DEVELOPMENT AGREEMENT

Between Columbus, Georgia

and

211 13th, LLC, as Owner,

and

Cotton Development, LLC, as Developer,

In the Uptown Tax Allocation District

As of June 15, 2021

ARTICLE I RECITALS 1
ARTICLE II GENERAL TERMS 2
Section 2.1 Definitions 2
Section 2.2 Singular and Plural 5
ARTICLE III REPRESENTATIONS AND WARRANTIES 6
Section 3.1 Representations and Warranties of Owner and Developer 6
Section 3.2 Representations and Warranties of Columbus 8
Section 3.3 Parties to Cooperate 9
Section 3.4 Payment of Administrative Fee 9
ARTICLE IV DEVELOPMENT AND CONSTRUCTION 9
Section 4.1 Construction of the TAD Project and the Highside Market Project 9
Section 4.2 Approvals Required for the Project 10
Section 4.3 Unreasonable Delay or Abandonment; Cessation of Work 10
ARTICLE V DUTIES, RESPONSIBILITIES AND SPECIAL COVENANTS OF DEVELOPER 10
Section 5.1 Completion of the Project 10
Section 5.2 Compliance with Documents 11
Section 5.3 Litigation 11
Section 5.4 Maintenance of the Project 11
Section 5.5 Records and Accounts 11
Section 5.6 Liens and Other Charges 11
Section 5.7 Compliance with Laws, Contracts, Licenses, and Permits 11
Section 5.8 Laborers, Subcontractors and Materialmen 11
Section 5.9 Taxes 11
Section 5.10 Insurance 11
Section 5.11 Further Assurances and Corrective Instruments 11
Section 5.12 Performance by Developer 12
Section 5.13 Restrictions on Easements and Covenants 12
Section 5.14 Access to the Site 12
Section 5.15 Owner's Delivery of Documents 12
Section 5.16 Developer's Delivery of Documents 12
Section 5.17 Scope of Developer Commitments 12
ARTICLE VI1 ADVANCES; DISBURSEMENT; REIMBURSEMENT 13
Section 6.1 Advances 13
Section 6.2 Disbursements 13
Section 6.3 Limited Liability 14
Section 6.4 Reimbursement (Special) Fund 15
Section 6.5 Alternative Financing 15
ARTICLE VII INDEMNIFICATION 15
Section 7.1 Indemnification 15
Section 7.2 Notice of Claim 15
Section 7.3 Defense 16
Section 7.4 Separate Counsel 16
Section 7.5 Survival 16
ARTICLE VIII DEFAULT 16
Section 8.1 Default by Developer 16
Section 8.2 Remedies 17
Section 8.3 Remedies Cumulative 17
Section 8.4 Agreement to Pay Attorneys' Fees and Expenses 17
Section 8.5 Default by Columbus 17
Section 8.6 Remedies Against Columbus 17

ARTICLE IX MISCELLANEOUS 18
Section 9.1 Term of Agreement 18
Section 9.2 Notices 18
Section 9.3 Amendments and Waivers 19
Section 9.4 Invalidity 19
Section 9.5 Successors and Assigns 19
Section 9.6 Schedules; Titles of Articles and Sections 19
Section 9.7 Applicable Law 19
Section 9.8 Entire Agreement 20
Section 9.9 Approval by the Parties 20
Section 9.10 Additional Actions 20

DEVELOPMENT AGREEMENT

This Development Agreement (the "Agreement"), dated as of the _____ day of June, 2021 is made by and between Columbus, Georgia, a political subdivision of the State of Georgia ("Columbus"), 211 13th, LLC, a Georgia limited liability company ("Owner"), and Cotton Development, LLC, a Georgia limited liability company ("Developer"). Capitalized terms used herein and not otherwise defined have the meanings given to them in Article II.

