

**STATE OF NORTH CAROLINA
COUNTY OF ORANGE**

**DEVELOPMENT AGREEMENT REGARDING 203 SOUTH GREENSBORO STREET
BY AND BETWEEN
THE TOWN OF CARRBORO, NORTH CAROLINA
AND
THE ARTS CENTER**

THIS DEVELOPMENT AGREEMENT (the “*Agreement*”), made and entered into this _____ day of _____, 2018, by and between the **TOWN OF CARRBORO**, a North Carolina municipal corporation(hereafter referred to as the “*Town*”), and **The Arts Center**, a North Carolina not-for-profit corporation, with its principal office located at 300 East Main Street, Carrboro, NC (hereafter referred to as “ArtsCenter”). Collectively, the Town and ArtsCenter are sometimes referred to in this Agreement as the “Parties”.

W I T N E S S E T H:

WHEREAS, the Town owns real property known as 203 South Greensboro Street (the “Property”) in Carrboro and has entered into a Development Agreement (the “OC Development Agreement”) with Orange County (the “County”) dated December 4, 2017 for development of an approximately 65,000 square foot building and associated parking improvements at the Property to house (i) an Orange County Southern Branch Library to be owned and operated by the County, (ii) Town offices to be owned and operated by the Town, and (iii) potentially other occupants at the Town’s discretion; and

WHEREAS, ArtsCenter owns property located at 300 East Main Street in Carrboro and operates from that location, but desires to relocate its operations to newer space more suitable for its current and anticipated future operations; and

WHEREAS, the Town and ArtsCenter have each determined that they may each derive benefits for themselves and for the residents of the Town if they can cooperatively plan for the incorporation of approximately 10,000 square feet of gross floor area in the facility to be constructed on the Property, to be designed for and owned and occupied by ArtsCenter; and

WHEREAS, the Town and ArtsCenter desire to establish terms pursuant to which they will cooperatively proceed with the planning, design and construction of the Property to incorporate space specifically designed to be owned and occupied by ArtsCenter; and

WHEREAS, the Town is authorized to enter into this contract pursuant to, *inter alia*, the North Carolina General Statutes (“*N.C.G.S.*”) 160A-16, and the Town’s Board of Aldermen has determined that it is in the best interests of their citizens to do so.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Town and ArtsCenter intending to be legally bound do hereby agree as follows:

ARTICLE I

Definitions

“Agreement” shall have the meaning set forth in the preamble.

“County” means Orange County, North Carolina.

“Common Area” means portions of the Facilities constructed on the Property (but not the land itself) that are necessary for the Parties, the County and potentially others, to function as occupants of the space. Common areas include but are not limited to stairwells, emergency egress areas, building lobbies, elevator services, restroom facilities, and equipment rooms housing electric, mechanical and other building systems.

“Condominium” means the designation of portions of the Property for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions, consistent with Chapter 47C of the North Carolina General Statutes.

“Condominium documents” means the declaration of covenants and restrictions governing the condominiums proposed for the Property, including the description and delegation of rights and obligations of the Town, the County and any other potential condominium owner regarding access to and use of parking spaces, common areas and other common elements described in such documents. These documents also include the organizational and operating documents that will guide the condominium association regarding the operation, maintenance, and other business associated with the Property.

“Development” means the planning, design and construction of the Facility on the Property.

“Development Permit” means a building permit, zoning permit, subdivision approval, special or conditional use permit, variance, or any other official action of Local Government having the effect of permitting the development of the Property.

“Development Standards” means the standards for Development set forth in the Town’s Land Use Ordinance.

“Facility” or “Facilities” shall have the meaning set forth in the recitals.

“Governing Body” means, with respect to the Town, the Board of Aldermen.

“Gross floor area” as used in this Agreement means the area of space within the building to be constructed at the Property occupied by the Town, ArtsCenter and Orange County, plus the proportional share of Common Areas attributable to each party (i.e., Common Areas shall be apportioned between the parties in proportion to the amount of “gross floor area” each occupies in the building). The proportion of “gross floor area” occupied by each party shall be finally calculated upon completion of the construction

plans for the building and parking deck to be constructed on or near the Property, and a written schedule signed by each party shall be attached to this Agreement as an Addendum at that time.

