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LP Title, LLC
4725 Wisconsin Ave NW, Suite 250
Washington, DC 20016
Attn: Cathy Gayle
Email: cgayle@lplawdc.com
Telephone: 202-244-8861 (o)
LSU File No. DCWC22-2816

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SINGLE LOT COVENANT AND EASEMENT AGREEMENTS

THIS SINGLE LOT COVENANT AND EASEMENT AGREEMENTS ("Covenant") is made as of the 13th day of June, 2022 ("Execution Date") by and between **3400 CONNECTICUT PARTNERS L.L.C.**, a District of Columbia limited liability company ("3400 Owner") and **2911 NEWARK PARTNERS L.L.C.**, a District of Columbia limited liability company ("Newark Owner"). For the purposes set forth herein 3400 Owner and Newark Owner are together referred to as the "Parties."

RECITALS

A. 3400 Owner is the owner of certain real property in the District of Columbia being (i) Lot 826 in Square 2069 (hereinafter "Lot 826" and sometimes referred to herein as the "Burdened Lot"), (ii) Lot 824 in Square 2069 ("Lot 824"), (iii) Lot 825 in Square 2069 ("Lot 825"); and (iv) Lot 828 in Square 2069 ("Lot 828"), all as more particularly described in Exhibit A attached hereto and made a part hereof (collectively the "3400 Parcels");

B. Newark Owner is the owner of certain real property in the District of Columbia being (i) Lot 827 in Square 2069 ("Lot 827") and (ii) Lot 7001 in Square 2069 ("Lot 7001") all as more particularly described in Exhibit B attached hereto and made a part hereof (collectively, the "Newark Parcels").

C. The Parties have consolidated the 3400 Parcels and the Newark Parcels (collectively the "Parcels") into a single lot of record known as Lot 52 in Square 2069 (the "Consolidated Lot") pursuant to a plat recorded in the Office of the Surveyor for the District of Columbia at Page 219, Book 146 (the "Subdivision Plat"), and have now established and desire to maintain separate assessment and taxation lots on the Parcels for the purposes of real property taxes and any other assessments imposed by the District of Columbia.

D. The Parties desire to execute this Covenant to set forth their agreements with respect to the Consolidated Lot, the Parcels and other related matters.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are a material part of this Covenant and not mere precatory language, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby covenant as follows, intending to be legally bound hereby:

1. **Defined Terms.** When used in this Covenant, the following capitalized terms shall have the meanings ascribed to them below:

Consolidated Lot: The single record lot comprised of the 3400 Parcels and the Newark Parcels within Square 2069.

FAR: Floor Area Ratio, as that term is defined in the Zoning Regulations.

GFA: Gross Floor Area, as that term is defined in the Zoning Regulations.

Land Records: The Land Records of the Office of the Recorder of Deeds of the District of Columbia.

Order: Board of Zoning Adjustment Order 20266 dated March 15, 2022.

Owner or Owners: the individual owners of the Parcels, or as applicable, any portions of any of the Parcels.

Parcel: Either one or more of the 3400 Parcels or the Newark Parcels, as the context may require; Parcels shall mean 3400 Parcels and Newark Parcels, collectively.

Party: Either 3400 Owner or Newark Owner, as the context may require; Parties shall mean 3400 Owner and Newark Owner collectively.

Plaza: That Portion of Lot 826 to be constructed and established by the 3400 Owner for the uses by the Parties as more fully set forth in Section 4.1 below.

Subdivision Plat: That certain plat of subdivision creating the Consolidated Lot as drawn and recorded among the records of the Surveyor at Book 219, Page 146.

Surveyor: The Office of the Surveyor for the District of Columbia.

Zoning Regulations: The Zoning Regulations now in effect in the District of Columbia, 11 DCMR, or as amended from time to time, as context requires.

2. **Lot Consolidation**

2.1 **Agreement to Consolidate.** The Parties acknowledge that they have caused the recording of the Subdivision Plat in the Office of the Surveyor to consolidate the Parcels into the Consolidated Lot. The Parties agree to maintain the Consolidated Lot as a single lot of record for subdivision and zoning purposes.

2.2 **Separate A&T Lots.** Notwithstanding that the 3400 Parcels and the Newark Parcels are part of the Consolidated Lot, each Party shall maintain separate assessment and taxation lots for purposes of real property taxes and any other assessments, levies, and charges imposed by the District of Columbia. Each Party shall pay all real property taxes, assessments, levies, and charges imposed upon its respective Parcel by a taxing authority as and when due and payable, notwithstanding the Parcels being portions of the Consolidated Lot.

2.2.1 Any reference to taxes or other charges required to be paid pursuant to this Covenant shall include any penalty, interest, or cost assessed or charged by the assessing or

taxing authorities in connection with real estate taxes on one or more of the Parcels, provided that any penalty, interest, or cost assessed or charged by such assessing or taxing authorities due to the failure by either Party to timely pay its share of taxes and charges pursuant to this Section 2.2 shall be borne entirely by that Party which failed to timely make such payment.

2.2.2 Nothing contained in this Covenant shall be deemed or construed to prohibit the future creation of assessment and taxation lots on any one or more of the 3400 Parcels or the Newark Parcels, nor to prohibit the future development of any of the Parcels in combination with any other property, or to further subdivided any of the Parcels, or create a condominium regime on any of the Parcels, provided that such combination, subdivision or creation of a condominium regime shall not in any way trigger a nonconforming zoning condition for the other Parcel under the applicable Zoning Regulations, including but not limited to use of the Consolidated Lot under the applicable Zoning Regulations.

