

## **GROUND LEASE**

THIS GROUND LEASE (the "Lease") is made and entered into as of this 19<sup>th</sup> day of October, 2020 (the "Effective Date"), by and between the CITY OF PINELLAS PARK FLORIDA, a Florida municipal corporation ("Lessor"), and SUNSHINE LOFTS ON 78<sup>TH</sup>, LLLP, a Florida Limited Liability Limited Partnership ("Lessee").

WHEREAS, a goal of Lessor is to increase the availability of decent housing for low-income elderly by providing access to housing for such persons at affordable rentals through the long-term leasing of land under the housing; and

WHEREAS, the Leased Premises (as defined herein) are owned by Lessor and are being leased in furtherance of the public purposes described above; and

WHEREAS, Lessee shares the purposes and goals of Lessor and has agreed to enter into this Lease not only to obtain those benefits to which Lessee is entitled under this Lease, but also to further the public purposes of Lessor; and

WHEREAS, subject to receiving funding under the federal low-income housing tax credit program or other necessary funding, Lessee shall construct a rental housing development on the Leased Premises to be known as SUNSHINE LOFTS ON 78<sup>TH</sup> (the "Development"); and

WHEREAS, Lessor and Lessee recognize the special nature of the terms and conditions of this Lease, and each of them, with the independent and informed advice of legal counsel, freely accepts these terms and conditions, including those terms and conditions that may affect the marketing of the Development.

NOW, THEREFORE, in consideration of the foregoing recitals, of mutual promises of Lessor and Lessee, and of other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Lessor and Lessee agree as follows:

### **ARTICLE 1: DEMISE OF LEASED PREMISES**

1.1 PREMISES: As of the Commencement Date (as defined herein), Lessor, in consideration of the rents reserved and the terms and conditions of this Lease, shall hereby demise and lease unto Lessee, and Lessee shall hereby take and hire from Lessor, the property described in Exhibit A of this Lease and incorporated herein (the "Leased Premises"). On or prior to the Commencement Date, Lessee shall obtain a title report at the expense of Lessee for the Leased Premises and shall furnish a copy to Lessor.

1.2 LESSOR'S RIGHTS PRIOR TO COMMENCEMENT DATE: Notwithstanding anything in this Lease to the contrary, prior to the Commencement Date, Lessor shall have a contractual right of entry onto the Leased Premises for the purposes of Lessor's continued maintenance of the Leased Premises during the period prior to the Commencement Date. Lessor shall, during the period from the Effective Date to the

Commencement Date, continue to maintain the Leased Premises in the manner in which Lessor has maintained the Leased Premises prior to the Effective Date.

## **ARTICLE 2: REPRESENTATIONS AND WARRANTIES**

2.1 Lessor hereby warrants and represents to Lessee that:

(a) Lessor owns, fee simple, good and marketable title to the Leased Premises, free and clear of all liens, charges, encumbrances, encroachments, easements, restrictions, occupancies or agreements and other matters affecting title, subject only to those matters affecting title which are shown of record as of the Commencement Date (the "Permitted Encumbrances").

(b) As of the Commencement Date, there will be no unpaid special assessments of which Lessor has received notice, or of which Lessor is otherwise aware, for sewer, sidewalk, water, paving, gas, electrical or utility improvements or other capital expenditures, matured or unmatured, affecting the Leased Premises.

(c) The person signing this Lease on behalf of Lessor is authorized duly and validly to so sign.

2.2 Lessee hereby warrants and represents to Lessor that:

(a) Lessee is, and as of the Commencement Date will be, a duly organized and lawfully existing limited liability limited partnership under the laws of the State of Florida.

(b) Lessee has, and as of the Commencement Date will have, the full right, power, and authority to make, execute, deliver, and perform this Lease.

(c) The person signing this Lease on behalf of Lessee is authorized duly and validly to so sign.

## **ARTICLE 3: CONSTRUCTION AND OWNERSHIP OF IMPROVEMENTS**

3.1 CONSTRUCTION: During the Term (as defined herein), Lessee shall construct the Improvements (as defined herein) at its sole expense and subject to the terms and conditions of this Lease and Lessee's financing documents for the Development. The Improvements shall be constructed in a good and workmanlike manner and in accordance with the requirements of all applicable provisions of all applicable laws, ordinances, codes, orders, rules, and regulations of all governmental authorities, agencies or departments having jurisdiction over the Improvements.

3.2 PERMITS: Lessee and Lessor shall apply for and prosecute, or cause to be applied for and prosecuted, with reasonable diligence, all necessary approvals, permits, and licenses required for the construction, development, use, and occupancy of the Improvements. Lessor shall cooperate with Lessee as may be necessary to facilitate the same.

3.3 EASEMENTS: Lessor shall, upon request from Lessee, consent to, execute, and/or deliver any and all easements, licenses, permits, and/or applications necessary or

convenient to develop and construct the Improvements, and any costs related thereto shall be Lessee's responsibility.

3.4 PLANS: Lessee shall furnish to Lessor a copy of any plans and all building permits for construction of the Improvements prior to commencing construction. Lessor reserves the right to approve the site plan and location of buildings, so as to avoid any hard structure being constructed over areas that may require access for environmental testing, cleanup and/or remediation. In addition, Lessee shall provide Lessor with a full set of "as-built" specifications and drawings for any structure that may be constructed on the Leased Premises, and as may be amended or modified from time to time. Lessee shall take no action to effectuate any material amendments, modifications or any other alterations to the plans and specifications for the Improvements unless Lessor has approved such, in writing and in advance, which approval shall not be unreasonably withheld, conditioned or delayed.

3.5 OWNERSHIP: It is agreed that all buildings, structures, fixtures, and other improvements purchased by Lessee or constructed or placed by Lessee on any part of the Leased Premises ("the Improvements") at any time during the Term, shall be and remain the property of Lessee during the Term. As such, Lessee shall be entitled to all depreciation deductions and low-income housing tax credits or other benefits for tax purposes relating to the Improvements. Title to such Improvements shall be and remain vested in Lessee during the Term.

#### **ARTICLE 4: DURATION OF LEASE**

4.1 TERM: This Lease shall become effective on the Effective Date. However, the Leased Premises shall not be delivered to Lessee until the date on which Lessee closes on the construction financing with respect to the Development (the "Commencement Date"). Notwithstanding anything in this Lease to the contrary, the term of this Lease shall be for a period, commencing upon the Commencement Date and ending on the last day of the month during which the eightieth (80<sup>th</sup>) anniversary of the Commencement Date occurs (the "Term").

4.2 DISPOSITION OF IMPROVEMENTS UPON EXPIRATION OF LEASE TERM: Upon the expiration of the Term, as such term exists or may be sooner terminated in accordance with the provisions of this Lease, Lessee shall surrender the Improvements, together with the Leased Premises, to Lessor, and all such Improvements shall be and become the property of Lessor. Alternatively, at the sole option of the Lessor, and upon six (6) months' written notice to the Lessee prior to the expiration of the term of this Lease, or within three (3) months of the expiration of the Lease in the event the Lease is terminated earlier pursuant to the terms of this Lease, the Lessee shall have the obligation to demolish and remove all structures or improvements upon the Leased Premises, and return the Leased Premises to its condition as it existed as of the inception of this Lease.