“Land Development Regulations” means the Town’s Land Use Ordinance (“LUO”) and/or those ordinances and regulations enacted by the Town for the regulation of any aspect of development and includes zoning, subdivision, or any other land development ordinances.

“Laws” means all ordinances, resolutions, regulations, comprehensive plans, land development regulations, policies, and rules adopted by the Town affecting the development of the Property, and includes laws governing permitted uses of the property, density, design, and improvements.

“Local Government” shall mean the Town of Carrboro, North Carolina.

“N.C.G.S.” means the North Carolina General Statutes.

“NCDOT” means the North Carolina Department of Transportation

“Project” means the planning, design and construction of an approximately 65,000 gross square foot building, site improvements, and associated parking spaces and/or structure with adequate capacity for the Project at the Property and/or in reasonable proximity thereto. Project characteristics will include sustainable design and operation elements. It is anticipated that upon completion of construction, the parties will execute such instruments as may be necessary to convert to a condominium form of ownership of the gross floor area they each occupy, to be governed by covenants adopted by mutual agreement of the Town, ArtsCenter, Orange County, and any other potential condominium unit owner.

“Public facilities” means the major capital improvements, including, but not limited to, transportation, sanitary sewer, solid waste, drainage, potable water, educational, parks and recreational, and health systems and facilities.

“Schematic Design Acceptance” means the point in time defined by the mutual acceptance of the Town, Orange County and ArtsCenter of the final Schematic Design offered by the Designer of the Project.

“Shared Areas” are areas exclusive to a condominium owner that may be reasonably offered for use by other Parties according to a mutual agreement.

“Town” means the Town of Carrboro, North Carolina.

“Upfit costs” means the cost of interior finishes of space in the building to be constructed on the Property such as, but not necessarily limited to, floor finishes and carpets, wall treatments, electric outlets and fixtures, plumbing fixtures, and furnishings.

ARTICLE II

Description Of Development Agreement

- A. ***Legal Description; Property Owner.*** The Town owns the Property. A map and the legal description of the Property is contained in Exhibit A. It is contemplated by the Parties that upon completion of construction of the building proposed for the Property, ArtsCenter will acquire a condominium interest in approximately 10,000 square feet of gross floor area it will design and occupy in the building. The Town and ArtsCenter understand and agree that the Town and the County have entered into a Development Agreement pursuant to which the County will own and occupy the first (ground) floor of the building (except for common areas) to be constructed on the property for use as the Orange County Southern Branch Library, and that the Town will own and occupy one or more upper floors of the building (except for common areas) for its use.
- B. ***Permitted Uses.*** The uses permitted on the Property, including population densities and building types, intensities, placement on the Site and design, are controlled by the applicable zoning designation for the Properties under the Town's Land Use Ordinance ("*LUO*").
- C. ***Public Facilities.*** The following public facilities will service the Development:
1. ***Off-Site Infrastructure:*** The Properties are served by public water and sanitary sewer (Orange Water and Sewer Authority). The Properties are also served by public roads under NCDOT jurisdiction and Town jurisdiction, and by storm water services administered by the Town.
 2. ***On-Site Infrastructure:*** ArtsCenter shall cooperate with the Town and the County with respect to the design of the Facilities, including the planning and development of any onsite infrastructure necessary for the construction, use and operation of the Facilities at the Property in accordance with the terms of this Agreement.
- D. ***Development Standards.*** The Project shall be subject to the Town's policies and procedures regarding standards of development, as set forth in the Town's Land Use Ordinance.

ARTICLE III

Parties' Responsibilities

- A. The Parties agree to negotiate and enter into such other agreements as may be necessary or appropriate to facilitate the financing and construction of the Project. The Parties intend that upon substantial completion of construction, they may convert ownership of the Facilities to be constructed on the Property pursuant to this Agreement, or portions thereof, to a condominium form of ownership to be governed by mutually agreed upon covenants.

