on Leasehold. Tenant shall pay prior to delinquency all taxes, both real and personal, assessed against or levied upon the Leasehold and upon Tenant's fixtures, furnishings, equipment, leasehold improvements, and all other personal property of any kind owned by or used in connection with the Premises by Tenant.
- 9.2 Indemnity.

- 9.2.1 Tenant shall indemnify and hold harmless Landlord from any liability, loss, claim or damage and expense, including attorneys' fees and costs in settlement, at trial and on appeal, in connection with loss of life, personal injury or property damage arising from Tenant's use or occupancy of the Premises not related to Landlord's own conduct, occasioned wholly or in part by any intentional or negligent act or omission of Tenant, its employees, agents, or business invitees and to the extent permitted by Florida law. Nothing herein shall be construed as a waiver of the City's statutory sovereign immunity limitations as provided for by Florida Statutes 768.28.
- 9.2.2 Tenant shall store its property in and shall occupy the Premises and all other portions of the Building at its own risk, and hereby releases Landlord, to the full extent permitted by law, from all claims of every kind resulting from loss of life, personal injury or property damage occurring on the Premises, excluding only the negligence or willful misconduct of Landlord, its employees, agents, or business invitees.
- 9.2.3 Landlord shall not be responsible or liable to Tenant for any loss or damage to either the person or property of Tenant that may be occasioned by or through the acts or omissions of tenants occupying any other portions of the Building.
- 9.2.4 Landlord shall not be responsible or liable for any for any injury, loss or damage to any person or to any property caused by or resulting from fire, bursting, breakage, leakage, steam or snow or ice, running, backing up, seepage, or the overflow of water or sewage in any part of said Premises or for any injury or damage caused by or resulting from acts of God or the elements, or for any injury or damage caused by or resulting from any negligence in Tenant's occupancy, operation or use of any of the Premises, unless caused by the negligence or intentional misconduct of Landlord, or unless arising in defects in construction of the Building or the Premises by Landlord or Landlord's contractor(s).
- 9.2.5 Tenant shall give prompt written notice to Landlord in case of any fire or other casualty or accident in or about the Premises or the Building, or of any defective or dangerous conditions of which Tenant may become aware.

10. **Insurance and Indemnity.**

- 10.1 **Tenant's Insurance.** Tenant shall at all times during the Term of this Lease maintain the following insurance coverage:
 - 10.1.1 **Liability Insurance.** Tenant shall carry at its own expense comprehensive general public liability and property damage insurance with combined single limits of not less than \$2,000,000.00 per incident / \$3,000,000.00 in the aggregate.
 - 10.1.2 **Casualty Insurance.** A standard form policy of casualty insurance with standard form of extended coverage endorsement covering all stock and trade, trade fixtures, equipment and other personal property located in the Premises and used by Tenant in connection with its business.
 - 10.1.3 **Worker's Compensation.** Worker's compensation coverage, as required by law.
- 10.2 **Evidence of Insurance.** All insurance coverage required to be maintained by Tenant hereunder shall be maintained with insurance companies authorized to do business in the State of Florida and otherwise satisfactory to Landlord. The Landlord shall provide at least thirty (30) days prior written notice of any modification or cancellation. Tenant shall deliver duplicate original policies or certificates thereof to Landlord at or prior to the Commencement Date of this Lease, and thereafter Tenant shall deliver renewal policies or certificates to Landlord not less than fifteen (15) days prior to the expiration of the policies of insurance. The failure of Tenant either to effect said insurance in the names herein called for or to pay the premiums therefore or to deliver said policies or certificates to Landlord after Landlord has provided Tenant fifteen (15) days' written notice and opportunity to cure, then Landlord shall, at Landlord's option, permit Landlord to procure the insurance and pay the requisite premiums therefore on behalf of Tenant, which premiums shall be paid to Landlord with the next installment of Rent. Landlord's procurement or maintenance of such insurance on behalf of Tenant shall not be a waiver of such default.