2.2.3 In the event that the assessing authorities shall at any time fail to separately assess the Parcels, (A) the total assessed valuation of the Consolidated Lot, and the taxes and charges computed thereon, shall be allocated between the Parcels on the basis of the method used by the assessing authorities in determining such combined assessment if the Parties can determine such method with reasonable certainty; or (B) if the Parties cannot make such determination as aforesaid, or if any Party believes that the assessing authorities have incorrectly assessed its Parcel in relationship to another Parcel, then such total assessed valuation, and the taxes and charges computed thereon, shall be allocated between the Parcels in such manner as all of the Parties may agree, and such taxes and charges shall be paid by the respective Party which owns such Parcels according to such agreed-upon allocation. Within ten (10) days after receipt by any Party of a notice of assessment from the appropriate governmental authority which indicates that the Parcels are not assessed separately ("Combined Assessment Notice"), such Party shall deliver a copy of the Combined Assessment Notice to the other Party (or the then current owners of the individual Parcels. If the Parties do not agree pursuant to the foregoing clause (B) on an allocation of the combined assessment within a period of ten (10) business days following the date the copy of the Combined Assessment Notice is delivered to the parties, then any such dispute shall be settled by binding arbitration in accordance with the rules of the American Arbitration Association using expedited procedure, which decision shall be binding upon the parties, and enforceable in any court having jurisdiction over the Parties. Each Party shall timely pay to the appropriate governmental authority its proportionate share of the taxes and charges due based upon the agreed allocation or the determination of its proportionate share pursuant to any arbitration. In the event such governmental authority will not accept partial payment from any Party, then both Parties shall in good faith appoint a reputable FDIC-insured bank or title insurance company as trustee for the purpose of receiving such funds from the Parties and paying such taxes to the authority. In the event of any legislative or regulatory change in the current scheduling of the time notices of assessment are required to be delivered to taxpayers (currently March 1 of each year) or the time the first installment of taxes pursuant to such notice is due (currently the ensuing September 15), such that the period of time between the giving of the notice of the assessment by the taxing authority and the due date of the first installment pursuant thereto is not sufficient to permit the dispute resolution and/or arbitration process set forth in this Section, then the Parties shall institute the arbitration process provided for herein with such promptness as may be required to complete such process prior to the time of the due date of such first installment.

(i) Any reference to "taxes and charges" required to be paid pursuant to this Covenant shall include any penalty, interest or cost assessed or charged by the assessing or taxing authorities in connection with real estate taxes and other governmental or non-governmental assessments on any of the Parcels, provided that any penalty, interest or cost assessed or charged by such assessing or taxing authorities due to the failure by any Party to timely pay its share of taxes and charges pursuant to this **Section 2.2.3** shall be borne entirely by that Party which failed to timely make such payment.

(ii) Each Party shall timely file all income and expense reports for its Parcel that may be required from time to time by the District of Columbia, together with any other documentation required by the assessing authorities, and each Party shall indemnify and hold harmless the other Party from and against any penalties, costs or other expenses (including reasonable attorneys' fees) for its failure to do so.

2.3 **Separate Ownership.** Notwithstanding any other provision of this Covenant to the contrary, the status of the 3400 Parcels and the Newark Parcels as being part of the larger Consolidated Lot for subdivision and zoning purposes shall not affect in any manner the separate legal and equitable ownership of the 3400 Parcels and the Newark Parcels, respectively. Nothing contained in this Covenant shall be deemed or construed to grant to 3400 Owner any legal or beneficial interest in the Newark Parcels, or to grant to Newark Owner any legal or beneficial interest in the 3400 Parcels. Each Party intends to and hereby reserves all zoning and similar development rights conferred upon or available to it by virtue of its ownership of its respective portion of the Consolidated Lot, except as otherwise expressly described in this Covenant. Nothing contained in this Covenant shall be deemed or construed to prohibit future subdivision of either the 3400 Parcels or the Newark Parcels within the Consolidated Lot (including creation of a condominium regime), nor to prohibit the future development of the Parcels in combination with any other parcel. No Party shall be or become joint tenants or tenants in common of the Consolidated Lot, but each Party shall be and remain the respective owner of its individual Parcels and the improvements and the development rights applicable to such Parcel.

2.4 **Transfer of Development Rights**. Attached hereto as Exhibit C (the "Allocation Chart") is an allocation of the existing FAR and GFA (hereinafter the "Development Rights") for the Parcels included in the Consolidated Lot (hereinafter the "Development Allocations"), and each Party shall be deemed to have consented to the Development Allocations and shall not take any actions in the future inconsistent with its Development Allocation. Each present or future owner of any of the Parcels shall limit its development of improvements on the Parcel so as not to exceed its Development Allocation provided that nothing shall preclude the owners of Parcels from transferring any unused portions of the Development Allocation for its Parcel to another Parcel in the Consolidated Lot in accordance with applicable law. In the event of any change in the zoning for the Consolidated Lot or other similar changes additional Development Rights are available for the Consolidated Lot, such additional rights shall be allocated as agreed upon the then current owners of the Parcels, and in the event they are unable to agree, then in accordance with the ratio of the Development Allocations set forth in the Allocation Chart. Each Party intends to and hereby reserves all zoning and similar development rights conferred upon or available to it by virtue of its ownership of its respective portion of the Consolidated Lot, subject to the foregoing Development Allocations.

2.5 **Cooperation.** The intent of the Parties with respect to the Consolidated Lot is that, except as otherwise expressly set forth in this Covenant, the rights, privileges and obligations of the Parties, as the owners of the Parcels, shall not be modified, increased or diminished in any respect. Consequently, in addition to the specific obligations of the Parties set forth in this Covenant, the Parties shall each execute such additional plats, applications, permits, and other documents that may be required by reason of the Parcels being part of the Consolidated Lot as another Party may reasonably request in connection with the ownership, demolition, construction, reconstruction, maintenance, repair, financing, and/or sale of its respective Parcels and the improvements thereon, provided that such executing Party shall not incur any liability, obligation, expense, loss of a right or loss of area in connection therewith.

2.6 **Order Conditions**. The Parties acknowledge and agree to abide by, separately and together, the conditions of the Order, which requires compliance with certain operational conditions regarding transportation demand and loading for the Consolidated Lot. The Parties will reasonably cooperate with one another to ensure compliance with these conditions and to report such compliance as required by the Order.

2.7 **Order Modification**. The Parties acknowledge the binding nature of the Order on future development of the Parcels and shall act in a commercially reasonable manner to abide by the Order and not create the need for any modification to the Order. In the event a Party chooses to seek to modify the Order, the other Parties, to the extent not adversely affected, shall reasonably cooperate with any filing materials necessary for such modification, but no Party other than an initiating Party shall bear costs associated with such a modification absent agreement of such Party.