- B. The Town, in accordance with applicable laws pertaining to public construction projects, will select a designer for the Project. The Town and ArtsCenter will work together with the selected designer to prepare the necessary local government permit application(s) for the Project. The design of the Facilities shall be mutually agreed upon by the Parties and the County. The Town, the County and ArtsCenter will bear the costs for the preparation of schematic design drawings in accordance with Article IV.A of this Agreement.
- C. The Town, as Owner of the Property, will be primarily responsible for procuring all necessary development approvals for the Project. ArtsCenter will support the Town's efforts to secure the necessary permits.
- D. Provided the Town approves and issues all necessary development permits for the Project, the Town, the County and ArtsCenter will work together with the selected design professional(s) to complete construction drawings for the Project.
- E. The Town, in accordance with applicable laws pertaining to public construction projects, will enter into contract(s) for development of the construction documents for the Project.
- F. Intentionally omitted.
- G. Upon approval of the construction documents and issuance of the necessary permits (the "Building Permit(s)"), the Town will at a time reasonably agreed between the Parties begin construction of the Project.
- H. The Parties will finance their respective shares of the Project costs as set forth in Exhibit C – Elements of Value. The Town will arrange for construction financing of its proportional share of the Project costs (based on Exhibit C), subject to Local Government Commission approval of the financing plan. ArtsCenter shall arrange for financing of its proportionate share of the Project costs in such a manner as it may determine, provided that ArtsCenter shall provide the Town with written confirmation, satisfactory to the Town, of ArtsCenter's ability to finance its proportionate share within thirty (30) days of completion of the schematic design for the Project and, upon its failure to do so, this Agreement may be declared by the Town to be null and void, in the Town's sole discretion. The Town shall be responsible for design and construction administration pursuant to an agreement among the Parties and the County allocating costs of such administration.
- I. The Town will contract with professionals for the construction of the Project, using a legally permitted construction delivery method. Upon completion, the Facilities, including the Building and any associated structured parking, shall be subject to a condominium declaration with terms mutually agreed upon by the Town, the County and ArtsCenter, pursuant to which ArtsCenter will acquire a fee simple condominium interest in the assigned parking areas and in the space constructed for ArtsCenter as part of the Project.

- J. The Town will enter into a construction contract for the work.
- K. The Parties agree that the Town shall have the right in its sole discretion to lease, or subdivide and convey title to, those portions of the Property and any improvements thereon which are not conveyed to the ArtsCenter, to third parties, provided that any such third party shall not use any portion of the Property in a way which competes with ArtsCenter's programming and use of the Property. The Town shall provide ArtsCenter with advance written notice of the Town's intent to lease, subdivide, and/or convey an interest in a portion of the Property to a third party and ArtsCenter shall have ten (10) days from the date of such notice to submit a written objection to the Town.
- L. As contemplated by this Agreement and the OC Development Agreement, upon completion of construction the building and associated parking facility shall be converted to condominium ownership, with the Town, the County and ArtsCenter (and potentially others) each owning condominium interests in building space and associated parking spaces. This includes parking spaces in any constructed parking structure and ground spaces. As part of the condominium arrangement, the parties will also have an undivided interest in the Common Areas designated on the final plans, and which Common Areas will be subject to the rules, rights and responsibilities established in the condominium documents. The parties agree that the conversion of spaces in the parking deck to condominium ownership will include in the condominium documents language establishing appropriate easements for ingress, egress and access to and between the public right of way and all parking spaces and establishing rules and regulations concerning use, management and maintenance of parking spaces. The parties understand and agree that the Town will police and enforce all parking rules and regulations for the Facility. Each party shall be responsible for managing their condominium units unless the parties mutually agree otherwise in writing.