#### **ARTICLE 5: USE OF LEASED PREMISES**

5.1 PERMITTED USE: The Development and use of the Leased Premises by Lessee shall be limited to residential rental property for low-income elderly, the rental units of which shall be rented or available for rental on a continuous basis to members of the general public (hereafter "Permitted Use"), who qualify as low-income elderly.

5.2 **PRIMARILY RESIDENTIAL USE ONLY:** Lessee shall use, and shall cause all tenants of the Development and each of their household members, guests, and invitees, to use, the Development only for the purposes that are currently permitted by applicable zoning law, that being primarily residential purposes and certain incidental activities related to residential use or such other use as may be permitted in writing by Lessor following written request by Lessee. Nothing in this Section shall be construed to allow for any use of the Development other than the Permitted Use.

5.3 **RESPONSIBLE USE AND COMPLIANCE WITH LAW:** Lessee shall, and shall use reasonable efforts to cause each tenant to, use the Development in a manner so as not to cause actual harm to others or create any nuisances, public or private; and shall dispose of any and all waste in a safe and sanitary manner. Lessee shall maintain, or cause the tenants to maintain, the Development in good, safe, and habitable condition in all respects, except for normal wear and tear, in full compliance with all applicable laws and regulations, and in such condition as is required to maintain the insurance coverage required by Section 10.4 of this Lease, and in compliance with low income housing tax credit and other restrictions of record.

5.4 **INSPECTION:** Lessor may inspect any portion of the Development, except the interiors of the dwelling units, at any reasonable time and in any reasonable manner, upon at least twenty-four (24) hours' written notice to Lessee. In the event of emergency, Lessor may inspect any portion of the Development without notice provided Lessor shall have made reasonable efforts to give advance notice to Lessee.

5.5 **LESSEE'S RIGHT TO PEACEFUL ENJOYMENT:** Lessee has the right to undisturbed enjoyment of the Leased Premises, and Lessor has no desire or intention to interfere with the personal lives, associations, expressions or actions of Lessee or its tenants, subject to the provisions of this Lease.

## **ARTICLE 6: RENT; CAPITAL LEASE PAYMENT**

6.1 **RENT:** In consideration of the possession, continued use, and occupancy of the Leased Premises, Lessee shall pay to Lessor a lump sum of Eighty Dollars (\$80.00) based upon an annual amount of One Dollar (\$1.00). The rent shall be payable in advance to Lessor, at the address specified in this Lease as Lessor's address, on the Commencement Date.

6.2 **CAPITAL LEASE PAYMENT:** On the Commencement Date, Lessee shall pay to Lessor a one-time capital lease payment in the amount of Six Hundred Thousand and No/100 Dollars (\$600,000) (the "Capital Lease Payment"). The Capital Lease Payment shall be paid in full in immediately available funds. The Capital Lease Payment shall be for the Leased Premises.

## **ARTICLE 7: TAXES AND ASSESSMENTS**

7.1 **TAXES AND ASSESSMENTS:** Lessee shall be responsible for payment of all taxes and governmental assessments, if any, that relate to the Development. Lessee shall also pay directly, when due, all other service bills, utility charges or other governmental assessments charged against the Development, as well as all premiums which become payable for the insurance policies Lessee is required to maintain hereunder.

7.2 **LESSEE'S RIGHT TO CONTEST:** Lessee shall have the right to contest the amount or validity of any taxes or assessments relating to the Improvements or the Leased Premises. Lessor shall, upon written request by Lessee, join in any such proceedings if Lessee reasonably determines that it is necessary or convenient for Lessor to do so. All costs and expenses of such proceedings, including all incurred by Lessor, shall be paid by Lessee, including any attorneys' fees incurred by Lessor if Lessor, voluntarily or involuntarily, joins or is joined in such proceeding.

7.3 **PROOF OF COMPLIANCE:** Concurrently with the payment of any taxes or governmental assessments, each party shall furnish evidence satisfactory to the other documenting the payment. A photocopy of a receipt for such charges showing payment prior to the due date shall be the usual method of furnishing such evidence.

## **ARTICLE 8: ALTERATIONS AND MAINTENANCE**

8.1 **ALTERATIONS:** After completion of the Development's construction, Lessee shall not make any alterations to the footprint of the Development having a cost greater than One Hundred Thousand and No/100 Dollars (\$100,000.00) (excluding any emergency alterations or repairs necessary for the operation of the Development), without first presenting to Lessor complete plans and specifications therefore and obtaining Lessor's written consent thereto (which consent shall not unreasonably be withheld, conditioned or delayed). Any improvements made to the Development shall be made only in a good and workmanlike manner using new materials of the same general quality as the original Improvements, and in accordance with all applicable building codes.

8.2 **PROHIBITION OF LIENS:** No lien of any type shall attach to Lessor's title to the Leased Premises. Lessee shall not permit any statutory or similar lien to be filed against any interest of Lessor that remains more than ninety (90) days after it has been filed. Lessee shall cause any such lien to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction or as otherwise permitted by law. Lessee, may at Lessee's expense, contest the validity of any such asserted lien, provided Lessee has furnished a bond in an amount sufficient to release Lessor from such lien.

8.3 **MAINTENANCE AND SERVICES:** Lessee shall, at the sole expense of Lessee, maintain the Development in the condition and to the standards that existed at the time of construction of the Development, reasonable wear and tear excepted. Lessor shall not be required to furnish any services or facilities, including, but not limited to, heat, electricity, air conditioning or water, or to make any repairs to the Leased Premises or Improvements, and Lessee hereby assumes the sole responsibility for furnishing, or causing Lessee's tenants to furnish, all services or facilities.

## **ARTICLE 9: LEASEHOLD FINANCING**

9.1 **RIGHT TO MORTGAGE:** Lessee may grant one or more mortgages of its interest in this Lease (each, a "Leasehold Mortgage") to lenders and, in connection therewith, to collaterally assign this Lease to such lenders. In no event shall Lessor ever be required to execute any such mortgage or any note secured thereby or any other obligation securing any such note, or to subordinate Lessor's fee interest in the Leased Premises or any portion thereof to the lien of any such mortgage. Lessee shall identify the name of each mortgagee

("Leasehold Mortgagee") for such portion of the Leased Premises and the address(es) to which notices to the Leasehold Mortgagee are to be sent, and for purposes of this Lease the term "Leasehold Mortgagee" shall include any trustee acting with respect to any tax-exempt bond financing encumbering the Leased Premises. Lessor agrees to execute any additional documents or further assurances as may be reasonably requested by any Leasehold Mortgagee in connection with any Leasehold Mortgage.

9.2 CONSENT REQUIRED FOR TERMINATION AND AMENDMENTS: Notwithstanding anything in this Lease to the contrary, no termination, cancellation, surrender, modification, or amendment of this Lease by agreement between Lessor and Lessee shall be effective unless consented to in writing by Lessee's equity investor and the Leasehold Mortgagees.