- 10.3 **Landlord's Insurance.** Landlord shall maintain a policy or policies of casualty insurance covering the full replacement value of the Building with standard form of extended coverage endorsement and standard form of lender's loss payable endorsement issued to the holders of a mortgage or deed of trust secured by the Premises, together with vandalism, malicious mischief, and sprinkler leakage coverage.
11. **Destruction.** If the Premises shall be damaged in whole or in part by any casualty, and the cost to repair such damage is estimated to be less than Five Hundred Thousand and No/100 Dollars (\$500,000.00), then Landlord shall endeavor to repair the damage within one hundred eighty (180) days from the date of the casualty event, subject to Excusable Delay, as defined in this Section 11 below. Notwithstanding the foregoing if: (a) the Premises shall be damaged in whole or in part by any casualty, and the estimated cost of repair is Five Hundred Thousand and No/100 Dollars (\$500,000.00) or greater, (b) the Building shall be so damaged that substantial alteration or reconstruction shall, in Landlord's opinion, be required (whether or not the Premises shall have been damaged by the casualty); or (c) Landlord is not permitted to rebuild the Premises or the Building in substantially the same form as it existed before the damage; or (d) any mortgagee requires that the insurance proceeds be applied to the payment of the mortgage debt; or (e) the damage is not covered by insurance maintained by Landlord; then Landlord may, within ninety (90) days after the casualty, give notice to Tenant of Landlord's election to terminate this Lease, and the balance of the Lease Term shall automatically expire on the fifth day after the notice is delivered. If Landlord does not elect to terminate this Lease, Landlord shall proceed with reasonable diligence to restore the Building to substantially the same condition it was in immediately before the casualty but shall not be required to expend funds in excess of insurance proceeds actually received by Landlord. However, Landlord shall not be required to restore any unleased premises in the Building (excepting the exterior of the Premises and all Common Areas, which shall be promptly restored), or any portion of Tenant's property, or Tenant Improvements whether originally constructed by Landlord or Tenant. Rent shall abate in proportion to the portion of the Premises not usable by Tenant as a result of any casualty resulting in damage to the Building which is covered by insurance carried or required to be carried by Landlord under this Lease, as of the date on which the Premises becomes unusable. Landlord shall not otherwise be liable to Tenant for any delay in restoring the Premises or any inconvenience or annoyance to Tenant or injury to Tenant's business resulting in any way from the damage or the repairs, Tenant's sole remedy being the right to an abatement of Rent; provided, however, that if Landlord does not elect to terminate the Lease, Landlord shall complete the restoration and repair of the casualty damage within fifteen (15) months of the date of the casualty, failing which Tenant shall have the right to terminate this Lease provided that notice of termination shall be given to Landlord after the expiration of such 15-month period but prior to completion of the restoration of the Building and Premises. The time for Landlord's performance under this Section 11 shall be extended by the number of days that the Landlord's performance is delayed as a result of fire, hurricane, flood, inclement weather or other acts of God, governmental action or inaction, strikes, riot, civil disturbance, insurrection, unavailability of materials, acts or omissions of unaffiliated independent contractors or other causes beyond the Landlord's reasonable control ("Excusable Delay").
12. **Condemnation.** If the whole of the Building shall be acquired or taken pursuant to the power of eminent domain by any governmental entity other than the Tenant, then this Lease and the Term herein shall automatically terminate as of the date of title vesting in the public authority in such proceeding. If less than the whole of the Building is so taken, then this Lease and the Term herein shall, at the option of Landlord, cease and terminate as of the date of title vesting in the public authority in such proceeding. All compensation awarded or paid upon such a total or partial taking of the Building shall belong to and be the property of Landlord without any participation by Tenant. To the extent that the Tenant has a claim in condemnation proceedings, as aforesaid, Tenant may claim from condemning authority, but not from Landlord, such compensation as may be recoverable by Tenant. Tenant hereby acknowledges and agrees that: (i) Tenant's execution of and entering into this Lease does not constitute the exercise of the Tenant's power of eminent domain; (ii) in the event of an Event of Default, Landlord's rights and remedies under Section 17 of the Lease shall not be reduced, altered, or abridged by the application of the Tenant's power of eminent domain; and (iii) the Annual Base Rent for any Renewal Term shall be determined in accordance with the terms of this Lease, and not through the application of the Tenant's power of eminent domain.
13. **Assignment and Subletting.** Tenant shall not assign, mortgage or encumber this Lease, in whole or in part, or sublet all or any portion of the Premises without the prior written consent of Landlord, which consent shall not be unreasonably withheld provided that the proposed assignee or subleases meets the then current credit criteria of Landlord, including, without limitation, net worth, business experience and reputation. Contemporaneously with any request for approval, Tenant shall pay an administrative fee of \$250.00 and shall thereafter, as a condition to Landlord's approval, reimburse Landlord for any attorneys' fees or other costs incurred by Landlord in connection therewith. The consent by Landlord to any assignment or subletting shall not constitute a waiver

of the necessity for such consent to any subsequent assignment or subletting. If this Lease be assigned or if the Premises or any part thereof be occupied by any party other than Tenant, Landlord may collect Rent from the assignee, or occupant and apply the net amount collected to the Rent herein reserved, but no such assignment, underletting, occupancy or collection shall be deemed a waiver of this provision or an acceptance of the assignee, undertenant or occupant as lessee, or as a release of Tenant from the further performance by Tenant of the provisions on its part to be observed or performed herein. Any increase in rent attributable to any assignment or sublease as set herein shall be paid over to Landlord as Additional Rent in consideration for Landlord's consent. Notwithstanding any assignment or sublease, or Landlord's consent thereto, Tenant shall remain fully liable and shall not be released from performing any of the terms of this Lease. Tenant shall not permit any business to be operated in or from the Premises by any concessionaire or licensee without the prior written consent of Landlord. Landlord shall not be required to consent to any assignment, sublease or change in ownership at any time that Tenant is in default in its obligations under this Lease.

14. **Subordination.** This Lease and Tenant's rights hereunder are and shall be subject and subordinate to any mortgage, deed to secure debt, or other security instrument now or hereafter placed against the land and improvements comprising the Property or the Premises, or the Building of which the Premises are a part, or any part thereof, and to all renewals, modifications, replacements, consolidations, and extensions thereof. In furtherance of this paragraph, Landlord and Tenant agree that this Lease shall act as a subordination agreement and shall automatically subordinate this Lease to any such mortgage, deed to secure or security interest. Upon request of Landlord, Tenant shall execute and deliver any further instruments, acts, things or documents to evidence such subordination within ten (10) days after Landlord's request therefor. Tenant hereby irrevocably appoints Landlord as its attorney-in-fact to execute and deliver any documents provided for herein for any in the name of Tenant.
15. **Attornment.** Tenant shall in the event of the sale or assignment of Landlord's interest in the Property or the Building of which the Premises form a part, or in the event of any foreclosure of any mortgage made by Landlord covering the Premises, attorn to the purchaser and recognize such purchaser as Landlord under this Lease.
16. **Estoppel Statement.** Within ten (10) days after Landlord's written request, Tenant shall promptly execute and deliver to Landlord a written statement confirming: (1) that this Lease is in full force and effect and has not been assigned, modified, supplemented or amended (except by such writings as shall be stated in Tenant's statement); (2) the commencement and termination dates of this Lease; (3) whether all conditions under this Lease to be performed by Landlord have been satisfied (or any exceptions thereto); (4) whether there are any defenses or offsets against the enforcement of this Lease by the Landlord, or stating those claimed by Tenant; (5) the amount of the then current monthly Base Rent and Additional Rent paid by Tenant; (6) the date to which Rent has been paid; (7) the amount of Security Deposit held by Landlord; and (8) such other information as may be reasonably requested by Landlord. Such statement shall be executed and delivered by Tenant from time to time as may be requested by Landlord. It is expressly understood that any such statement may be relied upon by Landlord and any prospective purchaser or lender.
17. **Default.**
 - 17.1 **Events of Default by Tenant.** Each of the following occurrences shall constitute an "Event of Default" by Tenant under this Lease: (a) Tenant's failure to pay the Rent, including Base Rent and any Additional Rent, within five (5) days after the date when due hereunder; (b) Tenant's vacation or abandonment of the Premises or cessation of business therein for a period of thirty (30) consecutive days; (c) the appointment of a receiver for all or any portion of Tenant's property; (d) the entry of any judgment against Tenant or the issuance of a writ of attachment or garnishment against any property of Tenant that is not discharged within thirty (30) days; (e) the dissolution or liquidation of Tenant; (f) any assignment or sublease of Tenant's interest hereunder without the prior written consent of Landlord (when required under this Lease); (g) the breach by Tenant of any representations or warranties set forth in this Lease or Tenant's failure to keep and perform any other obligations set forth in this Lease within thirty (30) days after written notice from Landlord of its failure to do so.
 - 17.2 **Landlord Remedies.** Upon the occurrence of an Event of Default and the expiration of all cure periods, and with appropriate judicial process, Landlord may, at its option, exercise any one or more of the following rights and remedies: (a) terminate this Lease, and all rights of Tenant hereunder, by giving not less than five (5) business days' written notice of termination, whereupon Landlord may re-enter upon and take possession of the Premises; (b) take possession of the Premises without terminating this Lease and then rent the same for the account of Tenant (which may be for a term extending beyond the