ARTICLE IV

Allocation Of Project Costs

The Parties shall share in the costs of the Project as follows:

- A. Pre-development costs, site improvement costs, building design and construction costs, financing costs, and contingency costs shall be shared by the parties in accordance with the Elements of Value attached as Exhibit C to this Agreement. The parties recognize and agree that some of these Values and the corresponding level of proportionality may not be finally established until after the majority of the design work is completed (and after this Agreement is executed). The parties acknowledge that Exhibit C represents their general understanding of the cost sharing; however, the parties agree to negotiate in good faith the fair and equitable share of all costs associated with this project as soon as possible after the Schematic Design work is completed. If the parties are unable to come to an agreement within

forty five (45) days after the Schematic Design Acceptance date (such date of completion to be established by written notice to the parties from the design professional) then either party may terminate this agreement by providing ten (10) days advance written notice to the other party of its intention to terminate this agreement. Upon such termination, each party shall be responsible for all costs it has incurred in connection with this project through the date of termination.

- B. The parties will each be responsible for their own legal and financing expenses incurred in relation to the Project, and all upfit costs for the space they will occupy in the building.

ARTICLE V Term And Termination

This Agreement shall be effective upon the full execution by the Parties and shall continue until completion of the Project and conveyance of condominium units unless earlier terminated as provided herein.

This Agreement may be terminated: (i) at any time by either party within forty five (45) days after the design professional has confirmed to the parties in writing that the Schematic Design for the building and associated parking facility is substantially completed should the parties fail to reach an agreement on cost allocation as set forth in Article IV.A above, (ii) at any other time by mutual agreement of the Parties; or (iii) by the Town, upon the material breach by ArtsCenter of any provision contained herein which material breach remains uncured after the Town delivers thirty (30) days written notice of said material breach to ArtsCenter, or (iv) by ArtsCenter, upon the material breach by the Town of any provision contained herein which material breach remains uncured by the Town after ArtsCenter delivers thirty (30) days written notice of said material breach to the Town.

ARTICLE VI Conditions Precedent And Contingencies

The Parties understand and agree that there are a number of conditions precedent and contingencies that will impact their ability to enter into the Contracts for the Project. At a minimum, the Parties understand and agree that the following must be resolved to the Town's and ArtsCenter's satisfaction:

- A. The Town obtaining all Permits, including zoning, conditional/special use permits, variances, subdivision plats, approvals, permits, easements and licenses for the Project and the Town grants all necessary Permits which allow for the proposed use of the Properties.
- B. The Town secures all necessary approvals from its governing Board or Manager as delegated by the Board to proceed with the Project at mutually agreed, predefined points during the project (for example: sizing and elements of exclusive, shared, and common area spaces, the selection of Designer, schematic design, construction method, etc.)

- C. The Town and ArtsCenter are able to procure suitable financing for their respective components of the Project. The parties contemplate that upon completion of construction, the parties may divide the Facilities, or parts thereof, into condominium units to be owned by the Town, the County and ArtsCenter, respectively. The parties acknowledge that these contemplated financing agreements and transactions may be altered by mutual agreement of the Parties and are or may be subject to approval of the North Carolina Treasurer, Local Government Commission.
- D. The negotiation and completion of agreements and documents guiding the selection of designers and contractors, the timelines for the completion of various aspects of the design work, the methods and scheduling input, and other specific design and construction coordination necessary to ensure the successful completion of the Project.
- E. The negotiation and execution of this Agreement under which the Parties shall have the right to construct the improvements on the Property subject to the Parties' obligation to subject all improvements constructed on the Property to a condominium.
- F. Confirmation that adequate utilities services suitable for the proposed uses to be included on the Properties are available for connection within a reasonable distance from the Property.
- G. All governmental and other third party consents and approvals shall be obtained; there shall be no significant pending or threatened litigation materially adversely affecting the Property.
- H. The Parties under this Agreement (prior to the completion of construction) and as condominium unit owners (following the completion of construction) agree to contribute pro rata to the common area maintenance and insurance provided by the Town and/or by any condominium owners association to be formed by the Parties, for the Project including a reasonable pro-rata contribution for maintenance of the sidewalks and other shared amenities at the Property.
- I. Consistent with the scope of each Party's responsibilities hereunder, all necessary and appropriate construction and crane easements will be secured by the Town from all adjacent landowners.