9.3 DEFAULT NOTICE: Notwithstanding anything in this Lease to the contrary, Lessor, upon providing Lessee with any notice of (i) default under this Lease or (ii) a termination of this Lease, shall at the same time send a copy of such notice to the Equity Investor and every Leasehold Mortgagee identified by written notice to Lessor. From and after such notice has been given to the Equity Investor and the Leasehold Mortgagee, the Equity Investor and the Leasehold Mortgagee shall have the same period, after the giving of such notice upon it, for remedying any default or causing the same to be remedied, as is given Lessee after the giving of such notice to Lessee, plus in each instance, the additional periods of time specified in this Lease to remedy, commence remedying or cause to be remedied the defaults specified in any such notice. Lessor shall accept such performance by or at the instigation of the Equity Investor or the Leasehold Mortgagee as if the same had been done by Lessee. Lessee authorizes the Equity Investor and each Leasehold Mortgagee to take any such action at the Equity Investor's and the Leasehold Mortgagee's option and does hereby authorize entry upon the Leased Premises by the Equity Investor and the Leasehold Mortgagee for such purpose.

9.4 NOTICE TO EQUITY INVESTOR AND LEASEHOLD MORTGAGEE: Notwithstanding anything in this Lease to the contrary, if any default shall occur and remain uncured beyond all applicable grace or cure periods of this Lease, which entitles Lessor to terminate this Lease as to all or any portion of the Development or to take any other remedial action against Lessee, Lessor shall have no right to terminate this Lease or take such remedial action unless, following the expiration of the period of time given Lessee to cure such default, Lessor shall notify the Equity Investor and each Leasehold Mortgagee to the extent of Lessor's actual knowledge of their existence, of Lessor's intent to so terminate at least thirty (30) calendar days in advance of the proposed effective date of such termination, if such default is capable of being cured by the payment of money, and at least sixty (60) calendar days in advance of the proposed effective date of such termination if such default is not capable of being cured by the payment of money. The provisions of Section 9.5 hereof shall apply if, during such thirty (30) or sixty (60) calendar day notice period, the Equity Investor or any Leasehold Mortgagee:

(a) Notifies Lessor of the Equity Investor's or the Leasehold Mortgagee's desire to nullify such notice; and

(b) Pays or causes to be paid all payments then due and in arrears

applicable to the subject portion(s) of the Leased Premises, as specified in the notice given to the Equity Investor and the Leasehold Mortgagee and which becomes due during such thirty (30) or sixty (60) day period; and

(c) Complies or in good faith, with reasonable efforts, commences to comply with any non-monetary requirements of this Lease applicable to the subject portion(s) of the Leased Premises then in default and except as provided in the following sentence, reasonably susceptible of being complied with by the Equity Investor or the Leasehold Mortgagee.

No Leasehold Mortgagee shall be required during such thirty (30) day or sixty (60) day period to cure or commence to cure any default consisting of Lessee's failure to satisfy and discharge any lien, charge or encumbrance against Lessee's interest in this Lease or any part thereof which is (a) authorized by this Lease, and (b) junior in priority to the lien of the Leasehold Mortgage, if applicable, held by such Leasehold Mortgagee.

9.5 PROCEDURE ON DEFAULT: If Lessor shall elect to terminate this Lease by reason of any default of Lessee, which default has not been cured within the applicable cure period, and the Equity Investor or a Leasehold Mortgagee shall have proceeded in the manner provided for by Section 9.4 hereof, the specified date for such termination as fixed by Lessor in its notice given pursuant to Section 9.4 hereof shall be extended for a period of six (6) months, provided that the Equity Investor or such Leasehold Mortgagee shall, during such six-month period:

(a) Pay or cause to be paid, any monetary obligations of Lessee under this Lease, as the same become due, and continue its good faith efforts to perform all of Lessee's other obligations under this Lease, excepting (i) obligations of Lessee to satisfy or otherwise discharge any lien, charge or encumbrance against Lessee's interest in this Lease or any part thereof which is junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee, and (ii) past non-monetary obligations then in default and not reasonably susceptible of being cured by the Equity Investor or such Leasehold Mortgagee; and

(b) Except to the extent enjoined and stayed, take steps to acquire or sell Lessee's interest in this Lease, by foreclosure of such Leasehold Mortgage, or other appropriate means and prosecute the same to completion with reasonable efforts, or with respect to the Equity Investor, take steps to remove and replace the general partner of Lessee to gain control of Lessee, and prosecute the same to completion with reasonable efforts.

9.6 EXTENSION OF CURE PERIOD: If at the end of the six-month period specified in Section 9.5 hereof, the Equity Investor or the Leasehold Mortgagee is complying with Section 9.5(a) hereof, then this Lease shall not then terminate, and the time for completion by the Leasehold Mortgagee of its proceedings shall continue so long as such Leasehold Mortgagee is enjoined or stayed and thereafter for so long as such Leasehold Mortgagee proceeds to complete steps to acquire or sell Lessee's interest in this Lease, by foreclosure of its Leasehold Mortgage or by other appropriate means with reasonable efforts, or with respect to the Equity Investor, as long as the Equity Investor is taking steps to remove

and replace the general partner of Lessee to gain control of Lessee. Nothing in this Article 9, however, shall be construed to extend this Lease beyond the Term. If any Leasehold Mortgagee is complying with Section 9.5 hereof, upon the acquisition of Lessee's interest in this Lease by such Leasehold Mortgagee or its designee, or any other purchaser at a foreclosure sale or otherwise and the discharge, by operation of law or otherwise, of any lien, charge or encumbrance against Lessee's interest in this Lease or any part thereof which is junior in priority to the lien of the Leasehold Mortgage held by such Leasehold Mortgagee and which Lessee is obligated to satisfy and discharge by the terms of this Lease, this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease, or with respect to the Equity Investor, upon the removal and replacement of the general partner of Lessee, this Lease shall continue in full force and effect as if Lessee had not defaulted under this Lease.

9.7 RIGHT TO NEW LEASE: In the event that the Lease is terminated by Lessor, Lessor shall, if requested by Leasehold Mortgagee, if applicable, grant to the Leasehold Mortgagee a new lease on the following terms and conditions:

(a) In the event of the termination of this Lease prior to its stated expiration date, Lessor agrees that it will enter into a new lease of the Development with any Leasehold Mortgagee, if applicable, or, at the request of such Leasehold Mortgagee, a designee, including but not limited to a corporation or other entity formed by or on behalf of such Leasehold Mortgagee, for the remainder of the Term effective as of the date of such termination, upon the same covenants, agreements, terms, provisions, and limitations herein contained, provided (i) such Leasehold Mortgagee makes written request upon Lessee for such new lease within thirty (30) days from the date Lessor notifies such Leasehold Mortgagee of such termination and such written request is accompanied by payment to Lessor of all amounts then due to Lessor under this Lease but for such termination, (ii) such Leasehold Mortgagee pays or causes to be paid to Lessor at the time of the execution and delivery of such new lease any and all sums which would at the time of the execution and delivery thereof be due under this Lease but for such termination and pays or causes to be paid any and all expenses, including reasonable counsel fees, court costs, and costs and disbursements incurred by Lessor in connection with any such termination and in connection with the execution and delivery of such new lease and (iii) such Leasehold Mortgagee agrees to reinstate the lien and take the Development subject to the lien of any other Leasehold Mortgagee which held a lien senior in priority to the lien of such Leasehold Mortgagee if such senior Leasehold Mortgagee had also requested a new lease and tendered the required payments(s). In the event multiple Leasehold Mortgagees request a new lease, Lessor shall enter into a new lease of the Development with the senior Leasehold Mortgagee.