Term of this Lease) in which event Tenant covenants and agrees to pay any deficiency after crediting it with the rent thereby obtained less all repairs and expenses, including the costs of remodeling and brokerage fees, and Tenant waives any claim it may have to any rent obtained on such reletting which may be in excess of the Rent required to be paid herein by Tenant; (c) declare the entire Rent for the balance of the term or any part thereof, due and payable forthwith; (d) sue Tenant for any actual damages suffered or incurred by Landlord as a result of the default; provided, however, that in no event shall Tenant be liable for special or consequential damages; (e) perform such obligation (other than payment of Rent), after all applicable notice and cure periods, on Tenant's behalf and charge the cost thereof, to Tenant as Additional Rent; or (f) exercise any and all other rights granted to Landlord under this Lease or by applicable law or in equity.

- 17.3 **Rights and Remedies Cumulative.** The rights and remedies granted to Landlord may be exercised concurrently and shall be cumulative and in addition to any other rights and remedies as may be available to Landlord by law or in equity, and the exercise of one or more rights or remedies shall not impair Landlord's right to exercise any other right or remedy. The failure or forbearance of Landlord to enforce any right or remedy in connection with any default shall not be deemed a waiver of such default nor a consent to a continuation thereof, nor waiver of the same default at any subsequent date.
- 17.4 **Landlord's Breach.** Upon the occurrence of any act or omission which constitutes Landlord's failure to perform or fulfill an obligation arising out of this Lease, which is not cured within thirty (30) days after notice thereof from Tenant, or if such breach is not capable of being cured with commercially reasonable efforts within thirty (30) days, Landlord (A) fails to commence to cure such breach within such 30-day period, or (B) fails to thereafter diligently proceed to cure such breach, then Tenant may, at its option, either: (i) take commercially reasonable measures to cure Landlord's default and off-set Tenant's reasonable out-of-pocket expenses against the Rent next due; or (ii) sue Landlord for any actual damages suffered or incurred by Landlord as a result of the default. In no event shall Landlord be liable for special or consequential damages. The rights and remedies granted to Tenant may be exercised concurrently and shall be cumulative and in addition to any other rights and remedies as may be available to Tenant by law or in equity, and the exercise of one or more rights or remedies shall not impair Tenant's right to exercise any other right or remedy. The failure or forbearance of Tenant to enforce any right or remedy in connection with any default shall not be deemed a waiver of such default nor a consent to a continuation thereof, nor waiver of the same default at any subsequent date.
18. **Access to Premises.** Landlord shall have the right to enter the Premises at all reasonable times upon not less than forty-eight (48) hours' notice to Tenant to inspect or to exhibit the same to prospective purchasers, mortgagees, lessees, and tenants and to make such repairs, additions, alterations or improvements, as Landlord may deem desirable, except in the event of an emergency in which Landlord may enter the Leased Premises without giving prior notice and shall instead provide notice to Tenant as soon as practicable thereafter); provided that any such entry, inspections and repairs shall be conducted and/or performed so as to minimize interference with Tenant's use of the Leased Premises and conduct of the Permitted Use therein. Landlord shall be allowed to take all material in, to and upon the Premises that may be required therefore without the same constituting an eviction of Tenant in whole or in part and the Rents reserved shall in no way abate while said work is in progress by reason of loss or interruption of Tenant's business or otherwise and Tenant shall have no claim for damages, provided Landlord's entry and all such repairs, additions, alterations or improvements are permitted so as to minimize interference with Tenant's use of the Leased Premises and conduct of the Permitted Use therein, and Landlord performs all work diligently and expeditiously to completion. If Tenant shall not be personally present to permit an entry into the Premises when for any reason an entry therein shall be permissible, Landlord may enter the same (or in the event of emergency or to prevent waste, by the use of force) without rendering Landlord liable therefore and without in any manner affecting the obligations of this Lease except for its negligence or more culpable conduct. The provisions of this paragraph shall in no way be construed to impose upon Landlord any obligation whatsoever for the maintenance or repair of the Building or any part thereof except as otherwise herein specifically provided. During the six (6) months prior to the expiration of this Lease or any Renewal Term, Landlord may place upon the Premises "To Let" or "For Sale" signs which Tenant shall permit to remain thereon.
19. **Sale by Landlord.** In the event of any sale or other transfer of Landlord's interest in the Premises or the Building, other than a transfer for security purposes only, Landlord shall be automatically relieved of any and all obligations and liabilities on the part of Landlord occurring from and after the date of such transfer; provided, that the transferee shall assume all of the obligations of Landlord under this Lease and that Tenant's Security

Deposit and any prepaid Rent shall be turned over to the transferee. It is intended hereby that the covenants and obligations contained in this Lease on the part of the Landlord shall be binding on Landlord only during its period of ownership of the Building.