3. **Title.**

3.1 In the event the Consolidated Lot becomes encumbered by a mechanic's lien incurred by the actions or omissions of one of the Parties, said responsible Party shall promptly discharge said lien and provide evidence of the same to the non-responsible Party. In the event the responsible Party fails to promptly discharge said lien under this section, the non-responsible Party is authorized to satisfy and discharge said lien, in which case the responsible Party shall be liable for full restitution to the non-responsible Party for all costs, payments, and expenses, including reasonable attorney fees, incurred therein, and the aggregate amount of all such costs, payments and expenses shall bear interest at the Interest Rate (defined below) from the date incurred until repaid in full, and the non-responsible Party shall have a lien against the responsible Party's Parcel for the full aggregate amount of costs, payments, expenses and interest until paid in full, which lien shall be subordinate to the lien of such responsible Party's lenders.

3.2 Other than this Covenant and the liens provided herein, no Party shall record or cause to be recorded any claims, liens, defects, encumbrances or other matters against any Parcel belonging to the other Party.

4. **Plaza Easements**

4.1 **Plaza Access Easement.** 3400 Owner, in its capacity as owner of the Burdened Lot (hereinafter for purposes of this Section the "Burdened Lot Owner"), hereby grants

and conveys for the benefit of Lot 824, Lot 825, Lot 827, Lot 828 and Lot 7001 (hereinafter collectively the "Benefitted Lots"), and the current and future owners thereof (hereinafter collectively the "Benefitted Lot Owners" or individually a "Benefitted Lot Owner"), in conjunction with the use and occupancy of the Benefitted Lots, and as an appurtenance to the Benefitted Lots, a perpetual, limited, non-exclusive easement of ingress and egress (the "Access Easement") solely for pedestrian use as a plaza area and walkway over and across the portion of the Burdened Lot comprising the plaza area as more fully identified and described on Exhibit D (the "Plaza Easement Area" and/or the "Plaza"). The sole purpose of the Access Easement is to permit the Benefitted Lot Owners, including their tenants and invitees, ingress and egress over and through the Easement Area to and from Connecticut Ave., N.W., Washington, DC and Newark Ave., N.W., Washington, DC, as more fully shown on Exhibit D hereto. The foregoing grant is not intended to, nor shall it, confer upon the Benefitted Owners (or their invitees) the right to use any other portion of the Burdened Lot or to use the Easement Area, for any other purposes.

4.2 **Patio Areas**. Notwithstanding the grants contained in Paragraph 4.1 above, the Burdened Lot Owner may grant to one or more owners of the Benefitted Lots (including their tenants) that are adjacent to the Easement Area the right to the exclusive use of the "Patio Areas" which are part of the Easement Area and shown on Exhibit D, and which are adjacent to an such owner's Parcel for permitted retail purposes. The terms of any such grant by the Burdened Lot Owner shall be as agreed upon between the Burdened Lot Owner and the owner of the Parcel to whom such right is granted. However, any use of the Patio Areas shall be limited so as not to interfere with the access rights granted in Section 4.1 above. The Burdened Lot Owner is also reserved the right to the exclusive use of the Patio Area shown on Exhibit C associated with the Burdened Lot.

4.3 **Obstructions and Restrictions on Use.** Except with respect to the Patio Areas, neither any present or future owner of all or any portion of the Burdened Lot or Benefitted Lots, shall place or affix, or cause or permit to be placed or affixed in the Easement Area, any structure, gate, personal property, or other improvement or obstruction, it being the intent of the parties that except as provided herein with respect to the Patio Areas, the Easement Area shall be and remain totally free and unobstructed, provided that the Burdened Lot Owner may add landscaping and seating as part of the Easement Area to promote the use of the Easement Area as a "Plaza" for the use and enjoyment of all the Parcels, and their invitees. The Burdened Lot Owner shall have no obligation to police the use of the Easement Area, but is reserved the right to do so. The Benefitted Lot Owners shall use the Easement Area solely for the purposes as set forth in this Covenant.

4.4 **Indemnification**. Each Benefitted Lot Owner shall indemnify and hold harmless the Burdened Lot Owner, and the other Benefitted Lot Owners, and their successors and assigns, from any and all costs, claims, damages, or losses arising from or related to a Benefitted Lot Owner's use (or its invitees) use of the Easement Area.

4.5 **Maintenance and Upkeep Costs Associated with Easement Area**. The maintenance, upkeep and repair of the Easement Area, and any facilities and improvements located thereon, including cleaning, shall be undertaken by the Burdened Lot Owner, and the costs thereof (hereinafter the "Maintenance Costs") shall be shared by the owners of all the Parcels in the

proportions set forth on Exhibit E hereto. If any Parcel is further subdivided, the owners of the newly created parcels on such Parcel shall share the payment obligation of the Maintenance Costs as agreed to by the owners of such Parcel. Notwithstanding anything to the contrary stated herein, if such repair, maintenance and upkeep shall be necessary as a result of the negligence or willful act of any Owner of a Parcel (or portion thereof), or its agents, employees, invitees, licensees, tenants, successors or assigns, the negligent Owner, at its sole cost and expense (as between it and the other Owners), shall be responsible for such costs.

4.6 **Performance of Maintenance as to Access Easement Area.** The Burdened Lot Owner shall initiate and undertake such maintenance of the Easement Area and the facilities therein as is necessary to maintain them in good order and repair (the "Maintenance Standard"). Except in the event of an emergency or as to routine maintenance such as snow removal services, no Benefitted Lot Owner, nor the Owner of any other Parcel created therefrom hereafter, shall initiate any work for which it will seek reimbursement from the other owners of the Parcels, without first seeking the agreement of such other Owners, with respect to the necessity and degree of the required repair work, which agreement shall not be unreasonably withheld or delayed, and shall be deemed given unless a contrary response is delivered to the requesting Owner within thirty (30) days after the date of such request.