(b) Any new lease made pursuant to this Section 9.7 shall have the same priority as this Lease (except with respect to any non-electing Leasehold Mortgagee) and shall be prior to any mortgage or any lien, charge or encumbrance of the fee of the Leased Premises created by Lessor for a term of years equal to the balance of the Term.

(c) Any mortgage or deed of trust upon Lessor's interest in the Leased Premises permitted in accordance with Section 9.4 hereof and any action by such mortgagee or trustee or beneficiary of such deed of trust by way of receivership, foreclosure, exercise of power of sale, or deed in lieu thereof shall be subject and subordinate to this Lease and to



the new lease to be given pursuant to this Section 9.7 and any mortgagee or holder of such mortgage or the beneficiary and trustee of any such deed of trust must recognize this Lease and any new lease and all rights of Lessee and each Leasehold Mortgagee hereunder and thereunder.

(d) The provisions of this Section 9.7 shall be self-operative and require no further action by the mortgagee of any mortgage or beneficiary and trustees of any deed of trust encumbering Lessor's interest in the Leased Premises, the Development, or both, but upon request by Lessee or the Leasehold Mortgagee electing under Section 9.7(a) hereof, Lessee agrees to obtain from such mortgagee or beneficiary and trustees an instrument duly executed and acknowledged confirming the priority of such new lease.

9.8 ASSUMPTION OF LESSEE'S OBLIGATIONS: The making of a Leasehold Mortgage shall not be deemed to constitute an assignment or transfer of this Lease or Lessee's interest created hereby, nor shall any Leasehold Mortgagee be deemed to be an assignee or transferee of this Lease or of Lessee's interests under this Lease so as to require such Leasehold Mortgagee to assume the performance of any of the terms, covenants or conditions on the part of Lessee to be performed hereunder, but a Leasehold Mortgagee may become the holder of Lessee's leasehold estate and succeed to Lessee's interest in this Lease by foreclosure of its Leasehold Mortgage or as a result of the assignment of this Lease in lieu of foreclosure, and any purchaser at any sale of Lessee's interest under this Lease in any proceeding for the foreclosure of any mortgage or the assignee or transferee of Lessee's interest in this Lease under any instrument of assignment or transfer in lieu of the foreclosure of any mortgage shall be deemed to be an assignee or transferee approved by Lessor and shall be deemed to have agreed to perform all of the terms, covenants, and conditions on the part of Lessee to be performed hereunder, but only for so long as such purchaser or assignee is the owner of Lessee's interest in this Lease.

9.9 NON-CURABLE DEFAULTS: Nothing in this Article 9 shall require the Equity Investor or any Leasehold Mortgagee or its designee as a condition to the exercise of rights provided under this Article 9 to cure any default of Lessee not reasonably susceptible of being cured by the Equity Investor or the Leasehold Mortgagee or its designee as such susceptibility is reasonably determined solely by Lessor. The foregoing shall not be deemed to excuse any Leasehold Mortgagee from performing covenants relating to the condition of the Development or other similar matters requiring access and control of the Development, from and after such time as such Leasehold Mortgagee acquires Lessee's interest in this Lease by foreclosure or otherwise.

9.10 NO MERGER: So long as any Leasehold Mortgage is in existence, unless all Leasehold Mortgagees shall otherwise expressly consent in writing, the fee title to the Leased Premises and the leasehold estate of Lessee therein shall not merge but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by any single owner, other than by termination of this Lease by Lessor in compliance with the provisions of this Article 9.

9.11 SALE OF PREMISES. In the event of any sale or conveyance of the Leased Premises by Lessor, any such sale or conveyance of all or any part of the Leased Premises shall be subject to this Lease and all of the provisions hereof, and notice of such sale shall be provided to the Equity Investor and each Leasehold Mortgagee.

## **ARTICLE 10: LIABILITY, INSURANCE, DAMAGE AND DESTRUCTION, EMINENT DOMAIN, AND ENVIRONMENTAL COVENANTS**

10.1 **LESSEE'S LIABILITY:** Lessee assumes sole responsibility and liability to all persons and authorities related to its possession, occupancy, and use of the Leased Premises.

10.2 **INDEMNIFICATION OF LESSOR:** Lessee agrees, for specific consideration, the receipt and sufficiency of which are hereby acknowledged, to indemnify, hold harmless and/or defend Lessor, its agents, and employees, from any and all claims demands, suits, and actions, including reasonable attorneys' fees and all costs and expenses of litigation and judgments of every kind brought against Lessor or its agents or employees, as a result of damage, or injury to any person(s) or property occasioned wholly or in part by any act, or failure to act, on the part of Lessee, its agents, servants or employees. Lessee shall be responsible to Lessor for any damages caused by Lessee's negligence, wrongdoing, misconduct, want or need of skill, or default or breach of contract, guarantee or warranty. The obligations, indemnities, and liabilities of Lessee under this Section shall not extend to any liability caused by the negligence or other wrongful act of Lessor, its agents, employees, and contractors. Nothing in this Lease shall be deemed or construed to be any extension or waiver, by contract or otherwise, of Lessor's sovereign immunity limitations pursuant to Section 768.28, Florida Statutes, or otherwise.

10.3 **PAYMENT BY LESSOR:** In the event Lessor shall be required to pay any sum that is Lessee's responsibility or liability for taxes, special assessments, utilities, and/or any liens caused by Lessee's use of the Leased Premises, Lessee shall reimburse Lessor for such payment and for reasonable expenses caused thereby.

10.4 **INSURANCE:** Lessee shall, at its own expense, at all times during the Term, maintain in full force the following policies of insurance:

(a) "All Risk" Coverage. "All-risk" coverage insurance on the Development naming Lessee and Lessor as the insured, as their interests may appear, in the customary form in the county for buildings and improvements of similar character. The amount of such insurance will be set forth on an "agreed amount endorsement" to the policy of such insurance and will not be less than 100% of the full replacement value of the Improvements, as determined from time to time

(b) General Liability.

Type                      Commercial General Liability (CGL), Occurrence Basis

Limits                    \$2,000,000 General Aggregate  
                              \$1,000,000 Each Occurrence

(c) Lessor shall be listed as an Additional Insured and Loss Payee on such liability insurance policy. None of such policies shall be cancelable or subject to reduction in coverage except upon thirty (30) days' prior written notice to Lessor.

(d) Lessee shall, provide to Lessor certificates of insurance verifying that Lessee is providing the types and amounts of insurance required hereunder.

(e) The limits of insurance coverage provided for herein shall be increased from time to time, at the sole discretion of the Lessor, to such reasonable amounts that the Lessor deems appropriate to adequately protect the Lessor.