20. **End of Term.** Tenant shall surrender the Premises to Landlord at the expiration or sooner termination of this Lease for Tenant's right of possession in good order and condition, broom-clean, except for reasonable wear and tear. All alterations made by Landlord or Tenant to the Premises shall become the Landlord's property on the expiration or sooner termination of the Lease Term. Tenant shall deliver all keys and combinations to locks, safes, and vaults to Landlord. Tenant's obligations to perform this provision shall survive the end of the Term of this Lease. If Tenant fails to remove its property upon the expiration of this Lease, the said property, at Landlord's option, shall be deemed abandoned and shall become the property of Landlord.
21. **Holding Over.** Any holding over after the expiration of this Term or any renewal term shall, by lapse of time or otherwise, be construed to be a tenancy at sufferance and Tenant shall pay to Landlord an amount equal to the greater of: (a) two (2) times the Rent at the rate in effect when the Lease expired, including Base Rent and Additional Rent, subject to the provisions for annual increase, for all of the time Tenant shall retain possession of the Premises or any part thereof or (b) the actual damage suffered by Landlord as a result of Tenant's holding over. The provisions of this paragraph shall not operate as a waiver by the Landlord of any right of reentry herein provided, nor shall any act or receipt of money by Landlord in apparent affirmance of the holding over operate as a waiver of the right to terminate this Lease for any breach of covenant by the Tenant; nor shall any waiver by the Landlord of its right to terminate this Lease for any later breach of the same or another covenant.
22. **Hazardous Substances or Conditions.** Landlord acknowledges that Tenant's business may require the use of hazardous or toxic chemicals and substances, as defined by state or federal law. Tenant shall use, handle, store and dispose of, at its sole expense, any such substances in accordance with all applicable laws and permits, and shall, in no event, dispose of any such substances on or about the Premises. Furthermore, Tenant will be responsible for all costs and expenses related to electrical improvements necessary for any equipment that cannot operate on the Building's standard electric circuits. Tenant hereby agrees to indemnify and hold harmless Landlord from any liability, loss, claim or damage that Landlord may suffer or incur (including, without limitation, fines, penalties and reasonable attorney's fees) as a result of the use, handling, storage or disposal of any hazardous or toxic substances by Tenant, its employees, agents or contractors on or about the Premises.
23. **Contractor's Liens.** Tenant shall have no authority to subject the Premises or the Building, any party thereof or any interest of Landlord therein to any contractor's or other liens. Should any contractor's or other liens be filed against the Premises or the Building or any part thereof or any interest of Landlord therein, by reason of Tenant's act or omissions or because of a claim against Tenant, Tenant shall cause the same to be canceled and discharged of record by bond or otherwise within twenty (20) days after notice by Landlord. Tenant hereby indemnifies Landlord against, and shall keep the Premises and Building free from, any and all contractor's liens and other liens arising from any work performed, material furnished, or obligations incurred by Tenant in connection with the Premises or the Building, and agrees to immediately discharge any lien that may have been filed against the Premises or the Building as a result of any such work. Further, any contract signed by Tenant for the performance of any work on or about the Premises shall include a notice to the contractor and all subcontractors that neither Landlord nor Landlord's interest in the Premises or the Building shall be liable for any payment due thereunder. Further, any contract signed by Tenant for the performance of any work on or about the Premises shall include a notice to the contractor and all subcontractors that neither Landlord nor Landlord's interest in the Premises or the Building shall be liable for any payment due thereunder. Landlord intends to file a Notice of Lien Prohibition as permitted by Section 713.10 Fla. Stat.
24. **Waiver.** The failure of either Landlord or Tenant to insist upon the strict performance of any provisions or to exercise any option contained herein or enforce any rules and regulations shall not be construed as a waiver for the future of any such provision, rule or option. The receipt of Landlord of Rent with knowledge of the breach of any provision of this Lease shall not be deemed a waiver of such breach. No provision of this Lease shall be deemed to have been waived unless such waiver be in writing signed by the waiving party. No payment by Tenant or receipt by Landlord of a lesser amount than the monthly Rent shall be deemed to be other than on account of the earliest Rent then unpaid nor shall any endorsement or statement on any check or any letter accompanying any check or payment as Rent be deemed an accord and satisfaction and Landlord may accept such check or payment without prejudice to Landlord's right to recover the balance of such rent or pursue any other remedy provided in this Lease or by law.

25. **No Estate by Tenant.** This Lease shall create the relationship of lessor and lessee between Landlord and Tenant; no estate shall pass out of Landlord. Tenant's interest shall not be subject to levy or sale, and shall not be assignable by Tenant except as provided in Section 13 hereof.
26. **Other Tenants.** Landlord does not warrant the continuous operation by any co-tenant in the Building. The cessation of operations by any co-tenant, pursuant to such Tenant's respective rights to vacate, shall not effect a right of termination in Tenant.
27. **Representations and Warranties.** Tenant hereby represents and warrants to Landlord that: (a) Tenant is a Florida municipal corporation duly formed, validly existing and in good standing; (b) Tenant has all necessary power and authority to enter into this Lease and has all necessary licenses to conduct its business for the uses contemplated hereunder; and (c) this Lease constitutes a binding and enforceable obligation of Tenant and does not conflict with any provision of Tenant's organizational documents or of any other lease or other agreement enforceable against such party.
28. **Brokers.** Tenant and Landlord represent and warrant to the other that there are no claims for brokerage, commission or finder's fees in connection with the execution of this Lease, and each agrees to indemnify the other against and hold it harmless from all liabilities arising from any such claim, including attorneys' fees and costs in settlement, at trial, or on appeal.
29. **Notices.** Any notice, demand, request or other instruments which may be or required to be given under this Lease shall be delivered, in writing, either in person, or by courier service, Federal Express, UPS or other overnight delivery service, or sent by United States Certified Mail, postage prepaid, and addressed, as follows:

If to Landlord: BIMINI BASIN REDEVELOPMENT COMPANY, LLC
Attn: Larry Nygard
1918 9th Street East
West Fargo, ND 58078

With copy to: Bolanos Truxton, P.A.
Attn: Gregg S. Truxton
12730 New Brittany Blvd., Suite 102
Fort Myers, Florida 33907

If to the City at:
Physical Address: City of Cape Coral, City Hall
1015 Cultural Park Boulevard
Cape Coral, Florida 33990
Mailing Address: PO Box 150027
Cape Coral, Florida 33915
Attn: City Manager

With a copy to:
Physical Address: City of Cape Coral, City Hall
1015 Cultural Park Boulevard
Cape Coral, Florida 33990
Mailing Address: PO Box 150027
Cape Coral, Florida 33915
Attn: City Attorney

Either party may designate such other address as shall be given by written notice. Notices may also be given by and through legal counsel for each party.

30. **Miscellaneous.**

- 29.1 **Entire Agreement.** This Lease, together with any exhibits or addenda hereto, constitutes the entire agreement by and between parties hereto with respect to the subject matter hereof and supersedes all prior agreements, understandings, negotiations, and discussions, both written and oral, by and between the parties hereto with respect to such subject matter. No representations, warranties or agreements have been made or, if made, have been relied upon by either party, except as specifically set forth herein.

This Lease may not be amended or modified in any way except by a written instrument executed by each party hereto.