4.7 **Payment of Maintenance and Contract Lien**. The Burdened Lot Owner shall be responsible for collecting the Maintenance Costs from the Benefitted Lot Owners as set forth above. The Burdened Lot Owner may at the outset of each calendar year provide the Benefitted Lot Owners with a budget for the coming calendar year for anticipated Maintenance Costs, and each Benefitted Owners pro-rata share of the budgeted amount. In such case, the Benefitted Lot Owners shall make monthly payments to the Burdened Lot Owner of such Benefitted Lot Owners pro-rata share. Within sixty (60) days of the end of each calendar year, or as such reasonable time thereafter as Burdened Lot Owner is able, the Burdened Lot Owner shall provide a statement of the total amount of Maintenance Costs for the prior calendar year, the amount collected from each Benefitted Lot Owner, and any balance due (or owing to) each Benefitted Lot Owner. Any amounts due from a Benefitted Lot Owner shall be remitted within fifteen (15) days of submission of such statement, and any refund due shall likewise be paid within such fifteen (15) day period by the Burdened Lot Owner.

If any Benefitted Lot Owner fails to reimburse the Burdened Lot Owner for Maintenance Costs in accordance with the terms of this Covenant, the Maintenance Costs due and owing but not received within fifteen (15) days after receipt of a reasonably detailed statement for such costs, shall bear interest at the prime rate of interest then being charged by Bank of America (or its successors), plus four percent (4%), until paid (the "Interest Rate").

In the event any amount remains unpaid within sixty (60) days of notice, the Burdened Lot Owner may pursue all legal remedies to recover the amount past due and owing from a Benefitted Lot Owner, and in such an event the defaulting Benefitted Lot Owner shall be responsible for all costs, including legal fees, incurred by Burdened Lot Owner, in pursuing its rights hereunder to payments from the Benefitted Lot Owner.

4.8. **Division of Lots/Condominium.** The Parties each reserve the right to further divide their respective Parcels in accordance with Section 2.2 above into separate A&T Lots and to create a condominium regime on all or part of those parcels, including, the right of the Burdened Lot Owner to convey separately the ownership of the Easement Area. In the event of such conveyance or subdivision, the rights and obligations set forth herein as they relate to the Owner of the Easement Area shall be deemed to benefit and be binding solely upon the owner of the Easement Area. In the event the Easement Area is separated from the remaining portion of the Burdened Lot, such remaining portion of the Burdened Lot shall thereafter be deemed a Benefitted Lot for purposes of this Covenant, and the rights and obligations with respect to the Access Easements contained herein.

In the event another Owner's signature or cooperation is required to complete the division of lots or other rights described in this Section 4.9, each such Party shall provide such consent and cooperation, subject to their commercially reasonable discretion, which consent and cooperation shall not be unreasonably held, conditioned, or delayed.

4.9 **Reservation of Rights.** Except as expressly set forth herein, the owner of the Burdened Lot reserves all rights to the use and enjoyment of the Easement Area, and the right to the use of all portions of the Burdened Lot freely and unencumbered, consistent with and subject to the terms of this Covenant.

5. **Additional Easements**

5.1 **Lot 7001 Easement**. 3400 Owner, in its capacity as owner of Lot 824 ("824 Owner"), hereby grants and conveys for the benefit of Lot 7001, and the current and future owners of Lot 7001 (the "7001 Owner"), in conjunction with the use and occupancy of Lot 7001, and as an appurtenance to Lot 7001, the following:

5.1.1. **Loading Dock**. (i) a perpetual, non-exclusive easement for the use of the loading dock area to be located on Lot 824, generally as shown on Exhibit D hereto (the "Loading Dock Area"), and (ii) a perpetual, limited, non-exclusive easement of ingress and egress over and across a portion of Lot 824 to access the Loading Dock Area, as shown on Exhibit D (the "Loading Dock Access Area"). The rights granted hereunder to the owner of 7001 Owner, including its tenants and invitees, shall be referred to as the "Loading Dock Easements".

5.1.2 **Trash Area.** (i) a perpetual, non-exclusive easement for the use of the trash room to be located in the building (the "824 Building") to be constructed on Lot 824, (the "Trash Room Area"), and (ii) a perpetual, limited, non-exclusive easement of ingress and egress to and through the walkway leading to the entrance to Lot 824 (the "824 Access Area") to access the Trash Room Area. The rights granted hereunder to the 7001 Owner, including its tenants and invitees, shall be referred to as the "Trash Room Easements").

5.1.3 **Amenity Easements**. (i) a perpetual, non-exclusive easement for the use of the amenities to be constructed (a) on the first floor of the 824 Building, to include an exercise room, meeting room, and such other similar amenities that are intended for the common use of the occupants of the 824 Building (hereinafter the "Amenity Room Areas"), and a roof top

deck to be constructed on the roof of the Building (the "Roof Deck Area" and collectively with the Amenity Room Areas, the "824 Shared Areas") and (ii) a perpetual, limited, non-exclusive easement of ingress and egress to and through the 824 Access Area to access the 824 Shared Areas. The rights granted hereunder to the owner of Lot 7001 (the "7001 Owner"), including its tenants and invitees, shall be referred to as the "824 Shared Easements".

5.1.4 **Ingress Egress Easement.** A perpetual, limited, non-exclusive easement of ingress and egress to and through the 824 Access Area for the purpose of egress from the exit door located on the western boundary of the building on Lot 7001 to access Newark Street, N.W.

5.1.5 **Rules and Regulations.** The use of the Trash Room Area, the 824 Shared Areas, the Loading Dock Area, the 824 Access Area and the Loading Dock Access Areas (collectively the "824 Easement Areas"), and access to the 824 Easement Areas, shall be subject to reasonable rules and regulations jointly adopted by the 7001 Owner and the 824 Owner. The foregoing grants are not intended to, nor shall it, confer upon the 7001 Owner (or its invitees) the right to use any other portion of Lot 824, or to use the 824 Easement Areas for any other purposes, except as otherwise expressly provided herein.