10.5 DAMAGE OR DESTRUCTION: Except as provided below, in the event of fire or other damage to the Improvements, Lessee shall repair or restore the Development as provided for in the financing documents secured by a Leasehold Mortgage, so long as it is lawful, and all Leasehold Mortgagees agree that it is feasible to do so and adequate insurance proceeds are made available to Lessee to complete such repairs and restoration. In the event that more than twenty percent (20%) of the value of the Development is damaged or destroyed, and Lessee shall determine, subject to the rights of the holders of any Leasehold Mortgage and the consent of the Equity Investor, and shall notify Lessor in writing within thirty (30) days after receipt by Lessee of any insurance proceeds, that it is not economically practical to restore the Development to substantially the same condition in which it existed prior to the occurrence of such casualty, Lessee may terminate this Lease as of a date that is not less than thirty (30) days after the date of such notice (with the consent of the Equity Investor and the Leasehold Mortgagees). If Lessee terminates this Lease pursuant to this Section, Lessee shall surrender possession of the Development to Lessor immediately and assign to Lessor (or, if same has already been received by Lessee, pay to Lessor) all of its right, title, and interest in and to the proceeds from Lessee's insurance upon the Development, subject to the prior rights of any Leasehold Mortgagees. Alternatively, at the sole option of the Lessor, and upon written notice to the Lessee within three (3) months of the termination of this lease pursuant to this section, the Lessee shall have the obligation to demolish and remove all structures or improvements upon the Leased Premises, and return the Leased Premises to its condition as it existed as of the inception of this Lease. Insurance proceeds, if any, will be used to pay any and all reasonable costs related to such demolition.

#### 10.6 EMINENT DOMAIN AND PUBLIC DEDICATION:

(a) If, by exercise of the right of eminent domain or by conveyance made in response to the threat of the exercise of such right (in either case a "Taking"), all of the Development are taken, or if so much of the Development are taken that the Development cannot be used by Lessee in a commercially reasonable manner for the purposes for which they were used immediately before the Taking, then this Lease shall, at Lessee's sole option (with the consent of the Equity Investor), subject to the rights of any Leasehold Mortgagee, terminate on the earlier of the vesting title to the Development in the condemning authority, or the taking of possession of the Development by the condemning authority.

(b) Lessor and Lessee agree that, in the event of a Taking that does not result in the termination of this Lease pursuant to this Section, this Lease shall continue in effect as to the remainder of the Development, and the net amounts owed or paid to the parties hereto or to which either of the parties hereto may be or become entitled by reason of any Taking pursuant to any agreement with any condemning authority which has been made in settlement of any proceeding relating to a Taking, less any costs and expenses incurred by the parties hereto in collecting such award or payment (the "Net Condemnation Award") shall be distributed and disbursed as provided in the financing documents secured by a Leasehold Mortgage. However, if the distribution is not covered by one or more of the preceding instruments, then as follows: (i) first to any Leasehold Mortgagee in an amount sufficient to satisfy the terms and conditions of the Leasehold Mortgage, and (ii) to the extent permitted by the foregoing instruments, in accordance with Section 10.6(d) hereof. Notwithstanding the foregoing, to the extent permitted in any Leasehold Mortgage, the Net Condemnation Award shall be used by Lessee to make the remainder of the Development a complete, unified, and efficient operating unit as nearly as reasonably possible to the condition existing prior to the Taking, subject to any applicable requirements of any Leasehold Mortgage. However, Lessee is not obligated to expend any sums to restore the Development that are in excess of the Net Condemnation Award made available to it for that purpose.

(c) If there shall be a temporary Taking with respect to all or any part of the Development or of Lessee's interest in this Lease, then the Term shall not be reduced and Lessee shall continue to pay charges required herein, without reduction or abatement thereof at the times herein specified; provided, however, that Lessee shall not be required to perform such obligations that Lessee is prevented from performing by reason of such temporary Taking.

(d) If there is a Taking, whether whole or partial, Lessor and Lessee shall be entitled to receive and retain such separate awards and portions of lump sum awards as may be allocated to their respective interests in any condemnation proceedings, or as may be otherwise agreed, subject to the rights of any Leasehold Mortgagee, taking into consideration the fact that Lessor's interest in the Leased Premises is limited to the land (the "Lessor's Contribution,") as encumbered by this Lease, and a reversionary interest in the Leased Premises and the Development upon the expiration of the Term. If the Development shall be restored as is contemplated in Section 10.6 (b) hereof, Lessee shall be entitled to recover the costs and expenses incurred in such restoration out of any Net Condemnation Award. Thereafter, if the condemning authority does not make separate awards, the parties hereto agree that any Net Condemnation Award will be allocated between them on a proportionate basis, taking into account the portion of Lessor's Contribution that has not been repaid to Lessor. If the parties hereto are unable to agree as to the exact percentage of such allocation, and the parties hereto are unable to agree as to the amounts that are to be allocated to the respective interests of each party, then each party shall select an Appraiser. Each Appraiser shall separately determine the amount of the balance of the Net Condemnation Award allocated to each party. If the percentage allocated to Lessor by one Appraiser is within ten percent (10%) of the percentage allocated to Lessor by the other Appraiser, then the two percentage allocations shall be averaged and such average percentage shall be the percentage allocated to Lessor, with the remaining percentage of the balance of the Net Condemnation Award to be allocated to Lessee. If the percentage allocated to Lessor by an Appraiser is not

within ten percent (10%) of that allocated to Lessor by the other Appraiser, then the two Appraisers shall select a third Appraiser, who shall independently determine the percentage of the balance of the Net Condemnation Award that should be allocated to each party, and the average of the percentages determined by the three Appraisers to be allocable to Lessor shall be the percentage that is allocated to Lessor and the remaining percentage of the balance of the Net Condemnation Award shall be allocated to Lessee. If necessary to engage a third Appraiser, such Appraiser shall be engaged jointly by Lessor and Lessee. The costs of all Appraisers engaged by this Section shall, in the aggregate, be split equally by Lessor and Lessee.

(e) Lessor and Lessee agree that all then-existing Leasehold Mortgagees, to the extent permitted by law and to the extent their interests are affected by the Taking, shall be made a party to any Taking proceeding.

#### 10.7 LESSOR'S ENVIRONMENTAL COVENANTS:

(a) Lessor shall be solely liable for any environmental conditions that existed or arose on the Leased Premises prior to the Commencement Date.

(b) Lessor disclosed to Lessee that there are plumes in the groundwater on the Leased Premises that existed or arose prior to the Effective Date (the "Known Condition"). As of the Effective Date, Lessor does not have any knowledge of any environmental conditions on the Leased Premises, except for the Known Condition. Lessor shall, at Lessor's sole expense, have the Known Condition removed or rendered harmless prior to the Commencement Date, and such remediation work shall be approved by the applicable agency that has jurisdiction over the Leased Premises and such remediation work.

(c) Lessor covenants and agrees to indemnify, defend, and hold Lessee free and harmless from and against any and all losses, liabilities, penalties, claims, fines, litigation, demands, costs, judgments, suits, proceedings, damages, disbursements or expenses (including reasonable attorneys' fees and expenses) which may at any time be imposed upon, reasonably incurred by or asserted or awarded against Lessee in connection with or arising from:

(1) Any Hazardous Materials(as defined herein), Prohibited Substances (as defined herein) or both, which are first placed on, in, or under all or any portion of the Leased Premises prior to the Commencement Date, with the exception of any Hazardous Materials, Prohibited Substances or both which are placed on, in, or under all or any portion of the Leased Premises by Lessee, its agents, employees, and contractors; or

(2) Any violation of any Environmental Laws (as defined herein) by Lessor, its agents, employees, and contractors at or relating to the Leased Premises.