- 29.2 Binding Effect. All terms and provisions of this Agreement shall be binding upon, inure for the benefit of and be enforceable by and against the parties hereto and their respective personal or other legal representatives, heirs, successors and permitted assigns.
- 29.3 Headings. The article headings in this Lease are for convenient reference only and shall not have the effect of modifying or amending the expressed terms and provisions of this Lease, nor shall they be used in connection with the interpretation hereof.
- 29.4 Pronouns; Gender. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural as the identity of the personal liability or obligation with respect to same.
- 29.5 Time. Time shall be of the essence. Any reference herein to time periods of less than six (6) days shall in the computation thereof exclude Saturdays, Sundays and legal holidays, and any time period provided for herein which shall end on a Saturday, Sunday or legal holiday shall extend to 5:00 p.m. of the next full business day. For purposes hereof, a legal holiday shall mean any day on which commercial banks located in the State of Florida are closed for business.
- 29.6 Severability. The invalidity of any provision of this Lease shall not affect the enforceability of the remaining provisions of this Lease or any part hereof. In the event that any provision of this Lease shall be declared invalid by a court of competent jurisdiction, the parties agree that such provision shall be construed, to the extent possible, in a manner which would render the provision valid and enforceable or, if the provision cannot reasonably be construed in a manner which would render the provision valid and enforceable, then this Lease shall be construed as if such provision had not been inserted.
- 29.7 Counterparts. This Lease may be executed in any number of counterparts and by the separate parties hereto in separate counterparts, all of which shall be deemed to be an original and one and the same instrument.
- 29.8 Governing Law, Jurisdiction and Venue. This Lease shall be governed by, and construed and interpreted in accordance with, the laws of the State of Florida without regard to principles of conflicts or choice of laws. Each of the parties irrevocably and unconditionally: (i) agrees that any suit, action or legal proceeding arising out of or relating to this Lease shall be brought in the courts of record of the State of Florida in Lee County; (ii) consents to the jurisdiction of each such court in any suit, action or proceeding; and (iii) waives any objection which it may have to the laying of venue of any such suit, action or proceeding in any of such courts.
- 29.9 Waiver of Trial by Jury. The parties hereby waive any right they may have under any applicable law to a trial by jury with respect to any suit or legal action which may be commenced by or against the other concerning the interpretation, construction, validity, enforcement or performance of this Lease.
- 29.10 Recording. Tenant shall not record this Lease or a memorandum thereof without Landlord's prior written consent and joinder in such instrument and any attempts to so record without Landlord's consent shall, at Landlord's option, render this Lease null and void.
- 29.11 Non-Smoking. Landlord and Tenant agree that all buildings on the Premises are nonsmoking and shall not permit tobacco use in the building or any other portions of the Premises
- 29.12 Radon Disclosure and Disclaimer. The following notification is required by Florida law and is provided for your information:

"Radon is a naturally occurring radioactive gas that, when it is accumulated in buildings in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed Federal and State guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your country public health unit."

Landlord has not tested for Radon gas at the Property and therefore, makes no representation regarding the presence or absence of such gas. Tenant hereby waives any and all actions against Landlord related to the presence of such gas.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

LANDLORD:
BIMINI BASIN REDEVELOPMENT
COMPANY, LLC
a Florida limited liability company

TENANT:
THE CITY OF CAPE CORAL, FLORIDA
a Florida municipal corporation

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

ATTEST:

By: _____

By: _____

APPROVED AS TO FORM:

By: _____

INDEX OF EXHIBITS

EXHIBIT "A"	Legal Description of Property
EXHIBIT "B"	Site Plan of Building
EXHIBIT "C"	Rules and Regulations of Building
EXHIBIT "D"	Landlord's Work

EXHIBIT “A”
Legal Description of Property

[To Be Attached]

**EXHIBIT “B”
Site Plan**

[To Be Attached]

EXHIBIT “C”
Rules and Regulations of
Building

[To Be Attached]

EXHIBIT D

Landlord's Work – Cold Dark Shell

[To Be Attached]

EXHIBIT U

INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT (this “**Interlocal Agreement**”), dated as of this ____ day of _____, 202__, is entered into by and between the City of Cape Coral, Florida (the “**City**”), a municipal corporation of the State of Florida and the _____ Community Development District (the “**District**”), a community development district created pursuant to the provisions of Chapter 190, *Florida Statutes*. The addresses of the parties are set forth below.

RECITALS:

WHEREAS, the City enacted Ordinance Number _____ which was effective on _____ (the “**Ordinance**”) establishing the District; and

WHEREAS, the District consists of that real property wholly within the boundaries described in the Ordinance (the “**Property**”); and

WHEREAS, the District is an independent special district and a local unit of special-purpose government which is created pursuant to Chapter 190, *Florida Statutes*, and is limited to the performance of those specialized functions authorized by to Chapter 190, *Florida Statutes*, and the Ordinance; and

WHEREAS, the governing body of the District is created, organized, constituted and authorized to function specifically as prescribed in Chapter 190, *Florida Statutes*, and the Ordinance for the delivery of urban community development infrastructure and services; and

WHEREAS, pursuant to Chapter 190, *Florida Statutes*, the District is presently authorized to construct, acquire, finance, fund, install and maintain certain infrastructure improvements and services for which the District may impose, levy and collect non-ad valorem special assessments on the Property; and

WHEREAS, on _____, the District adopted resolution _____ which (i) approved a capital improvement program totaling \$_____ of infrastructure improvements (the “**CIP**”) and (ii) levied special assessments on the Property to secure future bonds or other debt to be issued by the District to fund the CIP (the “**Special Assessments**”); and

WHEREAS the CIP approved by the District includes the Project Infrastructure (as defined below); and

WHEREAS, on _____, the circuit court in the twentieth judicial circuit in and for Lee County, Florida entered a final judgment of validation authorizing the District to issue revenue bonds in an amount not to exceed \$_____ (the “**Bonds**”) to be paid from the Special Assessments on the Property, in order to fund the CIP inclusive of the Project Infrastructure (as defined below); and

WHEREAS, the City, Crown Development, Inc., and Bimini Basin Redevelopment Company, LLC, entered into that certain Development Agreement, dated as of _____ and recorded on _____ under Document Number _____, in the Public Records of Lee County, Florida (the “**Development Agreement**”), which, among other matters, requires the execution of this Interlocal Agreement by the City and the District; and