ARTICLE I
RECITALS

WHEREAS, Columbus is duly authorized to exercise the redevelopment powers granted to cities and counties in the State pursuant to the Redevelopment Powers Law and in accordance with House Bill 773 enacted by the General Assembly in 2006 (2006 GA. LAWS p. 4507, *et seq.)* and approved in a referendum on November 6, 2006; and

WHEREAS, by a Resolution duly adopted Resolution No. 71-16 on March 15, 2016 (the "TAD Resolution"), following two public hearings as required by law, the Columbus Council approved the Uptown Redevelopment Plan and created Tax Allocation District # 3 - Uptown (the "Uptown TAD"); and

WHEREAS, the Redevelopment Powers Law provides that Columbus may enter into public-private partnerships to effect the redevelopment projects contemplated in the Redevelopment Plan; and

WHEREAS, the TAD Resolution expressed the intent of Columbus, as set forth in the Redevelopment Plan, to provide funds to induce and stimulate redevelopment in the Uptown TAD; and

WHEREAS, the undertakings contemplated by the Redevelopment Plan include, among other renewal activity, redevelopment of portions of the Central Riverfront District and Columbus; and

WHEREAS, 211 13th, LLC is the owner of the Highside Market Tract which is located within the Uptown TAD; and

WHEREAS, 211 13th, LLC has engaged Cotton Development, LLC to be the Developer of the Highside Market Project and the TAD Project; and

WHEREAS, 211 13th, LLC has undertaken the redevelopment of the property into a mixed-used redevelopment to be known as Highside Market and related uses; and

WHEREAS, in order to induce and further facilitate the successful accomplishment of this portion of the Redevelopment Plan, Columbus has indicated its intent to exercise its authority under the Redevelopment Powers Law and in accordance with State law to enter into this Development Agreement with Owner and Developer, pursuant to which, subject to the conditions described herein, a portion of the Tax Allocation Increment collected in the Uptown TAD will be used to reimburse Owner for certain Redevelopment Costs advanced by Owner in connection with the TAD Project; and

WHEREAS, Owner, pursuant to the terms of this Agreement, has undertaken this critical

revitalization in Columbus and developed the Highside Market Project consistent with the Downtown Redevelopment Plan.

AGREEMENT

NOW THEREFORE, Columbus, Owner, and Developer, for and in consideration of the mutual promises, covenants, obligations, and benefits of this Agreement, hereby agree as follows:

ARTICLE II
GENERAL TERMS

Section 2.1 *Definitions.* Unless the context clearly requires a different meaning, the following terms are used herein with the following meanings:

"Act of Bankruptcy" means the making of an assignment for the benefit of creditors, the filing of a petition in bankruptcy, the petitioning or application to any tribunal for any receiver or any trustee of the applicable Person or any substantial part of its property, the commencement of any proceeding relating to the applicable Person under any reorganization, arrangement, readjustments of debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or if, within 60 days after the filing of a bankruptcy petition or the commencement of any proceeding against the applicable Person seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, the proceedings have not been dismissed, or, if, within 60 days after the appointment, without the consent or acquiescence of the applicable Person, of any trustee, receiver or liquidator of the applicable Person or of the land owned by the applicable Person, the appointment has not been vacated.

"Administrative Fee" means an annual administrative fee in an amount not to exceed $5,000.00, as well as Columbus's expenditures for legal and professional fees incurred in connection with the Highside Market Project, to be paid to Columbus from the Tax Allocation District #3 Fund and shall have the highest priority of payment from the Tax Allocation District #3 Fund, as provided in Section 3.4.

"Advances" means advances by Owner or any other Person or entity to pay any costs that constitute Reimbursement Costs associated with the TAD Project or for which Owner may be entitled to reimbursement pursuant to Section 6.2.

"Affiliate" means, with respect to any Person, (a) a parent, partner, member, or owner of such Person or of any Person identified in clause (b) below, and (b) any other Person that, directly or indirectly through one or more intermediaries, controls, is controlled by or is under common control with such Person. As used in this definition, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

"Columbus" means Columbus, Georgia, a political subdivision of the State of Georgia.