(d) Without limitation of any of Lessor's other covenants, agreements, and obligations under this Lease, Lessor hereby specifically covenants and agrees to provide Lessee with copies of all forms, notices, and other information received by or on behalf of Lessor concerning any released, spills or other incidents relating to Hazardous Materials or Prohibited Substances, or any violations of Environmental Laws at or related to the Leased

Premises when and as supplied to any governmental agency.

#### 10.8 LESSEE'S ENVIRONMENTAL COVENANTS:

(a) Lessee has no liability for any environmental conditions that existed or arose on the Leased Premises prior to the Commencement Date. Lessee shall not be responsible for removing or rendering harmless any environmental condition, that existed or arose on the Leased Premises prior to the Commencement Date, but shall advise Lessor and cooperate and coordinate the remediation work.

(b) Lessee covenants and agrees to indemnify, defend, and hold Lessor free and harmless from and against any and all losses, liabilities, penalties, claims, fines, litigation, demands, costs, judgments, suits, proceedings, damages, disbursements or expenses (including reasonable attorneys' fees and expenses) which may at any time be imposed upon, reasonably incurred by or asserted or awarded against Lessor in connection with or arising from:

(1) Any Hazardous Materials, Prohibited Substances (as defined herein) or both, which are first placed on, in, or under all or any portion of the Leased Premises on or after the Commencement Date, with the exception of any Hazardous Materials, Prohibited Substances or both which are placed on, in, or under all or any portion of the Leased Premises by Lessor, its agents, employees, and contractors; or

(2) Any violation of any Environmental Laws by Lessee, its agents, employees, and contractors at or relating to the Leased Premises.

10.9 ENVIRONMENTAL DEFINITIONS: For purposes of this Lease, the following definitions apply:

(a) "Prohibited Substances" shall mean (i) asbestos or asbestos- containing material or polychlorinated biphenyl material, or (ii) hazardous substances or hazardous waste as defined under any federal, state or local law, that may require remediation under applicable law (other than quantities or such substances, including gasoline, diesel fuel, and the like as are customary and necessary to prosecute construction and occupancy of the Development on the Leased Premises), or (iii) soil containing volatile organic compounds.

(b) "Environmental Laws" means any present or future federal, state or local law, ordinance, rule, regulation, permit, license or binding determination of any governmental authority relating to, imposing liability or standards concerning, or otherwise addressing the environment, health or safety, including, but not limited to: the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601 et seq. ("CERCLA"); the Resource Conservation and Recovery Act, 42, U.S.C. Section 6901 et seq. ("RCRA"); the Toxic Substance Control Act, 15 U.S.C. Section 2601, et seq. ("TOSCA"); the Clean Air Act, 42 U.S.C. Section 7401 et seq.; and the Clean Water Act, 33 U.S.C. Section 1251 et seq. and any so-called "Superfund" or "Superlien" law; and the Occupational Safety and Health Act, 29 U.S.C. Section 651 et seq. ("OSHA"), as each is from time to time amended and hereafter in effect.

(c) “Hazardous Materials” means: (i) “hazardous substances” as defined by CERCLA; (ii) “hazardous wastes,” as defined as RCRA; (iii) any hazardous, dangerous or toxic chemical, waste, pollutant, containment or substance (“pollutant”) within the meaning of any Environmental Law prohibiting limited or otherwise regulating the use, exposure, release, emission, discharge, generation, manufacture, sale, transport, handling, storage, treatment, reuse, presence, disposal or recycling of such pollutant; (iv) petroleum crude oil or fraction thereof; (v) any radioactive material, including any source, special nuclear or by-product material as defined in 42 U.S.C. Section 2011 et seq. and amendments thereto and reauthorizations thereof; or (vi) asbestos-containing materials in any form or condition, or polychlorinated biphenyls in any form or condition.

## **ARTICLE 11: ASSIGNMENT AND SUBLEASE**

11.1 TRANSFER BY LESSEE: Lessee shall not assign, sublease or otherwise convey any of Lessee’s rights under this Lease without the prior written consent of Lessor (which shall not be unreasonably withheld, conditioned or delayed), other than the Permitted Encumbrances and entering into residential leases of the Improvements in the ordinary course of Lessee’s business.

11.2 TRANSFER BY LESSOR: Lessor shall not transfer all or any portion of its interest in the Leased Premises without the prior written consent of the Equity Investor and any Leasehold Mortgagee, which shall not be reasonably withheld, conditioned or delayed, and upon any such approved transfer, the transferee shall assume all of Lessor’s obligations under this Lease and, in any event, Lessor shall not transfer all or any portion of its fee interest in the Leased Premise if the same would cause a violation of any applicable laws or regulations, any terms of this Lease, or any agreement or contract to which Lessor is a party or by which Lessor is bound. Any sale, transfer, assignment, mortgage or other conveyance by Lessor shall at all times be subject and subordinate to the terms of this Lease.

## **ARTICLE 12: DEFAULT**

12.1 DEFAULT BY LESSEE: Subject to Article 9 hereof, it shall be an event of default if Lessee fails to abide by any material term or condition in this Lease, and such failure is not cured by Lessee within sixty (60) days after notice of such failure is given by Lessor to Lessee. However, in the case where Lessee has commenced to cure such default within such 60-day period and is continuing such cure with all due diligence but cannot by the exercise of due diligence cure such default within such period, such period shall be extended for such additional period as may be reasonably required under the circumstances to complete such cure.

12.2 DEFAULT BY LESSEE RESULTING FROM JUDICIAL PROCESS: Subject to Article 9 hereof, it shall be an event of default if this Lease or the Development or any part thereof are taken upon execution or by other process of law directed against Lessee, or are taken upon or subjected to any attachment by any creditor of Lessee or claimant against Lessee, and such attachment is not discharged or bonded off within ninety (90) calendar days after its levy.

12.3 DEFAULT BY LESSOR: It shall be an event of default if Lessor fails to abide by any material term or condition in this Lease, and such failure is not cured by Lessor within

sixty (60) days after notice of such failure is given by Lessee to Lessor. However, in the case where Lessor has commenced to cure such default within such 60-day period and is continuing such cure with all due diligence, but cannot by the exercise of due diligence cure such default within such period, such period shall be extended for such additional period as may be reasonably required under the circumstances to complete such cure.

