

Economic Development Agreement

For the Rosemary Street Redevelopment – Opportunity Zone Project

This Economic Development Agreement (the “Agreement”) is dated as of _____, 2020, and is between the Town of Chapel Hill, North Carolina (the “Town”), and Grubb Management LLC (“Grubb”).

Unless the context clearly requires otherwise, capitalized terms used in this Agreement and not otherwise defined have the meanings set forth in Exhibit A.

The parties have engaged in a series of discussions concerning an economic development project (the “Project”) whereby:

- The parties will exchange parking deck and related properties, with a cash payment settling the difference in value;
- Grubb will entitle, design and build, as a fee developer for the Town’s account and not for its own account, a new parking deck, with the Town paying for the new deck; and
- Grubb will then entitle, design and build a new office building, all as further described and provided for in this Agreement.

The Project is an economic development project for the Town. The Town expects that the Project will enhance the Town’s taxable property, employment, and business prospects.

This Agreement spells out the parties’ mutual obligations with respect to the project summarized above.

1. The parties will exchange properties

a) Exchange of deeds. At a time and place to be agreed upon by the parties, but prior to the beginning of construction on the New Deck and in any event by November 1, 2020,

i) The Town will execute and deliver to Grubb a fee simple general warranty deed conveying marketable title to the Wallace Deck Property and the Corner Lot.

ii) Grubb will execute and deliver to the Town a fee simple general warranty deed conveying marketable title to the CVS Deck Property and the Fine Lot.

iii) The Town will pay \$_____ to Grubb to reconcile the difference in property values exchanged.

iv) The Parties will execute and deliver the "Wallace Deck Lease" in the form of Exhibit B, with only such additional changes as the parties may agree upon. The execution and delivery of the final form Lease will constitute conclusive evidence that the parties have agreed on any such changes.

The acts of executing, delivering and paying described above will be referred to as the "Closing," and the date of those actions will be referred to as the "Closing Date." If the Closing has not occurred by the end of the calendar day on November 1, 2020, neither party shall have any further obligations under this Agreement.

The parties will execute and deliver such certificates and other documents as may be reasonably appropriate to effect the planned conveyances. The only monetary adjustment to the transfers stated above will be to pro-rate taxes on the CVS Deck Property and the Fine Lot to the Closing Date.

b) Provision for future tax payments. The deed referenced in (a)(i) above will include a provision to the effect that any future owner of the Wallace Deck Property that is not subject to paying ordinary ad valorem taxes to the Town must nevertheless make annual payments to the Town so as to hold the Town harmless from any loss of ad valorem tax revenues. The required payment will be calculated

from year to year based on the then-current property value and tax rate. This provision must be in form and substance acceptable to the Town.

c) Warranties of Title. (i) Each party promises to the other, as part of the consideration for the exchange, that it is seized of and has the right to convey its particular property (that is, the Wallace Deck Property and the Corner Lot in the case of the Town, and the CVS Deck Property and the Fine Lot in the case of Grubb) in fee simple, that the title is free and clear of all liens and encumbrances other than "Permitted Encumbrances," that title to the property is marketable, and that the seller will forever warrant and defend title to the property (subject to the Permitted Encumbrances) against the claims of all persons.

"Permitted Encumbrances" means minor and ordinary rights-of-way and utility easements that do not have a material adverse effect on the planned use of the property.

(ii) Notwithstanding the above, the parties acknowledge that the CVS Deck property is subject to a lien recorded at Book _____, Page _____, Orange County Registry. Grubb promises that the CVS Deck Property will be released from this lien at or in connection with the Closing.

d) Environmental Warranties. Each of the Town and Grubb makes the following promises and statements of fact with respect to its own particular property (as described in (c) above), with the understanding and intent that the other party will rely on these statements in making its decision to enter into this Agreement.

(i) It has no knowledge (A) that any industrial use has been made of its particular property, (B) that the particular property has been used for the storage, treatment or disposal of chemicals or any wastes or materials that are classified by federal, State or local laws as hazardous or toxic substances, (C) that any manufacturing, landfilling or chemical production has occurred on the particular property, or (D) that there is any asbestos or other contaminant on, in or under the particular property.

(ii) To its knowledge, the particular property complies with all federal, State and local environmental laws and regulations.