"Developer" means Cotton Development, LLC, a Georgia limited liability company, developer of the Highside Market Project.

"Development Team" means Developer and development partners, if any.

"Effective Date" means June 15, 2021, the effective date of this Agreement.

"Environmental Laws" means, including but without limitation, the Resource Conservation and Recovery Act, 42 U.S.C. §690 l *et seq.,* as amended, the Comprehensive Environmental Response Compensation and Liability Act of 1980, 42 U.S.C. § 960 I *et seq.,* as amended by the Superfund Amendments and Reauthorization Act of 1986, and as further amended, the Clean Water Act, 33 U.S.C. §1251 *et seq.,* as amended, the Clean Air Act, 42 U.S.C. § 7401 *et seq.,* as amended, the Toxic Substances Control Act, 15 U.S.C. § 2601 *et seq.,* as amended, and any other applicable federal law relating to health, safety or the environment.

"Force Majeure" means the actual period of any delay in the final completion date of the TAD Project, or the Highside Market Project, as applicable, caused by fire, unavailability of manufactured materials, earthquake, flood, explosion, war, acts of terrorism, invasion, insurrection, mob violence, sabotage, lockouts, litigation, condemnation, riots or other civil disorder, national or local emergency, act of God, unusual delays in transportation, unusual delay in obtaining lawful permits or consents to which the applicant is legally entitled, strike or labor dispute, or severe weather conditions. in excess of 30 days in responding to proposals for Material Modifications pursuant to Section 4.4, in any such case entitling Owner a commensurate extension of time to perform and complete its obligations delayed thereby under this Agreement. Owner will give written notice in accordance with Section 9.2 as soon as reasonably practical after the start of the Force Majeure event or occurrence giving rise to the delay, specifically identifying the occurrence or event and the anticipated resulting delays to the TAD Project or the Project, as applicable.

"General Contractor" means an experienced, licensed, bondable, and reputable general contractor selected by Developer.

"Hazardous Substances" means any hazardous waste, as defined by 42 U.S.C. § 6903(5), any hazardous substances as defined by 42 U.S.C. § 9601(14), any pollutant or contaminant as defined by 42 U.S.C. § 9601(33), and any toxic substances, oil or hazardous materials or other chemicals or substances regulated by any Environmental Laws.

"Highside Market Project" means the tract of land located at 211 13th Street, as more fully described in <u>Schedule B-1</u> hereto, as such Schedule may be amended or modified from time to time, on which Highside Market shall been constructed. The Highside Market Project includes the Vertical Development, Highside Market, and the TAD Project.

"Highside Market Project Completion Date" means the date of substantial completion of the Highside Market Project.

"Highside Market Tract" means the parcel within the Site Plan identified on <u>Schedule A-2</u> on which Developer on behalf of Owner shall construct the Highside Market Project.

"Vertical Development" means the construction of the Highside Market by or on behalf of 211 13th, LLC on the Highside Market Tract.

"Highside Market" means the Highside Market as constructed on the Highside Market Tract.

"Highside Market Project Construction Schedule" means the schedule utilized for

construction of the Highside Market Project as set forth in Schedule C-1, as such Schedule was amended or modified from time to time, including any Project Modifications or Material Modifications

"Legal Requirements" means any legal requirements (including, without limitation, Environmental Laws), including any local, state, or federal statute, law, ordinance, rule, or regulation, now or hereafter in effect, or order, judgment, decree, injunction, permit, license, authorization, certificate, franchise, approval, notice, demand, direction, or determination of any governmental authority.

"Material Modification" means (i) any modification, change or alteration in the description of the TAD Project or the Highside Market Project, as applicable, that would add uses other than the following current uses:

(i) Mixed-use development, including retail, restaurant, office, and public gathering space; or
(ii) Any extension of the TAD Project Schedule beyond the TAD Project Completion Date.