### **ARTICLE 13: GENERAL PROVISIONS**

13.1 NOTICES: Whenever this Lease requires either party to give notice to the other, the notice shall be given in writing and shall be deemed given when (i) received, if delivered by hand, (ii) sent by registered or certified mail, return receipt requested or (iii) sent by recognized overnight delivery services such as Fed Ex, addressed as follows:

If to Lessor:	Doug Lewis, City Manager City of Pinellas Park 5141 78 <sup>th</sup> Avenue P.O. Box 1100 Pinellas Park, FL 33780-1100
With a copy to:	James W. Denhardt, City Attorney City of Pinellas Park 2700 First Avenue North St. Petersburg, FL 33713
If to Lessee:	Sunshine Lofts on 78 <sup>th</sup> , LLLP c/o Newstar Sunshine Lofts on 78 <sup>th</sup> , Inc., Managing General Partner 3629 Madaca Lane Tampa, FL 33618 Attention: Brian Evjen, President
With a copy to:	Stearns Weaver Miller Weissler Alhadeff & Sitterson, P.A. 2220 Museum Tower 150 West Flagler Street, 2200 Miami, FL 33130 Attention: Brian J. McDonough, Esq.  Saxon Gilmore & Carraway, P.A. 201 E. Kennedy Boulevard, Suite 600 Tampa, FL 33602 Attention: Bernice S. Saxon, Esq.

13.2 NO BROKERAGE: Lessee warrants that it has not dealt with any broker in connection with the consummation of this Lease, and in the event any claim is made against Lessor relative to dealings with any broker, Lessee shall defend the claim against Lessor with counsel of Lessor's selection and save harmless and indemnify Lessor on account of loss, cost or damage which may arise by reason of any such claim.



13.3 SEVERABILITY AND DURATION: If any part of this Lease is unenforceable or invalid, such material shall be read out of this Lease and shall not affect the validity of any other part of this Lease or give rise to any cause of action of Lessee or Lessor against the other, and the remainder of this Lease shall be valid and enforced to the fullest extent permitted by law.

13.4 WAIVER: The waiver by Lessor at any given time of any term or condition of this Lease, or the failure of Lessor to take action with respect to any breach of any such term or condition, shall not be deemed to be a waiver of such term or condition with regard to any subsequent breach of such term or condition, or of any other term or condition of the Lease. Lessor may grant waivers in the terms of this Lease, but such waivers must be in writing and signed by Lessor before being effective.

13.5 LESSOR'S RIGHT TO PROSECUTE OR DEFEND: Lessor shall have the right, but shall be under no obligation, to prosecute or defend, in its own or Lessee's name, any actions or proceedings appropriate to the protection of its title to, and Lessee's interest in, the Leased Premises. Whenever requested by Lessor, Lessee shall give Lessor all reasonable aid in any such action or proceeding.

13.6 CONSTRUCTION: Whenever in this Lease a pronoun is used it shall be construed to represent either the singular or the plural, masculine or feminine, as the case shall demand.

13.7 CAPTIONS: The captions appearing in this Lease are for convenience only and are not a part of this Lease and do not in any way limit or amplify the terms or conditions of this Lease.

13.8 PARTIES BOUND: This Lease sets forth the entire agreement between Lessor and Lessee with respect to the leasing of the Leased Premises; it is binding upon and inures to the benefit of these parties and, in accordance with the provisions of this Lease, their respective successors in interest. This Lease may be altered or amended only by written notice executed by Lessor and Lessee or their legal representatives or, in accordance with the provisions of this Lease, their successors in interest.

13.9 GOVERNING LAW; VENUE: This Lease shall be interpreted in accordance with and governed by the laws of Florida. The language in all parts of this Lease shall be, in all cases, construed according to its fair meaning and not strictly for or against Lessor or Lessee. In the event of litigation, the parties hereto agree that venue for the prosecution of any state court proceedings shall be Pinellas County, Florida and any federal court proceeding shall be the Middle District of Florida

13.10 RECORDING: On or after the Commencement Date, the parties hereto shall record a memorandum of this Lease in the form provided herein as Exhibit B. At the expiration of the Term, Lessee shall execute a quitclaim termination of its interest in this Lease.

13.11 JOINT AND SEVERAL LIABILITY: The liability of Lessee under this Lease is limited to Lessee's interest in the Development. Neither Lessee, nor any partner of Lessee, or any affiliate thereof, nor any officer, director, shareholder, member, partner or

employee of any of said entities, shall have any personal liability hereunder.

13.12 LITIGATION FEES: If the parties hereto litigate any provision of this Lease or the subject matter of this Lease, the unsuccessful litigant will pay to the successful litigant all reasonable out-of-pocket costs and expenses, including reasonable attorneys' fees and court costs, actually incurred by the successful litigant at trial and on any appeal.

13.13 AMENDMENT: This Lease can be amended only by a written document agreed to and signed by Lessor and Lessee, the approval of which both Lessor and Lessee mutually agree not to unreasonably withhold, delay or condition, and with the written approval of the Equity Investor and all Leasehold Mortgagees.

13.14 COUNTERPARTS: This Lease may be executed in any number of counterparts, and each such counterpart will for all purposes be deemed an original, and all such counterparts shall constitute one and the same instrument. In order to expedite the transaction contemplated herein, facsimile or electronic signatures may be used in place of original signatures on this Lease. Lessor and Lessee intend to be bound by the signatures on the facsimile or electronically transmitted document, are aware that the other parties shall rely on the facsimile or electronic signatures, and hereby waive any defenses to the enforcement of the terms of this Lease based on the form of signature.

13.15 RADON GAS. RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT IS ACCUMULATED IN A BUILDING 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 COUNTY PUBLIC HEALTH UNIT.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Lease has been executed as of the Effective Date.

**LESSOR**

**CITY OF PINELLAS PARK FLORIDA,**  
a Florida municipal corporation

By: \_\_\_\_\_  
**Sandra L. Bradbury, Mayor**

**ATTEST:**

By: \_\_\_\_\_  
**Diane M. Corna, MMC, City Clerk**

**WITNESS:**

\_\_\_\_\_  
Print Name:\_\_\_\_\_

**WITNESS:**

\_\_\_\_\_  
Print Name:\_\_\_\_\_

**LESSEE**  
**SUNSHINE LOFTS ON 78<sup>th</sup>, LLLP**  
a Florida Limited Liability Limited Partnership

By: Sunshine Lofts on 78<sup>th</sup>, Inc.,  
a Florida corporation, its managing general  
partner

By: \_\_\_\_\_  
Brian Evjen, President

**WITNESS:**

\_\_\_\_\_  
Print Name:\_\_\_\_\_

**WITNESS:**

\_\_\_\_\_  
Print Name:\_\_\_\_\_

**Approved as to form and correctness:**

By: \_\_\_\_\_  
**James W. Denhardt, City Attorney**  
**City of Pinellas Park, FL**

**EXHIBIT A**

**A PORTION OF CITY PROPERTY AT 6101 78TH AVENUE**

FROM THE SOUTHWEST CORNER OF LOT 7, SECURITY ACRES SECTION "A", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGE 86, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA, IN SECTION 29, TOWNSHIP 30 SOUTH, RANGE 16 EAST, RUN NORTH 00°48'44" WEST 5.00' TO THE POINT OF BEGINNING; THENCE SOUTH 89°51'04" EAST 537.176'; THENCE NORTH 44°22'44" WEST 293.17'; THENCE NORTH 89°51'04" WEST 335.096'; THENCE SOUTH 00°48'44" EAST 209.034' TO THE POINT OF BEGINNING.

A PARCEL CONTAINING 2.0926 ACRES M.O.L.