5.1.6 **Indemnification**. The 7001 Owner shall indemnify and hold harmless the 824 Owner from any and all costs, claims, damages, or losses arising from or related to 7001 Owner's (or its invitees) use of the 824 Easement Areas.

5.1.7 **Maintenance and Upkeep Costs Associated with 824 Easement Areas**. The maintenance, upkeep and repair of the 824 Easement Areas, and any facilities and improvements located thereon, including cleaning and upkeep, shall be undertaken by the 824 Owner, and the costs thereof (hereinafter the "824 Maintenance Costs") shall be shared two-thirds by the 824 Owner and one-third by the 7001 Owner. If either Lot 824 or Lot 7001 is further subdivided, the Owners of the newly created lots in such Parcel shall share the payment obligation of the Maintenance Costs as agreed to by the owners of such newly created lots in accordance with any such subdivision. Notwithstanding anything to the contrary stated herein, if such repair, maintenance and upkeep shall be necessary as a result of the negligence or willful act of an Owner, or its agents, employees, invitees, licensees, tenants, successors or assigns, the negligent Owner, at its sole cost and expense (as between it and the other Owners), shall be responsible for such costs.

5.1.8. **Payment of 824 Maintenance Costs.** The 7001 Owner shall make payment to the 824 Owner for 824 Maintenance Costs in the same manner as payment of Maintenance Costs under Section 4.8 above are payable for Maintenance Costs. In the event the 7001 Owner fails to make such payments, the provision of Section 4.8 addressing non-payment shall be applicable to the non-payment of 824 Maintenance Costs.

5.2 **Laundry Room**. The 7001 Owner, in its capacity as owner of Lot 7001, hereby grants and conveys for the benefit of Lot 824, and the 824 Owner, in conjunction with the use and occupancy of Lot 824, and as an appurtenance to Lot 824 (i) a perpetual, non-exclusive easement for the use of the laundry room located on Lot 7001 (the "Laundry Room Area"), and

(ii) a perpetual, limited, non-exclusive easement of ingress and egress across a portion of Lot 7001 to access the Laundry Room (the "Laundry Access Easement"). The rights granted hereunder to the owner of Lot 824, including its tenants and invitees, shall be referred to as the "Laundry Room Easements". The use of the Laundry Room Area shall be subject to reasonable rules and regulations adopted by the 7001 Owner. The owner of Lot 827 hereby joins in the grant of the Laundry Access Easement to the extent that access to the building on Lot 7001 is through Lot 827. All costs associated with the Laundry Room Area shall be paid for solely by the 7001 Owner, and the 824 Owner shall have no obligation to pay any costs associated with the use of the Laundry Room Area. However, the 824 Owner shall indemnify and hold harmless the 7001 Owner from any and all costs, claims, damages, or losses arising from or related to 824 Owner's (or its invitees) use of the Laundry Room Area.

6. **Amendment/Termination**. This Covenant may not be amended or terminated without the express written consent of all of the then current owners of the Parcels, or, if applicable, those owners that will be affected by any such amendment.

7. **Binding Effect.** The easements and other rights and obligations set forth in this Covenant and the grants made herein, shall be deemed made in perpetuity and shall run with and bind the land, and shall be binding upon, and inure to the benefit of, the present and all future owners of all or any portion of the Parcels. In the event any one or more of the Parcels is hereafter converted to a condominium in accordance with applicable law, or otherwise subdivided, the terms of this Covenant and the rights and obligations thereunder, shall inure to the benefit of, and be binding upon, the individual owners of the condominium units in any such condominium created within or from any Parcel or the owners of such newly created lots within the Parcel. The rights granted hereunder in and to the use of the Easement Area and 824 Easement Areas for the purposes stated may be assigned to any tenant or occupant of a benefitted Parcel by the owner of any such Parcel.

8. **Legal Action**. The intended beneficiaries of this Covenant, and their successors and assigns, shall have the right to enforce by a proceeding at law or in equity the provisions hereof, and, as applicable, may enforce their rights hereunder by injunctive relief. If any owner of one of the Parcels (or portion thereof) files a legal action to enforce its rights, the prevailing party in any such action shall be entitled to reimbursement of its legal fees in any such action from the non-prevailing party.

9. **Default on Covenant Obligations.** If a Party fails to perform any of its obligations under this Covenant, and such default continues for a period of thirty (30) days after written notice of such default is sent to the defaulting Party by the non-defaulting Party, the non-defaulting Party shall have the right, at its option, to perform such obligation on behalf of the defaulting Party and the defaulting Party shall reimburse the non-defaulting Party for all amounts reasonably incurred by the non-defaulting Party to cure such default, together with interest thereon at the Interest Rate.

10. **No Agency.** No Party shall be deemed to be the agent of the other Party for any purpose.

11. **Notice.** Any notice or communication required or permitted hereunder shall be given in writing, sent by (a) personal delivery, or (b) nationally recognized overnight delivery service with proof of delivery, or (c) United States mail, postage prepaid, registered or certified

mail, addressed to the Parties at the following addresses, or at such other addresses of which any Party shall notify the other Party in accordance with the provisions hereof. Any notice shall be deemed to be given (1) when personally delivered or when delivery is refused, (2) three (3) business days after the date of posting if transmitted by certified or registered United States mail, or (3) one (1) business day after pick-up if transmitted by nationally recognized overnight delivery service. Each Party's counsel may send notices on behalf of such Party.

3400 Connecticut Partners L.L.C.
c/o Velocity Property Management
7315 Wisconsin Avenue
Suite 400 W
Bethesda, MD 20814

2911 Newark Partners L.L.C.
c/o Velocity Property Management
7315 Wisconsin Avenue
Suite 400 W
Bethesda, MD 20814

Any Owner of a Parcel may change its address by providing notice to the other Parcel Owners in the manner provided above. To facilitate maintenance of notice addresses, upon the transfer or sale of a Parcel, the new owner shall provide the Burdened Lot Owner with notice of such transfer, and the new notice address for such Owner. The Burdened Lot Owner shall provide all other current owners of such Parcels with the address of such new Owner.