"Owner" means 211 13th, LLC.

"Permitted Exceptions" means all of the following: (i) any reasonable and customary exceptions that serve or enhance the use or utility of the TAD Project or the Highside Market Project that arose in the course of construction and may arise during operation, of the TAD Project or the Highside Market Project, including by way of example and not of limitation, easements granted to public uti1ity companies or governmental bodies (for public rights-of-way or otherwise), (ii) any other exceptions expressly approved in writing by Columbus; (iii) real property taxes, bonds, and assessments (including assessments for public improvements) not yet due and payable; and (iv) any exceptions approved by Owner's lender.

"Person" includes a corporation, a trust, an association, a partnership (including a limited liability partnership), a joint venture, an unincorporated organization, a business, an individual or natural person, a joint stock company, a limited liability company, or any other entity.

"Plans" means the Site Plan and the construction plans for the TAD Project as the same may have been modified from time to time, including any Material Modifications.

"Project Approvals" means all approvals, consents, waivers, orders, agreements, authorizations, permits and licenses required under applicable Legal Requirements or under the terms of any restriction, covenant or easement affecting the TAD Project or the Highside Market Project, as applicable, or otherwise necessary or desirable for the ownership, acquisition, construction, equipping, use or operation thereof, whether obtained from a governmental authority or any other person.

"Project Financing" means any loans, financing, equity investment, or other agreement (other than this Agreement) provided to or for the benefit of Owner to finance, directly or indirectly, any portion of the TAD Project.

"Project Modification" means any aggregate change in the TAD Project Budget in excess of fifteen percent (15%).

"Redevelopment Costs" has the meaning given that term by O.C.G.A. § 36-44-3(8) and as used in this Agreement, means Redevelopment Costs of the TAD Project and any other Redevelopment Costs (as defined in the Redevelopment Powers Law) contemplated by this Agreement.

"Redevelopment Plan" means the Downtown Redevelopment Plan for Columbus Tax Allocation District Number Three approved by Columbus pursuant to the TAD Resolution on March 15, 2016, following a public hearing as required by law, as may be amended from time to time.

"Redevelopment Powers Law" means the Redevelopment Powers Law, O.C.G.A. §36-44-1, *et seq.,* as may be amended from time to time.

"Reimbursement Costs" means categories of Redevelopment Costs for which Columbus has agreed to reimburse Advances from the Tax Allocation District #3 Fund as shown on Schedule D-2 attached hereto.

"Requisition" means a requisition document providing the information concerning all TAD Project expenditures information in form satisfactory to the Columbus Finance Director.

"Site" means the real property on which the Highside Market Project is located within the Uptown TAD, as more specifically identified in Schedule A-1 hereto.

"Site Plan" means the plan utilized for development of the Highside Market Project as more specifically identified in Schedule A-2 hereto.

"Tax Allocation District #3 Fund" means the Tax Allocation District Fund established by Columbus for the collection of Tax Allocation Increment and payment of Disbursements as permitted under this Agreement.

"State" means the State of Georgia.

"TAD Project" means those improvements identified and more fully described in Schedule B-2 hereto as such Schedule may be amended or modified from time to time, including the Highside Market Project (but not including the Vertical Development), the costs of which have been advanced by Owner and to be reimbursed to Owner from the Tax Allocation District #3 Fund as contemplated by this Agreement.

"TAD Project Budget" means the projected cost for acquisition, financing, and construction of the TAD Project as set forth in Schedule D-1 hereto, as such Schedule may be amended or modified from time to time, including any Project Modifications.

"TAD Project Completion Date" means the date of substantial completion of the TAD Project (as evidenced by delivery by Owner to Columbus of the certificate contemplated in Section 4.l(e)).