(iii) It will promptly notify the other property of any change prior to the Closing in the nature or extent of any hazardous materials, substances or wastes maintained on, in or under the particular property or used in connection therewith. It will send to the other party copies of any citations, orders, notices or other material governmental or other communication received prior to the Closing with respect to any other hazardous materials, substances, wastes or other environmentally regulated substances affecting the particular property.

To the extent permitted by law, each of the Town and Grubb promises that it will indemnify and hold the other party harmless from and against any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including cleanup costs), judgments and expenses (including attorneys', consultants' or experts' fees and expenses) of every kind and nature suffered by or asserted against the other party as a direct or indirect result of any warranty or representation made by the party in this subsection (d) being false or untrue in any material respect

2. Grubb will work to entitle the New Deck, and Grubb and the Town will work together on the design

a) Grubb will continue its process to obtain entitlement to build the New Deck through the Town's land use regulatory process. Grubb and the Town, as the prospective future owner of the New Deck and the related property, will work together to complete this process by June 30, 2020.

b) Grubb and the Town will work together to design the New Deck to sit on the CVS Deck Property plus the Fine Lot. Grubb and the Town will continue to cooperate for the final design of the New Deck so as to meet the construction and other deadlines specified in Sections 3 and 4. The New Deck will be designed to encompass 1100 standard sized parking spaces, with a final as-built tolerance of plus or minus 1%.

c) The Town ratifies and consents to the following firms' providing professional services for the design and construction of the New Deck: Perkins & Will, Ballentine Associates, P.A. and NV5, Inc.

d) The parties will work together on a parking and construction management plan designed to minimize the disruption and adverse effects of the New Deck and New Office Building construction and Renovation projects on downtown traffic and parking, and on the operation of downtown businesses. This management plan will include the provisions set out in Exhibit C.

3. The Town will contract for and pay for the New Deck

a) Grubb and the Town have selected Samet Corporation (“Samet”) to be the general contractor for the New Deck construction project. The Town has elected to work with Samet as the general contractor under the authority of the Town Charter provisions (Sections 4.20 through 4.25) that allow the Town to enter into private construction contracts related to economic development projects. The Town ratifies prior action by Grubb to retain Samet for the work.

b) Grubb and the Town will work with Samet to prepare final design, drawings, plans and specifications for the New Deck so that the Town will have in hand by August 5, 2020 (the “Contract Deadline”) the following items (the “LGC Requirements”):

i) A construction contract between Samet and the Town that states a guaranteed maximum price

ii) Written approval from [the Town’s independent review consultant] as to the fairness of the stated maximum price

iii) A letter from Samet or a project architect confirming that all major regulatory permits that are conditions to the start of construction are in hand

Grubb, the Town, Samet and [the Consultant] will work together to allow [Consultant’s] on-going review of estimated construction costs. The parties will work together with Samet and [the Consultant] to resolve any disagreements over construction costs and contract amounts, so as to allow [the Consultant] to give its approval as contemplated in the previous paragraph prior to the Contract Deadline.

c) Grubb may extend the Contract Deadline by prior notice to the Town to a stated time not beyond September 5, 2020, provided that Grubb waives any damages or allowances for additional time. If the Contract Deadline is not met, neither party shall have any additional rights or obligations under this Agreement.

d) The parties acknowledge as follows: The Town plans to borrow money to pay the New Deck costs. This borrowing requires the LGC's approval. The Town will pursue LGC approval in a timely and professional manner, but the Town cannot guarantee the outcome of the LGC approval process. As part of the approval process, the LGC will require delivery of the LGC Requirements. The parties plan to complete the Closing described in Section 1 in connection with closing on the Town's financing for the New Deck, and not before.

e) The New Deck Contract must include the following, along with any other terms and conditions the Town may specify:

i) Payment and performance bonds from Samet in favor of the Town as would be required in a conventional Town construction project.

ii) Construction warranty bonds in favor of the Town

iii) Identification of the Town as a loss payee or additional insured, as appropriate, on all policies of insurance provided by the contractor. These policies must include builders' risk insurance and property and liability insurance.

iv) A requirement that Samet and all subcontractors maintain workers' compensation as provided by law

v) That Samet must begin construction (which may include the start of demolition) promptly upon Samet's receipt of a notice to proceed from the Town

vi) A construction period of not more than [365 days]

f) The Town will pay Samet for the costs of construction as provided in the New Deck Contract. The Town expects that the payment process will proceed substantially as described in Exhibit D.

g) (i) The Town will provide Grubb, Samet and their contractors and subcontractors a non-exclusive license to use a portion of Lot 2, generally as shown on Exhibit E, as a construction staging area (the "Staging Area"). Grubb, Samet and their contractors and subcontractors may use this staging area for all purposes of constructing the New Deck, constructing the New Office Building and carrying out the Renovation, but not beyond December 31, 2022.