ARTICLE VII

Representations And Warranties

The Town and ArtsCenter each represent to the other to the best of their respective knowledge:

- A. The Town and ArtsCenter have all requisite power and authority to execute this Agreement, and any other instruments required to be delivered by the Town or ArtsCenter hereunder.
- B. The Town's and ArtsCenter's entry into this Agreement will not violate any private restriction or agreement or, to the best of the parties' knowledge without investigation or inquiry, any applicable statute, ordinance, governmental restriction or regulation.
- C. During the term of this Agreement, the Town will not execute or create any lease, contract, option, easement, covenant, condition, restriction, lien or encumbrance with respect to the Property or any portion thereof without the written consent of the ArtsCenter unless the same is terminable upon no more than sixty (60) days written notice, or otherwise may be cleared on or before any Closing or Lease Commencement Date that may be contemplated in any Contract that may be entered into between the Town and ArtsCenter.
- D. There is no pending or threatened action, litigation, bankruptcy, condemnation, or other proceeding of any kind pending against the Town which materially adversely affects the Property.
- E. No broker, finder or other intermediary is involved in the transaction contemplated by this Agreement, and that no brokerage fee or commission is due and payable by the Town or ArtsCenter upon any lease or conveyance of the Property.
- F. The Town has not received written notice of any violations of any laws, ordinances or similar rules and regulations relating and/or applicable to the ownership, use and operation of the Property as now operated, and/or other licenses or permits, which remain uncured.
- G. No assessments or special assessments for public improvements or otherwise have been levied or are now affecting the Property.
- H. To the best of the Town's and ArtsCenter's present knowledge, the Property is not within an area determined to be flood-prone under the Federal Flood Protection Act of 1973.

ARTICLE VIII

Remedies And Dispute Resolution

- A. Concerning Remedies. The exercise of a particular remedy does not preclude the exercise of any or all other available remedies herein except as provided herein. No delay in the exercise of a remedy shall constitute a waiver of that remedy. Nothing in this Agreement is intended to relieve a party from its common law duty to mitigate damages.

- B. Disputes. The parties shall attempt in good faith to resolve any dispute, controversy or claim arising out of this Agreement between them by negotiations by those representatives of the Town and ArtsCenter who have authority to act and who will promptly meet for negotiations to attempt to settle the dispute.

ARTICLE IX

Miscellaneous

- A. Assignment. The rights under this Agreement may not be transferred and assigned except with the written consent of the non-assigning Party.
- B. Fees and Expenses. Except as may be specifically provided in this Agreement, each Party will be responsible for his or its own legal fees and expenses incurred in connection with the transactions contemplated by this Agreement.
- C. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina. Any dispute regarding this Agreement shall be filed in a court of competent jurisdiction located in Orange County, NC.
- D. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same document. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy.
- E. Amendment. This Agreement shall not be amended except by a written instrument executed by both the Town and ArtsCenter.
- F. No Third Party Beneficiaries. Nothing contained in this Agreement shall be deemed to create a contractual relationship with, or a cause of action in favor of, any third party against the Town or ArtsCenter.
- G. Entire Agreement, Amendment; Construction. This Agreement, together with the Exhibits attached hereto and all other agreements referred to herein or relating to the subject matter hereof, contains the entire agreement between the parties as to the subject matter referenced herein, and supersedes all prior agreements, understandings or undertakings (whether oral, written, electronic or otherwise) between the parties with respect to the subject matter hereof. No amendment may be made to this Agreement except with the prior written consent of all parties hereto. The section titles and headings herein are for convenience of reference only and do not define, modify or limit any of the terms and provisions hereof. Article, Section and Exhibit references herein are to Articles, Sections and Exhibits of this Agreement unless otherwise noted. The use of words "include" or "including" in this Agreement shall be by way of example rather than by limitation. The use of the words "or," "either" or "any" shall not be exclusive.