WHEREAS, in order to effectuate the terms of the Development Agreement, this Interlocal Agreement between the City and the District is entered into to further define the responsibility of the District to provide for the acquisition and/or completion and conveyance to the City of the infrastructure, projects, systems or facilities as set forth on Schedule 1 attached hereto and incorporated herein (referred to herein as the “**Project Infrastructure**”); and

WHEREAS, this Interlocal Agreement has been approved by the District and the City; and

WHEREAS, it is in the mutual interest of the City and the District to establish intergovernmental relations that encourage, promote and improve the coordination, overall effectiveness and efficiency of governmental activities and services within the boundaries of the District; and

WHEREAS, Section 163.01, *Florida Statutes*, known as the “*Florida Interlocal Cooperation Act of 1969*”, permits local governmental units to make the most efficient use of their powers by enabling them to cooperate with other localities on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with geographic, economic, population, and other factors influencing the needs and development of local communities, and

WHEREAS, the City and the District find this Interlocal Agreement to be necessary, proper and convenient to the exercise of their powers, duties and purposes authorized by law; and

WHEREAS, the City and the District desire to exercise jointly their common powers and authority concerning the cost effective financing of the acquisition and construction of the Project Infrastructure; the avoidance of inefficiencies caused by the unnecessary duplication of services and facilities; and the clarification of responsibilities, obligations, duties, powers, and liabilities of each of the governmental bodies.

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

ARTICLE I – INTRODUCTION

Section 1.01. Authority. This Interlocal Agreement is entered into pursuant to the authority set forth in the *Florida Interlocal Cooperation Act of 1969* and Chapter 190, *Florida Statutes*, and other applicable controlling provisions of law.

Section 1.02. Recitals, Exhibits and Schedules. The recitals so stated are true and correct and by this reference are incorporated into and form a material part of this Interlocal Agreement. All exhibits and schedules identified herein are hereby incorporated by reference to the same extent as if fully set forth herein.

Section 1.03. Authority to Contract. The execution of this Interlocal Agreement has been duly authorized by the appropriate body or officials of the City and the District, each party has complied with all applicable requirements of law, and each party has full power and authority to comply with the terms and provisions of this instrument.

ARTICLE II – PROJECT INFRASTRUCTURE OBLIGATIONS

Section 2.01. Project Infrastructure Obligations.

(a). The City and the District agree and acknowledge that unless expressly specified herein, the execution of this Interlocal Agreement does not release any obligation of the Developer or any other developer or owner of land with regard to the Property within the District and the City retains all powers and control under all development orders and permits, including the Development Agreement, as well as any general law.

(b). The District hereby agrees for the benefit of the City that the District shall provide for the financing and completion of the Project Infrastructure if and when permitted by applicable law and as may be detailed in the Development Agreement. As further clarification of the above and in furtherance of the District's performance obligations hereunder, the District acknowledges and agrees to the following commitments in favor of the City under this Interlocal Agreement:

(i) the District shall diligently proceed to issue the Bonds to provide financing for the completion of the Project Infrastructure (which includes all soft and hard costs associated therewith and all costs incurred to ensure the completion of said Project Infrastructure is performed in a lien-free manner);

(ii) the District shall take any and all necessary actions to timely collect the Special Assessments securing the Bonds issued to provide funding for the Project Infrastructure;

(iii) the District shall, on a monthly basis, provide the City with copies of its financial statements including, but not limited to, bond trust account balances;

(iv) the District shall provide the City with copies of any agreements entered into by the District regarding the construction, installation, acquisition and/or completion of the Project Infrastructure;

(v) the District shall in accordance with the District's prompt payment obligations pay or cause to be paid all invoices and requisitions for payment regarding the construction, installation, acquisition and/or completion of the Project Infrastructure, as and when due.

(c). The City agrees and acknowledges that this Interlocal Agreement shall evidence sufficient security for the completion of the Project Infrastructure in satisfaction of any such requirements set forth in the Development Agreement, and no further bond, letter of credit, or cash escrow shall be required of the District, the Developer or any other developer or owner of the Property related to the Project Infrastructure.

(d). The District irrevocably agrees that the commitments made herein are not subject to the provisions of Section 70.45, *Florida Statutes*, relating to governmental exactions, or any similar law or legal theory of a similar nature in any respect. Further, the District agrees that the City is not responsible for the construction or creation of the Project Infrastructure in order to facilitate the development of the Property, except as otherwise agreed to or provided in the Development Agreement.

ARTICLE III - NO ASSESSMENT OF CITY PROPERTY

Section 3.01. Exemption of City Property. The District shall not impose, levy, certify or otherwise seek to encumber or assess property owned by the City with regard to special assessments, non-ad valorem assessments, maintenance assessments or taxes, fees, or charges of any type or nature whatsoever. This exemption applies to property which is owned at the present time or becomes owned by the City at a later time and regardless of, or to, which use or uses the property is put including but not limited to the Project Infrastructure.

ARTICLE IV – SELF-HELP AND INDEMNIFICATION

Section 4.01. Self-Help. The City shall have the right, upon notice and an opportunity to cure as set forth herein, to exercise self-help and cause the completion of the Project Infrastructure upon any default by the District hereunder or by the Developer under the Development Agreement. Upon the City's exercise of its self-help rights hereunder, the District shall assign all of its right, title and interest in and to the construction contracts for the Project Infrastructure so that the City may cause the completion of the Project Infrastructure per the approved plans whereupon the Project Engineer shall be required to authorize all requisitions for payment sought by the City (and the District shall not object) so long as each requisition for payment is accompanied by (a) an engineer's certificate certifying completion of the work covered by such requisition for payment in compliance with all permits and approvals, (b) original partial releases of lien (or final release of lien if the Project Infrastructure has reached final completion), (c) proof of payment of the prior requisition for payment together with a bring down title update showing no liens against the Property associated with the Project Infrastructure, and (d) any other applicable requirements of the trust indentures governing the District's expenditures from such construction accounts. In furtherance of these self-help provisions, and solely in the event of a default by the Developer under the Development Agreement, the District agrees and consents to the City providing notice of a landowner's election in accordance with section 190.006(2)(a), *Florida Statutes*, and agrees to accept a proxy from the Developer authorizing the City to cast votes in any such election to fill any vacancies on the District's Board of Supervisors.