12. **Governing Law.** This Covenant is intended to be performed in the District of Columbia and shall be construed and enforced in accordance with the internal laws thereof without regard to principles of conflicts of laws.

13. **Time Periods.** Any time period hereunder which expires on, or any date hereunder which occurs on, a Saturday, Sunday or legal United States or District of Columbia holiday, shall be deemed to be extended to the next business day. The first day of any time period hereunder which runs "from" or "after" a given day shall be deemed to occur on the day subsequent to that given day.

14. **Section Headings.** The paragraph headings contained in this Agreement are for convenience only and shall in no way enlarge or limit the scope or meaning of the various and several paragraphs hereof.

15. **Gender and Number.** Within this Agreement, words of any gender shall be held and construed to include any other gender, and words in the singular number shall be held and construed to include the plural, unless the context otherwise requires.

16. **Severability.** If any provision of this Covenant or its application to any Party or circumstances, other than any provision affecting the ability of a Party to allocate development

rights, shall be determined by any court of competent jurisdiction to be invalid and unenforceable to any extent, the remainder of this Covenant or the application of such provision to such person or circumstances, other than those as to which it is so determined invalid or unenforceable, shall not be affected thereby, and each provision hereof shall be valid and shall be enforced to the fullest extent permitted by law.

17. **Counterparts**. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall be deemed one and the same agreement.

18. **No Joint Venture.** Nothing contained in this Covenant shall be construed to create a partnership, joint venture or agency relationship or any fiduciary obligations between the Parties hereto or their successors in interest or permitted assigns.

19. **Exhibits.** The exhibits referred to in this Covenant are incorporated herein in full by reference and the provisions set forth therein shall control in the event of any conflict or inconsistency with the provisions contained in the body of this Covenant.

20. **Binding Effect.** The terms and conditions of this Covenant shall (i) be binding upon, and shall inure to the benefit of, the Parties, and their respective heirs, legal representatives and assigns, and (ii) constitute a covenant running with the land, binding upon and inuring to the benefit of all parties owning or having any interest in the 3400 Parcels and/or the Newark Parcels.

21. **No Merger.** In the event that the 3400 Parcels and Newark Parcels, or any interests therein, are owned at any time by the same person or entity, such unified ownership shall not of itself work a merger or other termination of this Covenant, and this Covenant shall continue in full force and effect in accordance with its terms.

22. **Miscellaneous.** No change or modification of this Covenant shall be valid unless the same is in writing and signed by each Party, or, as applicable, the Ownes affected by such amendment. No purported or alleged waiver of any of the provisions of this Covenant shall be valid or effective unless in writing signed by the Party against whom it sought to be enforced.

23. **Further Assurances.** Each Party agrees to execute such further assurances as may be reasonably necessary to confirm or perfect the consolidation of the 3400 Parcels and the Newark Parcels as described on the Subdivision Plat, provided that no Party shall incur any liability, obligation or expense in connection therewith (other than the fees and expenses, if any, of its legal counsel).

24. **Not Construed Against Drafter.** This Covenant has been negotiated and prepared by all Parties, and should any provision of this Covenant require judicial interpretation, it is agreed that the court interpreting or construing the provisions shall not apply the rule of construction that a document is to be construed more strictly against the Party who or through its agent prepared the document.

25. **Attorneys' Fees.** If any Party institutes a legal action against the other relating to this Covenant or any default hereunder, the unsuccessful Party to such action will reimburse the successful Party for the reasonable expenses of prosecuting or defending such action, including without limitation reasonable attorneys' fees and disbursements and court costs.

26. **WAIVER OF JURY TRIAL.** TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE PARTIES HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS COVENANT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

27. **Further Subdivision**. The Parties each reserve the right to further divide their respective Parcels in accordance with Section 2.2 above into separate A&T Lots and/or to create a condominium regime on all or part of those Parcels. However, in the event of any such subdivisions or condominium regimes, all owners of any portions of a Parcel, and all newly created lots, shall be subject to the terms and conditions set forth herein.

[Signatures and acknowledgements commence on next page]

IN WITNESS WHEREOF, 3400 Connecticut Partners L.L.C., a District of Columbia limited liability company, has caused this Covenant to be executed.

3400 CONNECTICUT PARTNERS L.L.C., a District of Columbia limited liability company

By: _____ (SEAL)
Phil Kang
Manager

STATE OF **District of Columbia**,
CITY/COUNTY OF _____, to wit:

I HEREBY CERTIFY that on this 13th day of May, 2022, before me in the jurisdiction aforesaid personally appeared **Phil Kang**, the duly authorized Manager of 3400 Connecticut Partners L.L.C., a District of Columbia limited liability company, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained as the duly authorized Manager of 3400 Connecticut Partners L.L.C.

WITNESS my hand and Notarial Seal.

_____ (SEAL)
Notary Public

My Commission Expires: 11/30/2026

KATHY GAINES NOTARY PUBLIC MY COMMISSION EXPIRES 11/30/2026 DISTRICT OF COLUMBIA

[Signatures and acknowledgements continue on next page]

IN WITNESS WHEREOF, 2911 NEWARK PARTNERS L.L.C., a District of Columbia limited liability company, has caused this Covenant to be executed.

2911 NEWARK PARTNERS L.L.C., a District of Columbia limited liability company

By: _____ (SEAL)
Phil Kang
Manager

STATE OF District of Columbia,
CITY/COUNTY OF _____, to wit:

I HEREBY CERTIFY that on this 13th day of May, 2022, before me in the jurisdiction aforesaid personally appeared **Phil Kang**, the duly authorized Manager of 2911 Newark Partners L.L.C., a District of Columbia limited liability company, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained as the duly authorized Manager of 2911 Newark Partners L.L.C.

WITNESS my hand and Notarial Seal.