## **EXHIBIT B**

After Recording Return To:  
Bernice S. Saxon, Esq.  
Saxon Gilmore & Carraway, P.A.  
201 E. Kennedy Boulevard, Suite 600  
Tampa, FL 33602

### **MEMORANDUM OF GROUND LEASE**

THIS MEMORANDUM OF GROUND LEASE is dated as of \_\_\_\_\_, 2020 (the "Commencement Date"), by and between CITY OF PINELLAS PARK FLORIDA, a Florida municipal corporation ("Lessor"), and SUNSHINE LOFTS ON 78<sup>TH</sup>, LLLP, a Florida limited liability limited partnership ("Lessee").

WHEREAS, Lessor is leasing to Lessee the premises more particularly described in Exhibit A attached hereto (the "Leased Premises"), pursuant to that certain Ground Lease dated as of \_\_\_\_\_, 2020, between Lessor and Lessee, as may be amended from time to time (the "Lease"), which Lease is incorporated herein by reference; and

WHEREAS, the term of the Lease shall commence on the Commencement Date and end on the eightieth (80<sup>th</sup>) anniversary of the Commencement Date, subject to earlier termination as contemplated in the Lease; and

WHEREAS, pursuant to Section 713.10, Florida Statutes, the interest of Lessor in the Leased Premises shall not be subject to liens for improvements made by Lessee; and

WHEREAS, Lessor and Lessee by their signatures below do hereby agree that the foregoing accurately describes the Lease entered into by them.

[Signature Pages Follow]

IN WITNESS WHEREOF, and intending to be legally bound hereby, Lessor and Lessee have executed this Memorandum of Ground Lease as of the date first above written.

**WITNESSES:**

**LESSOR**

**CITY OF PINELLAS PARK FLORIDA,**  
a Florida municipal corporation

By: \_\_\_\_\_  
Sandra L. Bradbury, Mayor

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2020, by \_\_\_\_\_, as \_\_\_\_\_ of the City of Pinellas Park, a Florida municipal corporation.

**WITNESSES:**

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**LESSEE**

**SUNSHINE LOFTS ON 78<sup>th</sup>, LLLP**

a Florida Limited Liability Limited Partnership

By: Sunshine Lofts on 78<sup>th</sup>, Inc.,  
a Florida corporation, its managing  
general partner

By: \_\_\_\_\_  
Brian Evjen, President

\_\_\_\_\_  
Print Name: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of ☐ physical  
presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2020, by

\_\_\_\_\_, as \_\_\_\_\_ of  
\_\_\_\_\_, the General Partner of \_\_\_\_\_, a  
Florida limited liability limited partnership.

**Approved as to form and correctness:**

By: \_\_\_\_\_

**James W. Denhardt, City Attorney  
City of Pinellas Park, FL**

## **EXHIBIT A**

### **A PORTION OF CITY PROPERTY AT 6101 78TH AVENUE**

FROM THE SOUTHWEST CORNER OF LOT 7, SECURITY ACRES SECTION "A", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 21, PAGE 86, OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA, IN SECTION 29, TOWNSHIP 30 SOUTH, RANGE 16 EAST, RUN NORTH 00°48'44" WEST 5.00' TO THE POINT OF BEGINNING; THENCE SOUTH 89°51'04" EAST 537.176'; THENCE NORTH 44°22'44" WEST 293.17'; THENCE NORTH 89°51'04" WEST 335.096'; THENCE SOUTH 00°48'44" EAST 209.034' TO THE POINT OF BEGINNING.

A PARCEL CONTAINING 2.0926 ACRES M.O.L.





Nicole Tikkanen &lt;ntikkanen@pinellas-park.com&gt;

---

**Fwd: Atty Doc # 20-266 Follow up Ground Lease**

1 message

---

**Shannon Coughlin** <SCoughlin@pinellas-park.com>  
To: Nicole Tikkanen <ntikkanen@pinellas-park.com>

Thu, Oct 8, 2020 at 1:33 PM

Please attach as backup again.

Thank you.

Shannon  
Shannon Coughlin, CPM  
Economic Development Manager  
Planning & Development Services Division  
City of Pinellas Park  
[6051 78th Avenue North](#)  
[Pinellas Park, FL 33781](#)  
Office: (727) 369-5618  
Cell: (727) 743-0581

----- Forwarded message -----

From: **James W. Denhardt** <[denhardtlaw@aol.com](mailto:denhardtlaw@aol.com)>  
Date: Thu, Oct 8, 2020 at 10:53 AM  
Subject: Re: Atty Doc # 20-266 Follow up Ground Lease  
To: [SCoughlin@pinellas-park.com](mailto:SCoughlin@pinellas-park.com) <[SCoughlin@pinellas-park.com](mailto:SCoughlin@pinellas-park.com)>  
Cc: [CityClerk@pinellas-park.com](mailto:CityClerk@pinellas-park.com) <[CityClerk@pinellas-park.com](mailto:CityClerk@pinellas-park.com)>, [nstrickland@pinellas-park.com](mailto:nstrickland@pinellas-park.com) <[nstrickland@pinellas-park.com](mailto:nstrickland@pinellas-park.com)>

Shannon,

I would approve of the proposed amended language for Paragraph 6.2 of the agreement.

I would also approve of the update to the signature block.

Very truly yours,

Lauren Rubenstein

Denhardt and Rubenstein  
Attorneys at Law  
[2700 First Avenue North](#)  
St. Petersburg, Florida 33713  
(727) 327-3400  
(727) 323-0888 (Facsimile)  
[DenhardtLaw@aol.com](mailto:DenhardtLaw@aol.com)

**CONFIDENTIALITY NOTE:** The information contained in this transmission may be privileged and confidential information, and is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of

**this communication is strictly prohibited. If you have received this transmission in error, please immediately reply to the sender that you have received this communication in error and then delete it. Thank you.**

-----Original Message-----

From: Shannon Coughlin <[SCoughlin@pinellas-park.com](mailto:SCoughlin@pinellas-park.com)>

To: James W.Denhardt <[denhardtlaw@aol.com](mailto:denhardtlaw@aol.com)>

Cc: City Clerks <[CityClerk@pinellas-park.com](mailto:CityClerk@pinellas-park.com)>; Nichole Strickland <[nstrickland@pinellas-park.com](mailto:nstrickland@pinellas-park.com)>

Sent: Thu, Oct 8, 2020 10:31 am

Subject: Atty Doc # 20-266 Follow up Ground Lease

Hello Jim and Lauren,

The developer has now asked me to changed 6.2 under Article 6 to read as follows:

6.2 CAPITAL LEASE PAYMENT: On the Commencement Date, Lessee shall pay to Lessor a one-time capital lease payment in the amount of Six Hundred Thousand and No/100 Dollars (\$600,000) (the "Capital Lease Payment"). The Capital Lease Payment shall be paid in full in immediately available funds. The Capital Lease Payment shall be for the Leased Premises.

Please advise if it meets with your approval prior to my making the changes. They have also asked me to add "Florida" back in the signature block..... a Florida Limited Liability Limited Partnership.

I await your response. Thank you both. We are almost there!

Shannon

Shannon Coughlin, CPM

Economic Development Manager

Planning & Development Services Division

City of Pinellas Park

[6051 78th Avenue North](#)

[Pinellas Park, FL 33781](#)

Office: (727) 369-5618

Cell: (727) 743-0581