Section 4.02. Indemnification. To the extent permitted by law, but without waiving any sovereign immunity protection provided by Section 768.28, *Florida Statutes*, or any limits on liability afforded by other law, the District shall indemnify and hold harmless the City and its council members, agents, employees, staff, contractors, officers, supervisors and representatives (collectively, the “**Indemnitees**”) from any and all liability, loss or damage, whether monetary or otherwise, including reasonable attorneys’ fees and costs and all fees and costs of mediation or alternative dispute resolution, as a result of any claims, liabilities, suits, liens, demands, costs, interest, expenses, damages, penalties, fines, or judgments, against Indemnitees which arise out of any of the activities referred to under the terms of this Interlocal Agreement.

ARTICLE V - MISCELLANEOUS PROVISIONS

Section 5.01. Notices. Any notices required or allowed to be delivered shall be in writing and be deemed to be delivered when: (i) hand delivered to the official hereinafter designated, or (ii) upon receipt of such notice when deposited in the United States mail, postage prepaid, certified mail, return receipt requested, addressed to a party at the address set forth opposite the party’s name below, or at such other address as the party or parties shall have been specified by written notice to the other party delivered in accordance herewith.

If to the City:

City of Cape Coral
Attention: City Manager
1015 Cultural Park Boulevard
Cape Coral, Florida 33990

With a copy to:

City of Cape Coral
Attention: City Attorney
1015 Cultural Park Boulevard
Cape Coral, Florida 33990

If to the District:

With a copy to:

Section 5.02. Binding Effect. This Interlocal Agreement shall be binding upon and shall inure to the benefit of the City, the District, and their respective successors and assigns.

Section 5.03. Filing. The City and the District hereby authorize and direct, after execution of this Interlocal Agreement by the duly qualified and authorized officers of each of the parties hereto, that this Interlocal Agreement be filed with the Clerk of the Circuit Court of Lee County, Florida, in accordance with the requirements of Subsection 163.01(11), *Florida Statutes*.

Section 5.04. Applicable Law and Venue/Public Records.

(a). This Interlocal Agreement and the provisions contained herein shall be governed by and construed in accordance with the laws of the State of Florida.

(b). In any action, in equity or law, with respect to the enforcement or interpretation of this Interlocal Agreement, venue shall be solely in Lee County, Florida.

(c). The parties agree to comply with the law of the State of Florida relating to public records.

(d). **IF THE DISTRICT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, *FLORIDA STATUTES*, TO THE DISTRICT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS INTERLOCAL AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT**

Section 5.05. Entire Agreement; Integration; Amendments and Waivers; Implied Amendments.

(a). This instrument and its exhibits constitute the entire integrated agreement by and between the parties and supersedes any and all previous discussions, understandings and agreements, if any, between the parties relating to the subject matter of this Interlocal Agreement.

(b). All prior discussions and negotiations by and between the parties are integrated into this Interlocal Agreement.

(c). Amendments to and waivers of the provisions herein shall be made by the parties in writing by formal amendment arising out of a document of equal dignity herewith.

(d). If material changes in Chapters 189 and 190, *Florida Statutes*, or any other controlling Florida Law are deemed by a party to automatically amend this Interlocal Agreement; then, in that event, if a party believes that such is the case, then that party shall, within five (5) days, notify the other party of such belief and the rights of the parties to dispute such matter are preserved.

Section 5.06. Effective Date. This Interlocal Agreement shall become effective after its execution by the authorized representatives of both parties and upon the date of its recording with the Clerk of the Circuit Court of Lee County, Florida to become an encumbrance running with title to the Property, which shall automatically terminate upon the City's formal acceptance of the ownership and maintenance of the Project Infrastructure.

Section 5.07. Third Party Beneficiaries. Neither this Interlocal Agreement, or any part or provision thereof, this Interlocal Agreement, creates any rights in any third party or any relationship with any third party and this Interlocal Agreement is meant and intended to be solely for the benefit of the District and the City although the City has undertaken efforts to benefit the general public as a whole in taking the actions set forth herein.

Section 5.08 Construction. This Interlocal Agreement arises out of bona fide and good faith arms-length negotiations by and between the parties and, regardless of which party drafted this Interlocal Agreement, or any part or provision thereof, no part or provision of this Interlocal Agreement, nor this Interlocal Agreement as a whole, shall be construed or interpreted against a party for being the drafted of this Interlocal Agreement or any part or provision of this Interlocal Agreement.

Section 5.09 Force Majeure. The performance of any act by the City or Concessionaire hereunder may be delayed or suspended at any time while, but only so long as, such party is hindered in or prevented from performance of its obligations under this Agreement by a Force Majeure Event, provided, however, if such condition persists for more than one hundred eighty (180) consecutive days, the City and Concessionaire may in their sole discretion renegotiate the terms of this Agreement. If the performance of the contractual obligations is prevented or delayed by an event believed by a party to be a Force Majeure Event, such party shall immediately upon learning of the occurrence of the event or of the commencement of any such delay, but in no case later than thirty (30) days from the occurrence of the event, provide notice of (i) of the occurrence of the event believed to be a Force Majeure Event, (ii) of the nature of the event and the cause thereof, (iii) of the anticipated impact on the Agreement, (iv) of the anticipated period of the delay, and (v) of what course of action such party plans to take in order to mitigate the detrimental effects of the event. The timely delivery of the notice of the occurrence of a Force Majeure Event is a condition precedent to allowance of any relief pursuant to this section; however, receipt of such notice shall not constitute acceptance that the event claimed to be a Force Majeure Event is in fact a Force Majeure Event, and the burden of proof of the occurrence of a Force Majeure Event shall be on the requesting party.

[SIGNATURE PAGES IMMEDIATELY FOLLOW]

**COMMUNITY
DEVELOPMENT DISTRICT**

By: _____

Chair – Board of Supervisors

ATTEST:

Name: _____
Title: Secretary

ACKNOWLEDGMENT

STATE OF FLORIDA

COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared _____, as Chair of the Board of Supervisors, and _____, as Secretary, and they acknowledged executing the same freely and voluntarily and they are personally known to me or provided the following for identification _____. Sworn and subscribed before me, by said persons by means of ☐ physical presence or ☐ online notarization on the ____ day of _____, 202_, the said persons did take an oath and were first duly sworn by me, on oath, said persons, further, deposing and saying that they have read the foregoing and that the statements and allegations contained herein are true and correct.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 202_.