_____ (SEAL)
Notary Public

My Commission Expires: 11/30/2026

NOTARY PUBLIC DISTRICT OF COLUMBIA MY COMMISSION EXPIRES 11-30-2026

[Signatures and acknowledgements continue on next page]

JOINDER OF TRUSTEE

The undersigned Trustee under that certain Deed of Trust, Assignment and Security Agreement from 2911 Newark Partners L.L.C. and 3400 Connecticut Partners L.L.C. (individually and collectively, the "Owner") to Kevin D. Albrigo, John Hunter and Penny Bladich, any of whom may act (individually and collectively, the "Trustee") dated December 30, 2021 and recorded January 10, 2022 as Instrument No: 2022003170 (the "Trust") securing repayment of a loan to Owner from Old Dominion National Bank ("Lender") in the original aggregate principal sum of $11,950,000 encumbering the real property identified on Exhibit A and Exhibit B attached hereto (the "Property"), having been duly authorized by Lender as the holder of the note (the "Note") whose repayment is secured by the Trust, hereby joins in this Covenant of which this Joinder is attached in order to subordinate the lien of the Trust to the terms and provisions of the Covenant, and confirm that the exercise of any rights of foreclosure under the Trust shall not affect the Covenant which shall continue in full force and effect notwithstanding any such foreclosure.

In Witness Whereof, the undersigned has executed this Joinder of Trustee.

TRUSTEE:

Penny Bladich (SEAL)
Penny Bladich
Sole Acting Trustee

COMMONWEALTH OF VIRGINIA,
COUNTY OF FAIRFAX, TO WIT:

I HEREBY CERTIFY, that on this 16th day of June, 2022, before me, the undersigned Notary Public of said Commonwealth, personally appeared **Penny Bladich, Trustee**, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that she executed the same for the purposes therein contained.

WITNESS my hand and Notarial Seal.

Abeba Ghebremedhin (SEAL)
Notary Public

My Commission Expires: 1/31/2025 Registration #: 7149487

LIST OF EXHIBITS

Exhibit A: Legal Description of the 3400 Parcels
Exhibit B: Legal Description of the Newark Parcels
Exhibit C: Development Allocation
Exhibit D: Depiction of Plaza and Easement Areas
Exhibit E: Maintenance Cost Sharing Percentages

EXHIBIT A
Legal Description of 3400 Parcels

All of that land situate and lying in the District of Columbia and more particularly described as follows:

PARCEL ONE:

All that certain lot or parcel of land situated, lying and being in the District of Columbia, and being described as follows:

Being part of Lot numbered 52 (Fifty-Two) in Square numbered Two Thousand Sixty-Nine (2069), per plat recorded in Book 219 at page 146 in the Office of the Surveyor of the District of Columbia, and being more particularly described as follows:

Beginning at a point, said point being a southeasterly corner of Square 2069 and being on the westerly line of Connecticut Avenue, N.W.; thence

S 65°34'00" W 5.81 feet to a point, said point being on the northerly line of Newark Street, N.W.; thence

N 74°04'00" W 116.34 feet with said northerly line of Newark Street, N.W. to a point; thence Departing said northerly line of Newark Street, N.W. N 11°58'24" E 85.05 feet to a point; thence

S 88°12'40" E 49.02 feet to a point, said point being on said westerly line of Connecticut Avenue, N.W.; thence

S 24°26'00" E 122.14 feet with said westerly line of Connecticut Avenue, N.W. to the Point of Beginning containing 8,038 square feet by record.

NOTE: Said property being now known for purposes of assessment and taxation as Lot numbered Eight Hundred Twenty-Six (826) in Square numbered Two Thousand Sixty-Nine (2069).

PARCEL TWO

All that certain lot or parcel of land situated, lying and being in the District of Columbia, and being described as follows:

Being part of Lot numbered 52 (Fifty-Two) in Square numbered Two Thousand Sixty-Nine (2069), per plat recorded in Book 219 at page 146 in the Office of the Surveyor of the District of Columbia, and being more particularly described as follows:
Commencing at a point, said point being a southeasterly corner of Square 2069 and being on the westerly line of Connecticut Avenue, N.W.; thence

N 24°26'00" W 122.14 feet with said westerly line of Connecticut Avenue, N.W. to the Point of Beginning; thence

Departing said westerly line of Connecticut Avenue, N.W. N 88°12'40" W 49.02 feet to a point; thence

N 11°58'24" E 1.18 feet to a point; thence

N 78°01'36" W 62.57 feet to a point; thence

S 11°58'24" W 1.25 feet to a point; thence

N 78°01'36" W 7.12 feet to a point; thence

N 11°58'24" E 5.80 feet to a point; thence

N 24°25'18" W 51.71 feet to a point; thence

S 78°01'00" E 120.10 feet to a point, said point being on said westerly line of Connecticut Avenue, N.W.; thence

S 24°26'00" E 48.05 feet with said westerly line of Connecticut Avenue, N.W. to the Point of Beginning containing 5,388 square feet by record.

NOTE: Said property being now known for purposes of assessment and taxation as Lot numbered Eight Hundred Twenty-Five (825) in Square numbered Two Thousand Sixty-Nine (2069).

PARCEL THREE:

All that certain lot or parcel of land situated, lying and being in the District of Columbia, and being described as follows:

Being part of Lot numbered 52 (Fifty-Two) in Square numbered Two Thousand Sixty-Nine (2069), per plat recorded in Book 219 at page 146 in the Office of the Surveyor of the District of Columbia, and being more particularly described as follows:

Commencing at a point, said point being a southeasterly corner of Square 2069 and being on the westerly line of Connecticut Avenue, N.W.; thence

S 65°34'00" W 5.81 feet to a point, said point being on the northerly line of Newark Street, N.W.; thence

N 74°04'00" W 116.34 feet with said northerly line of Newark Street, N.W. to a point; thence departing said northerly line of Newark Street, N.W. N 11°58'24" E 18.98 feet to the Point of Beginning; thence

N 78°01'36" W 62.57 feet to a point; thence

N 11°58'24" E 67.25 feet to a point; thence

S 78°01'36" E 62.57 feet to a point; thence

S 11°58'24" W 67.25 feet to the Point of Beginning containing 4,208 square feet by record.

NOTE: Said property being now known for purposes of assessment and taxation as Lot numbered Eight Hundred Twenty-Eight (828) in Square numbered Two Thousand Sixty-Nine (2069).