(ii) At the end of the construction activity (or after December 31, 2022), Grubb will promptly prepare the Staging Area by removing all asphalt, seeding the property with grass, defining a walkway from Rosemary Street through the Staging Area to Franklin Street, cutting off the access between the currently existing upper and lower portions of Lot 2, and constructing any appropriate retaining walls.

(iii) Grubb will indemnify the Town and hold it harmless for any claims or losses asserted against the Town by any person or entity related to or arising out of actions taken at the Staging Area, activities at the Staging Area, or the condition of the Staging Area while the license is in effect. This indemnification will not apply in the case of actions or omissions on the part of Town employees.

4. Grubb will apply to build the New Office Building

a) Grubb will apply for all necessary land use approvals for the New Office Building construction, on its own behalf, by July 1, 2021 in order to meet its projection of beginning construction by fall 2021.

b) The initial applications for entitlement must include the following features for the New Office Building:

i) Approximately 200,000 square feet of office space across not more than six floors, in addition to two levels of parking at or below street grade.

- ii) Two floors that constitute Wet Lab space
- iii) A building profile that steps back from the street above the fourth aboveground level on Rosemary Street.
- iv) A community green space in the Corner Lot, developed in conjunction with the building

The parties acknowledge that through the land use entitlement process, Grubb may not receive permission to build a building the includes all the features described above.

c) Grubb must make a concept plan presentation to the Town Council before the Town is required under this Agreement to enter into any construction contract for the New Deck.

5. Other provisions related to the New Office Building

- a) The office space must be finished to a Class A level.
- b) Parking in the New Office Building must be restricted to use by tenants, customers and visitors to the New Office Building and the buildings that are the subject of the Renovation. The parking may not be made available to members of the general public from and after the New Deck Occupancy Date.
- c) In connection with the New Office Building construction, Grubb will develop the Corner Lot into a community green space with plantings and amenities (such as grass, trees and benches) reasonably appropriate to a space of that size in that location. Promptly upon taking occupancy of the New Office Building, Grubb will dedicate the community green space to the Town. The dedicated green space does not need to match the existing boundaries of the Corner Lot, but the Town expects that the approximate dimensions and location will match.
- d) Parking revenue commitment. The Town must sell to Grubb, and Grubb must purchase from the Town, the right to park 250 vehicles per day in the New Deck on business days between the hours of 7:00 a.m. and 7:00 p.m. These rights will be sold on an annual or a month-by-month basis, as the parties may agree from time to

time, and will be evidenced by parking passes, electronic transponders or any other method in use by the Town from time to time for similar rights in its parking facilities. The Town will offer these rights, and Grubb will purchase these rights, at the price the Town establishes from time to time for the sale of similar monthly or annual rights to others.

The Town and Grubb have these obligations beginning with the first full month after the earlier to occur of New Building Completion or completion of the Renovation work at either 137 East Franklin or 136 East Rosemary Streets. These obligations continue while any portion of the Town's financing for the New Deck is outstanding (including the term of any refinancing). Grubb's obligation under this paragraph will be limited, however, to 75 vehicles per day for the first six months and then 150 vehicles per day for the next six months.

e) Appearances before Council. At any time and from time to time, between the Closing Date and Office Building Occupancy, at the Town's request, Grubb will provide for a representative to appear before the Town Council to provide a narrative update on the Project and to provide full and complete answers to questions from Councilmembers. The Town does not expect that these requests will occur more frequently than every two months.

f) Right of First Offer To Purchase. The Town will have the right to make a first offer to purchase Grubb's property between the Closing and the date that Grubb takes occupancy of the New Office Building, as provided in Exhibit F.