- H. Representations and Warranties of the Parties. Each of the parties, and each person executing this Agreement on behalf thereof, represent and warrant, as applicable, that (1) such party or person has the full power and authority to enter into this Agreement and the agreements or instruments referred to herein, to execute them on behalf of the party indicated on the signature page thereof, and to perform the obligations hereunder and thereunder, (2) such party is acting on its own behalf and on behalf of its members, successors and assigns, (3) this Agreement and the other agreements referenced herein are the valid and binding obligations of such party, enforceable against it in accordance with their terms, (4) entering into this Agreement and the other agreements referenced herein does not conflict with any other agreements entered into by either party, and (5) the execution, delivery and performance of this Agreement has been duly and validly authorized by all necessary corporate or governmental action on its part.
- I. Exhibit List. The following exhibits are hereby incorporated by reference:

EXHIBIT A: Map Denoting Site, Legal Description of Site, Legal and Equitable Owners

EXHIBIT B Sustainable Design and Operations Elements Guidelines

EXHIBIT C Elements of Value

[signatures contained on next page]

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

TOWN OF CARRBORO

(*Town Seal*)

BY: _____
David Andrews, Town Manager

ATTEST:

Catherine Dorando, Town Clerk

This document is sufficient as to form.

Town Attorney

This instrument has been pre-audited in the manner proscribed by the Local Government Finance Act.

Finance Director

ARTSCENTER

(*County Seal*)

BY: _____
_____(name), _____(title)

ATTEST:

_____ County, North Carolina

I, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that she is the Town Clerk/Deputy Town Clerk of the Town of Carrboro, and that the seal affixed to the foregoing instrument in writing is the corporate seal of said Town, and that said writing was signed and sealed by her in behalf of said corporation by its authority duly given and the said person acknowledged this writing to be the act a deed of said corporation.

WITNESS my hand and official stamp (or seal), this the ____ day of _____, 2018.

(S E A L)

Notary Public
My Commission Expires: _____

_____ County, North Carolina

I, a Notary Public of the County and State aforesaid, certify that _____ personally came before me this day and acknowledged that he/she is the _____ of ArtsCenter, and that the seal affixed to the foregoing instrument in writing is the corporate seal of ArtsCenter, and that said writing was signed and sealed by his/her in behalf of said corporation by its authority duly given and the said person acknowledged this writing to be the act a deed of said corporation.

WITNESS my hand and official stamp (or seal), this the ____ day of _____, 2018.

(S E A L)

Notary Public
My Commission Expires: _____

Exhibit A - 203 S. Greensboro St.

Attachment B - 15 of 21





20130410000065470 DEED
Bk:RB5582 Pg:486
04/10/2013 10:41:55 AM 1/4

FILED Deborah B. Brooks
Register of Deeds, Orange Co., NC
Recording Fee: \$26.00
NC Real Estate TX: \$1200.00

Prepared by: Ellis & Winters LLP (DLH), 1100 Crescent Green Drive, Suite 200, Cary, NC 27518
Return to: Grantee

Brief Description for the Index

203 S. Greensboro Street

STATE OF NORTH CAROLINA)

SPECIAL WARRANTY DEED

ORANGE COUNTY)

Excise Tax: \$1,200.00
Pin(s): 9778-85-7932 *to*

THIS DEED made this 10th day of April, 2013, by and between

GRANTOR

SunTrust Bank,
a Georgia banking corporation
whose mailing address is:
303 Peachtree Street, N.E., 36th Floor
Atlanta, GA 30308

GRANTEE

The Town of Carrboro,
a North Carolina municipal corporation
whose mailing address is:
301 W. Main Street,
Carrboro, NC 27510

Enter in appropriate block for each party: name, address, and, if appropriate, character of entity, e.g. corporation or partnership.

The designation Grantor and Grantee, as used herein, shall include said parties, their heirs, successors, and assigns, and shall include singular, plural, masculine, feminine or neuter as required by context.