PARCEL FOUR:

All that certain lot or parcel of land situated, lying and being in the District of Columbia, and being described as follows:

Being part of Lot numbered 52 (Fifty-Two) in Square numbered Two Thousand Sixty-Nine (2069), per plat recorded in Book 219 at page 146 in the Office of the Surveyor of the District of Columbia, and being more particularly described as follows:

Commencing at a point, said point being a southeasterly corner of Square 2069 and being on the westerly line of Connecticut Avenue, N.W.; thence

S 65°34'00" W 5.81 feet to a point, said point being on the northerly line of Newark Street, N.W.; thence

N 74°04'00" W 123.78 feet with said northerly line of Newark Street, N.W. to a point; thence

Along a curve to the left with said northerly line of Newark Street, N.W. with a radius of 235.16 feet, arc length 55.34 feet, delta angle 13°29'00", chord bearing and distance N 80°48'30" W 55.21 feet to the Point of Beginning; thence

Along a curve to the left with said northerly line of Newark Street, N.W. with a radius of 235.16 feet, arc length 44.26 feet, delta angle 10°47'00", chord bearing and distance S 87°03'30" W 44.19 feet to a point; thence

Continuing with said northerly line of Newark Street, N.W. S 81°40'00" W 18.75 feet to a point; thence

Departing said northerly line of Newark Street, N.W. N 02°46'47" W 96.35 feet to a point; thence

N 45°10'49" W 12.09 feet to a point; thence

N 00°06'00" W 28.0 feet to a point; thence

N 33°39'08" W 19.32 feet to a point, said point being on the south line of a 15 foot Public Alley; thence

N 75°38'20" E 26.70 feet with said south line of 15 foot Public Alley to a point; thence

S 78°01'00" E 52.92 feet to a point; thence

S 24°25'18" E 51.71 feet to a point; thence

S 11°58'24" W 5.80 feet to a point; thence

S 78°01'36" E 7.12 feet to a point; thence

S 11°58'24" W 87.15 feet to the Point of Beginning containing 11,118 square feet by record.

NOTE: Said property being now known for purposes of assessment and taxation as Lot numbered Eight Hundred Twenty-Four (824) in Square numbered Two Thousand Sixty-Nine (2069).

EXHIBIT B

Legal Description of Newark Parcels

PARCEL ONE:

All that certain lot or parcel of land situated, lying and being in the District of Columbia, and being described as follows:

Being part of Lot numbered 52 (Fifty-Two) in Square numbered Two Thousand Sixty-Nine (2069), per plat recorded in Book 219 at page 146 in the Office of the Surveyor of the District of Columbia, and being more particularly described as follows:

Commencing at a point, said point being a southeasterly corner of Square 2069 and being on the westerly line of Connecticut Avenue, N.W.; thence

S 65°34'00" W 5.81 feet to a point, said point being on the northerly line of Newark Street, N.W.; thence

N 74°04'00" W 116.34 feet with said northerly line of Newark Street, N.W. to the Point of Beginning; thence

Continuing with said northerly line of Newark Street, N.W. N 74°04'00" W 7.44 feet to a point; thence

Along a curve to the left with said northerly line of Newark Street, N.W. with a radius of 235.16 feet, arc length 55.34 feet, delta angle 13°29'00", chord bearing and distance N 80°48'30" W 55.21 feet to a point; thence

Departing said northerly line of Newark Street, N.W. N 11°58'24" E 21.15 feet to a point; thence S 78°01'36" E 62.57 feet to a point; thence

S 11°58'24" W 18.98 feet to the Point of Beginning containing 1,171 square feet by record.

NOTE: Said property being now known for purposes of assessment and taxation as Lot numbered Eight Hundred Twenty-Seven (827) in Square numbered Two Thousand Sixty-Nine (2069).

PARCEL TWO:

All that certain lot or parcel of land situated, lying and being in the District of Columbia, and being described as follows:

Being part of Lot numbered 52 (Fifty-Two) in Square numbered Two Thousand Sixty-Nine (2069), per plat recorded in Book 219 at page 146 in the Office of the Surveyor of the District of Columbia, and being more particularly described as follows:

Commencing at a point, said point being a southeasterly corner of Square 2069 and being on the westerly line of Connecticut Avenue, N.W.; thence S 65°34'00" W 5.81 feet to a point, said point being on the northerly line of Newark Street, N.W.; thence N 74°04'00" W 116.34 feet with said northerly line of Newark Street, N.W. to a point; thence departing said northerly line of Newark Street, N.W. N 11°58'24" E 18.98 feet to the Point of Beginning; thence

the following courses and distances all with lower elevation limit of 239.4 feet (DCDPW - District of Columbia Department of Public Works datum) without upper limit:

N 78°01'36" W 62.57 feet to a point; thence

N 11°58'24" E 67.25 feet to a point; thence

S 78°01'36" E 62.57 feet to a point; thence

S 11°58'24" W 67.25 feet to the Point of Beginning containing 4,208 square feet by record.

NOTE: Said property being now known for purposes of assessment and taxation as Lot numbered Seven Thousand One (7001) in Square numbered Two Thousand Sixty-Nine (2069).

EXHIBIT C

DEVELOPMENT ALLOCATIONS

LOT	BUILDING AREA (sf)	SITE AREA (sf)	FAR
Lot 824	26,347	11,118	2.37
Lot 825	5,388	5,388	1.00
Lot 826	8,693	8,038	1.08
Lot 827	0	1,171	0.00
Lot 828 & 7001	18,457	4,208	4.39
Combined	58,885	29,923	1.97

EXHIBIT D

PLAZA AND EASEMENT AREAS

EXHIBIT E

MAINTENANCE COST SHARING PERCENTAGES

Lot 826	**1/3rd (33.33%)**
Lot 828	**1/3rd (33.33%)**
Lot 825	**1/3rd (33.33%)**

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Filed & Recorded
07/21/2022 11:11 AM
IDA WILLIAMS
RECORDER OF DEEDS
WASH DC RECORDER OF DEEDS

RECORDING FEES	$25.00
SURCHARGE	$6.50
TOTAL:	$31.50