6. Defaults and Remedies; Dispute Resolution

a) Defaults. A party is in default under this Agreement (i) if it fails to observe and perform any covenant, condition or agreement on its part to be observed or performed for a period of 30 days after notice specifying the failure and requesting that it be remedied has been given by the other party or (ii) if any representation or warranty provided in this Agreement is found to be incorrect or incomplete in any material respect as of the Closing.

b) Remedies. Whenever any default is continuing, the non-defaulting party may take either or both of the following remedial steps:

(i) At its option, cure the default by paying money or taking any other appropriate action, in which case the defaulting party must reimburse the defaulting party for all costs and expenses reasonably incurred in curing the default, including legal costs.

(ii) Take whatever action at law or in equity may appear necessary or desirable to collect the amounts then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of a party under this Agreement.

c) No remedy exclusive; other provisions No remedy conferred or reserved in this Agreement is intended to be exclusive, but instead is intended to be cumulative. No delay or omission to exercise any right or power accruing upon any default constitutes a waiver of that right or power. A waiver of any default is limited to the default so waived and does not waive any other default. If a party incurs legal or other costs and expenses to collect any payments due under this Agreement, or to enforce the performance or observance of any obligation or covenant under this Agreement, then to the extent permitted by law each party promises to reimburse a non-defaulting party for all reasonable legal and other fees and costs incurred in the collection or enforcement.

d) Dispute resolution. In the event of a dispute between the parties concerning the terms or performance of this Agreement, the parties will take the following steps prior to commencing any proceeding before a court or administrative body:

(i) Exchange of positions. Any party noting a dispute under this Agreement will notify the other party of the nature of the dispute and the first party's proposed resolution. Within ten days after the effective date of the notice, the other party must respond in writing as to its view of the dispute and its position on the proposed resolution.

(ii) Meet and confer. If the parties are unable to reach an agreement on the dispute and upon notice from any party, the parties will promptly hold a meeting attended by representatives with appropriate authority to resolve the dispute. At this meeting, the parties will attempt in good faith to negotiate a resolution of the dispute.

(iii) Mediation. If the dispute remains unsettled by negotiation, the parties will engage the services of a professional mediator agreed upon by the parties. The parties will then attempt in good faith to resolve the dispute through mediation. The Town and Grubb will each pay one-half of the mediator's fees and expenses and each party will pay all its own legal fees and other expenses related to the mediation. Each party must be represented at the mediation by a representative with appropriate authority to resolve the matters in dispute. Only after mediation may a part initiate legal or administrative proceedings.

7. Miscellaneous provisions.

a) Notices. Any communication provided for in this Agreement must be in writing (not including facsimile transmission or electronic mail). Any communication under this Agreement will be deemed given on the delivery date shown on a certified mail receipt, or a delivery receipt (or similar evidence) from a national commercial package delivery service, if addressed as follows:

If intended for the Town, to Town of Chapel Hill, c/o Town Manager, Town Hall, 405 Martin Luther King, Jr. Blvd., Chapel Hill, NC 27599

If intended for Grubb, to _____

Any addressee may designate additional or different addresses for communications by notice given under this subsection to the other.

b) General Representations. The Town and Grubb each represents, covenants and warrants for the other's benefit as follows:

(i) Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated by this Agreement, results in a material breach of the terms, conditions and provisions of any agreement or instrument to which either is now a party or by which either is bound, or constitutes a material default under any of the foregoing.

(ii) To the knowledge of each party, there is no litigation or other court or administrative proceeding pending or threatened against that party (or against any other person) concerning that party's rights to execute or deliver this Agreement or to comply with its obligations under this Agreement. Neither the party's execution and delivery of this Agreement, nor its compliance with its obligations under this Agreement, requires the approval of any regulatory body or any other entity the approval of which has not been obtained.

c) Limits on Town's power to agree. (i) Grubb acknowledges that the Town's ability to agree to provisions in this Agreement, and to carry out its agreements, is limited by its status as a unit of local government, and in particular its role as a land use regulator. The Town acts in separate capacities as a party to a business agreement such as this EDA, and as a land use regulator. The Town makes no representation, and can give no assurances, that any land use or related approvals necessary for the Project will be forthcoming at any time.

(ii) Grubb acknowledges that the Town is a governmental entity, and the Agreement's validity is based in part upon the availability of public funding under the authority of its statutory mandate. If public funds are unavailable and not appropriated for the performance of Town's obligations under this Agreement, then this Agreement shall automatically expire without penalty to the Town thirty (30) days after notice to Grubb of the unavailability and non-appropriation of public funds. It is expressly agreed that the Town shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis that generally affects its governmental operations.