(Affix Notary Seal)

Notary Public: State of Florida
Print Name: _____

[ADDITIONAL SIGNATURE PAGE IMMEDIATELY FOLLOWS]

CITY OF CAPE CORAL

ATTEST:

ACKNOWLEDGMENT

STATE OF FLORIDA

COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized to administer oaths and take acknowledgments, personally appeared _____ and _____, as _____ and _____ of the City of Cape Coral, respectively, and they acknowledged executing the same freely and voluntarily and they are personally known to me or provided the following for identification _____. Sworn and subscribed before me, by said persons by means of [] physical presence or [] online notarization on the ____ day of _____, 202_, the said persons did take an oath and were first duly sworn by me, on oath, said persons, further, deposing and saying that they have read the foregoing and that the statements and allegations contained herein are true and correct.

WITNESS my hand and official seal in the County and State last aforesaid this ____ day of _____, 202_.

(Affix Notary Seal)

Notary Public: State of Florida
Print Name: _____

EXHIBIT V

This Instrument Prepared By:
Gregg S. Truxton, Esquire
Bolanos Truxton, P.A.
12800 University Drive, Suite 350
Fort Myers, Florida 33907

-----[Space above this line for recording data]-----

Memorandum of Development Agreement

This Memorandum of Development Agreement (this “Memorandum”) is made and entered into as of the ____ day of _____, 2026, by and between the City of Cape Coral, a Florida municipal corporation (the “City”), with a mailing address of PO Box 150027, Cape Coral, Florida 33915 Crown Development, Inc., a North Dakota corporation (“Crown”), with a mailing address of 1918 9th Street East, West Fargo, North Dakota 58078, and Bimini Basin Redevelopment Company, LLC, a Florida limited liability company (“Bimini”), with a mailing address of 1918 9th Street East, West Fargo, North Dakota 58078. Crown and Bimini are collectively referred to herein as “Developers”. The City and the Developers are referred to herein collectively as the “Parties” or individually as a “Party”.

1. Agreement. This Memorandum is intended to evidence of record that the City and Developers are parties to that certain Development Agreement dated _____, 2026 (the “Development Agreement”), concerning the allocation of certain obligations, costs, and responsibilities, with respect to the development of the Project Area as defined in the Development Agreement and more particularly described on Exhibit “A” hereto, and other items outlined in the Development Agreement.

2. Other Information. For further details pertaining to the Development Agreement, interested persons may contact either the City or the Developers at the addresses set forth above.

3. Incorporation of Agreement; Limitation of Memorandum. All of the terms, conditions, and agreements contained within the Development Agreement are fully incorporated herein by reference as if fully set forth herein, and nothing contained herein is intended to limit, modify, or otherwise alter the respective rights and responsibilities of the City and the Developers under the Development Agreement.

4. Binding Effect. Subject to the termination/release provisions described in Sections 23 and 28 of the Development Agreement, this Memorandum shall run with title to the Properties and be binding on each Party’s successors in title.

IN WITNESS WHEREOF, the City has caused this Memorandum of Development Agreement to be executed by its duly authorized representatives.

Signed, sealed and delivered
In the presence of:

CITY OF CAPE CORAL,
a Florida municipal corporation

Print Name:_____

By:_____
Michael Ilczyszyn, City Manager

Attest:_____
Kimberly Bruns, City Clerk

Approved as to Form:

Aleksandr Boksner, City Attorney

Typed or Printed Name of Notary
My Commission expires:
Serial No., if any:_____

Typed or Printed Name of Notary
My Commission expires:
Serial No., if any:

EXHIBIT “A”

Legal Description of the Project Area

Block 81, Lots 1 through 29, and Lots 34 through 59, Cape Coral Unit Six, Part One, according to the Plat thereof, as recorded in Plat Book 11, Pages 45 through 47, inclusive, of the Public Records of Lee County, Florida.

Block 82, Lots 1 through 50, Cape Coral Unit Five, according to the Plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

Block 83, Lots 1 through 9, Lots 20 through 32, and Lots 35 through 40, Cape Coral Unit Five, according to the Plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

Block 84, Lots 1 through 32, Cape Coral Unit Five, according to the Plat thereof, as recorded in Plat Book 11, Pages 80 through 90, inclusive, of the Public Records of Lee County, Florida.

EXHIBIT W

EXHIBIT “W”

Description of the Public Facilities

The proposed development will be serviced by those roadway transportation facilities currently in existence as provided by state, county, and local roadways. The proposed development will also be serviced by public transportation facilities currently in existence, as provided by Lee County, the City of Cape Coral, and such other governmental entities as may presently operate public transportation services within the City of Cape Coral.

Sanitary sewer, solid waste, drainage, irrigation, and potable water services for the proposed development shall be those services currently in existence and owned or operated by Lee County, the City of Cape Coral, and State of Florida. The proposed development shall be serviced by those existing educational facilities owned or operated by the School District of Lee County, if applicable. The proposed development shall be serviced by those existing parks and recreational facilities owned or operated by the United States Government within Lee County, by the State of Florida, by Lee County, and by the City of Cape Coral. The proposed development shall be serviced by those existing health systems and facilities operated by the United States Government within Lee County, by the State of Florida, by Lee County, and by the City of Cape Coral.

The proposed development will also be serviced by any and all public facilities, as such are defined in Section 163.3221(13) of the Act, that are described in the Comprehensive Plan, specifically including those facilities described in the Chapter 1 Capital Improvements Element and Chapter 5 Infrastructure Element therein, a copy of which is available for public inspection in the offices of the City Clerk of the City of Cape Coral. Notwithstanding the foregoing, the Project may be required to provide for some of its own services, including water well, solid waste removal and stormwater drainage.

EXHIBIT X

Exhibit “X”

Description of the Reservations and/or Dedications of Land for Public Purposes

[To Be Attached]

EXHIBIT Y

EXHIBIT “Y”

Required Development Permits

The following constitutes a generalized list of local permits anticipated as necessary to be approved by the terms of this Agreement:

1. Development Permits
2. Utility Permits
3. Demolition Permits
4. Building Permits
5. Environmental Permits
6. Hazardous Materials Removal Permit, if removal of hazardous materials is found necessary.
7. Public Works Permits, Paving, Drainage, Right-of-Way Permits
8. Public Works Revocable Permits
9. Certificates of Use, Completion and/or Occupancy
10. Any variances or administrative waivers that may be required pursuant to the City of Cape Coral Land Development Code
11. All other local governmental approvals as may be applicable to the subject property from time to time pursuant to the terms of this Agreement.