WITNESSETH, that Grantor, for and in consideration of the sum of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration in hand paid at and before the delivery of these presents, the receipt and sufficiency of which are hereby acknowledged, has granted, bargained, sold, transferred, conveyed and confirmed and by these presents does grant, bargain, sell, and convey unto the Grantee in fee simple, all that certain tract or parcel of land lying and being in Orange County, North Carolina, being more particularly described on



EXHIBIT A (the "Property") attached hereto and incorporated herein by reference.

The Property hereinabove described was acquired by Grantor by instrument recorded in Book 5517, Page 541, Orange County Registry.

The Property herein conveyed does not include the primary residence of Grantor.

TO HAVE AND TO HOLD the aforesaid Property and all privileges and appurtenances thereto belonging to the Grantee in fee simple.

And Grantor covenants with Grantee, that Grantor has done nothing to title to impair such title as Grantor received, and Grantor will warrant and defend the title against the lawful claims of all persons claiming by, under or through Grantor, except for the exceptions hereinafter stated.

Title to the Property is subject to the following exceptions: (i) the lien of real estate taxes, taxes imposed by special assessment and water, sewer, vault, public space and other public charges which are not yet due and payable, (ii) all applicable laws (including zoning, building ordinances and land use regulations), (iii) all easements, restrictions, covenants, agreements, conditions, and other matters of record, and (iv) all matters that may be revealed by a current and accurate survey or inspection of the Property.

Grantor makes no warranty or representation as to the condition of the Property or any improvements thereon, including without limitation, any latent or environmental defects in the Property or in any improvements thereon and the serviceability or fitness for a particular purpose of the Property or any improvements thereon, and Grantee accepts the Property and any improvements thereon "AS IS" without recourse against Grantor.

[Signature page follows.]



IN WITNESS WHEREOF, Grantor has caused this instrument to be signed in its name and delivered as of the date indicated on the first page of this Deed.

GRANTOR:

SunTrust Bank,
a Georgia banking corporation

By: 

Name: Erica S. Henning

Title: Vice President

Wake County, North Carolina

I certify that the following person personally appeared before me this day and acknowledged to me that she voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Erica S. Henning.

Date: 4/5/2013

My Commission Expires:

8/31/2014

[Affix Notary Stamp or Seal]


Notary Public
Print Name: John Flynt

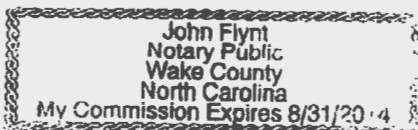


EXHIBIT A
(to Special Warranty Deed)



Legal Description of Property

All of that property consisting of 0.883 acres, surveyed as "Fakhoury Property" per Recombination Map of Fakhoury Property" surveyed by Kenneth Close, Inc. recorded in Book of Maps 94, Page 24, Orange County Registry, formerly identified as Tract 1 and Tract 2, now combined.

New Parcel # 9778-85-7932 from old Parcel #s 9778-85-5886 and 9778-85-6892

16X

Exhibit B – Sustainable Design and Operations Elements Guidelines

The Development Agreement recognizes the goals of Orange County and the Town of Carrboro to be guided by design and operations elements of the High Performance Building Standards developed by the Triangle J Council of Governments (“TJCOG”) in 2001. Orange County adopted this standard as part of its Space Development criteria in 2005.

These High Performance Building Standards were initially developed by a task force led by TJCOG, including representatives from Orange County, and design professionals within the Triangle Area. These published guidelines have been nationally recognized and formed the basis for the Leadership in Energy and Environmental Design (“LEED”) version II, established by the United States Green Building Council (“USGBC”). The standards are recognized for their innovation and quality of results related to sustainable, energy efficient, and resilient building outcomes.

Orange County and Carrboro recognize the current initiative to update these guidelines consistent with current benchmarks and advances in design and building science. Sustainable design, construction and operations methods will be evident within the design and build process and will be explicitly communicated throughout the development process.