(iii) A failure of the Town to receive LGC approval or to appropriate funds, or the failure of any aspect of the Project to receive a necessary land use approval from the Town, will not be an event of default on the part of the Town. The Town, however, promises to process requests for regulatory approvals and necessary appropriations in a timely and professional manner.

d) Public Records Law. Any information furnished under this instrument is subject to the North Carolina Public Records Law.

e) E-Verify. Grubb shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

f) Each party will bear its own costs. Each party will bear its own costs of the fees and expenses of its counsel and consultants, and of the studies or surveys required under this Agreement or that it otherwise commissions or obtains for its use under this Agreement.

g) Limitation on liability of officers and agents. No officer, agent or employee of the Town will be subject to any personal liability or accountability because of the execution of this Agreement or any other documents related to the transactions contemplated by this Agreement. Those officers, agents or employees will be deemed to execute such documents in their official capacities only, and not in their individual capacities. This provision does not relieve any officer, agent or employee from the performance of any official duty provided by law.

h) No assignment. Neither party may assign any of its rights or obligations under this Agreement without the express consent of the other.

i) Amendments. This Agreement may only be modified in writing signed by all parties.

j) Governing law. The parties intend that North Carolina law will govern this Agreement and all matters of its interpretation. To the extent permitted by law, the parties agree that any action brought with respect to this Agreement must be brought in the North Carolina General Court of Justice in Orange County, North Carolina.

k) Severability. If any provision of this Agreement is determined to be unenforceable, that will not affect any other provision of this Agreement.

l) Binding effect. Subject to the specific provisions of this Agreement, this Agreement will be binding upon and inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

m) Entire agreement. This Agreement constitutes the entire agreement between the Town and Grubb with respect to its general subject matter.

n) No third-party beneficiaries. There are no parties intended as third-party beneficiaries of this Agreement.

o) Time. Time is of the essence of this Contract and each and all of its provisions.

p) Definitions. Unless the context clearly requires otherwise, capitalized terms used in this Contract and not otherwise defined have the meanings set forth in Exhibit A.

q) Counterparts. This Agreement may be executed in several counterparts, including separate counterparts. Each will be an original, but all of them together constitute the same instrument.

[The remainder of this page has been left blank intentionally.]

IN WITNESS WHEREOF, the Town and Grubb have caused this Agreement to be executed and delivered as of the day and year first above written by duly authorized officers.

(SEAL)

ATTEST:

**TOWN OF CHAPEL HILL
NORTH CAROLINA**

Sabrina Oliver
Town Clerk

By: _____
Maurice Jones
Town Manager

GRUBB MANAGEMENT LLC

By: _____

Printed name: _____

Title: _____

Exhibits:

- A – Definitions
- B – Form of the Wallace Deck Lease
- C – Key provisions of Parking and Construction Management Plan
- D – Contract payment terms
- E – Staging Area designation *[will be a diagram]*
- F – Terms of Right of First Offer

[Economic Development Agreement dated as of _____, 2020]

Exhibit A – Definitions

References to Columbia Street, Rosemary Street, Franklin Street and North Street are references to those streets in downtown Chapel Hill, North Carolina.

“Corner Lot” means the Town-owned lot at the southwest corner of Rosemary and Henderson Streets and is further identified by PIN # _____ in the Orange County land records.

“CVS Deck” means the existing 270-space parking deck located on Rosemary Street. “CVS Deck Property” means this deck and its related real estate, which comprises approximately 1.6 acres and is further identified by PIN # _____ in the Orange County land records.

“Fine Lot” means _____ and is further identified by PIN # _____ in the Orange County land records.

“LGC” means the North Carolina Local Government Commission, a department of the office of the North Carolina State Treasurer, or any successor to its functions.

“Lot 2” means the Town-owned, 102-space surface parking lot located near the corner of Rosemary and Columbia Streets and is further identified by PIN # _____ in the Orange County land records.

“New Building Completion” means the earliest date of substantial completion of permitted work for the New Office Building, whether or not the property is occupied or a certificate of occupancy issued.

“New Deck” means the new 1,100-space parking deck to be constructed for the Town under Section 3.

“New Deck Contract” means the final construction contract for the New Deck between the Town and Samet as contemplated by Section 3.

“New Deck Total Cost” means the total of all costs related to placing the New Deck in service for its intended purposes. These costs include land acquisition, design, construction, traffic impact assessment, and related legal, administrative and financing costs.

“New Office Building” means the new office building to be designed and constructed as described in Sections 4 and 5.

“Project” means the project as described in the preambles to this Agreement.

“Renovation” means Grubb’s planned renovation of the existing buildings located at 137 East Franklin and 136 East Rosemary Streets. The Renovation will be considered complete under this Agreement upon substantial completion of the permitted work, whether or not in either case the property is occupied or a certificate of occupancy issued. Renovation may be considered complete for one building before the other.

“Wallace Deck” means the existing Town-owned, 309-space parking deck located on Rosemary Street. “Wallace Deck Property” means this deck and its related real estate, which comprises approximately 1.6 acres and is further identified by PIN # _____ in the Orange County land records.

“Wet Lab” means a laboratory equipped with appropriate plumbing, ventilation, and equipment to allow for hands-on scientific research and experimentation, including the direct handling of potentially hazardous materials.

Exhibit B – Form of the Wallace Deck Lease

Exhibit C – Key provisions of Parking and Construction Management Plan

[Both of these, to come]

Exhibit D – Standard construction contract payment terms

The Town will pay construction cost requests to Samet upon Samet's providing a payment request to the Town in the form provided in the New Deck Contract, which will require Samet to provide proof of any stated third-party expenditures and appropriate lien waivers. The Town will have the right as the owner (but not the obligation) to inspect the work done from time to time and to request additional information from Samet to resolve any questions or apparent discrepancies. The Town will generally pay requisitions based on a "percentage of completion" basis, subject to the contract's retainage provisions, and will make payments within 30 days of the receipt of a payment request. The Town will not process more than one payment request in any calendar month.

To the extent the final terms of the New Deck Contract provide for different procedures, the terms of the New Deck Contract will govern.

Exhibit E – Staging Area designation

[To come]

Exhibit F -- Right of First Offer

From the Closing (if Closing shall occur) until substantial completion of the New Office Building, if Grubb elects to sell any or all of the real property comprising any portion of the Wallace Deck Property or the Corner Lot (the "**Designated Sale Parcel**"), Grubb shall deliver to the Town the proposed purchase price (the "**Offer Price**") at which Grubb would be willing to allow the Designated Sale Parcel to be sold to the Town, together with a contract of sale to complete the sale and purchase of the Designated Sale Parcel (the "**Parcel ROFO Offer**"). The Town shall have forty-five (45) days within which to accept or reject the Parcel ROFO Offer in writing to Grubb.

Grubb shall have the right to market the Designated Sale Parcel during the Town's 45-day election period, but Grubb may not enter into any contract to sell a Designated Sale Parcel during that time (unless that contract is contingent on the Town's rejecting the Parcel ROFO Offer). If the Town accepts a Parcel ROFO Offer, the Town shall deliver the executed contract as a condition of acceptance thereof, the form of which: (i) shall not provide any additional due diligence period or contingencies, (ii) shall contain knowledge-qualified representations by Grubb with respect to the condition and operation of the Designated Sale Parcel, (iii) will require a non-contingent earnest money deposit within ten days after execution of the contract equal to the lesser of 5% of the Offer Price or \$1,000,000, and (iv) will provide for a closing date that is acceptable to both Grubb and the Town, provided that the date is not later than 90 days following delivery of the earnest money deposit unless agreed to by Grubb in its sole discretion.

If, following the Town's acceptance of the Parcel ROFO Offer, the Town defaults under the contract of sale, all deposits shall be forfeited to Grubb, the terms of Section 5(f) and this Exhibit F will be deemed void and of no effect, and Grubb will have the right to sell the Designated Sale Parcel on any terms and conditions as it may elect in its sole discretion.

If the Town does not accept the Parcel ROFO Offer, then Grubb shall be free to enter into a binding contract to sell the Designated Sale Parcel in Grubb's sole and absolute discretion.

The terms of Section 5(f) and this Exhibit F will be immediately void in the event of a termination of this Agreement. Notwithstanding anything to the contrary herein, the terms of Section 5(f) and this Exhibit F shall benefit and bind only Grubb and the Town, and shall not bind any purchaser from Grubb after either (a) the Town's rejection of a Parcel ROFO Offer (b) substantial completion of the New Office Building.