"TAD Project Construction Schedule" means the schedule utilized for construction of the TAD Project as set forth in Schedule C-2, as such Schedule was amended or modified from time to time, including any Project Modifications or Material Modifications.

"TAD Resolution" means Resolution No. 71-16 duly adopted by the Columbus Council on May 15, 2016, following a public hearing as required by law, pursuant to which Columbus approved the Redevelopment Plan and created the Uptown TAD.

"Tax Allocation Increment" means the positive tax allocation increment (within the meaning of the Redevelopment Powers Law) levied and collected on real property within the Uptown TAD attributable to the ad valorem millage rate levied annually by Columbus (which was 40.481 mils in 2020).

"Title Policy" means the title insurance policy issued by a nationally recognized title company with respect to the Site.

"Uptown TAD" means that Tax Allocation District No. 3 created by Columbus effective December 31, 2016, pursuant to the Redevelopment Powers Law and the TAD Resolution and as further described in the Redevelopment Plan.

Section 2.2 *Singular and Plural.* Words used herein in the singular, where the context so permits, also include the plural and vice versa. The definitions of words in the singular herein also apply to such words when used in the plural where the context so permits and vice versa.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

Section 3.1 *Representations and Warranties of Owner and Developer.* Owner and Developer hereby represent and warrant to Columbus that:

(a) Organization and Authority. 211 13th, LLC, a Georgia limited liability company, and Cotton Development, LLC, a Georgia limited liability company, are in good standing and authorized to transact business in the State of Georgia. Owner and Developer's officers have the requisite power and authority to execute and deliver this Agreement, to incur and perform their obligations hereunder, and to carry out the transactions contemplated by this Agreement.

(b) Due Authorization, Execution and Delivery. The execution, delivery, and performance of this Agreement have been duly authorized by all necessary action and proceedings by or on behalf of Owner and Developer, and no further approvals or filings of any kind, including any approval of or filing with any governmental authority, are required by or on behalf of Owner and Developer as a condition to the valid execution, delivery, and performance by it of this Agreement. This Agreement, when duly executed and delivered by each party hereto, will be the valid, binding, and enforceable obligation of Owner and Developer in accordance with its terms, subject to matters and laws affecting creditors' right generally and to general principles of equity.

(c) Organizational Documents. Owner and Developer's organizational documents are in full force and effect and have not been modified or supplemented from those submitted to Columbus, and no fact or circumstance has occurred that, by itself or with the giving of notice or the passage of time or both, would constitute a default thereunder.

(d) Financial Statements. All financial statements to be furnished to Columbus by Owner or Developer with respect to Owner or Developer will fairly present the financial condition of Owner and Developer as of the dates thereof, and all other written information furnished to Columbus by

Owner and Developer will be accurate, complete, and correct in all material respects and will not contain any material misstatement of fact or omit to state any fact necessary to make the statements contained therein not misleading.

(e) Environmental. Neither Owner nor Developer have any knowledge ***except as disclosed in the Environmental Report:*** (i) of the presence of any Hazardous Substances on the Site, or any portion thereof, or of any spills, releases, discharges, or disposal of Hazardous Substances that have occurred or are presently occurring on or onto the Site, or any portion thereof, or (ii) of the presence of any PCB transformers serving, or stored on, the Site, or any portion thereof, and Owner and Developer have no knowledge of any failure to comply with any applicable Environmental Laws relating to the generation, recycling, reuse, sale, storage, handling, transport and disposal of any Hazardous Substances.

(f) Bankruptcy. No Act of Bankruptcy has occurred with respect to Owner or Developer.

(g) No Litigation. There is no action, suit or proceeding pending or, to the knowledge of Owner or Developer, threatened against or affecting Owner or Developer in any court, before any arbitrator or before or by any governmental body which (i) in any manner raises any question affecting the validity or enforceability of this Agreement, (ii) could materially and adversely affect the business, financial position or results of operations of Owner or Developer, or (iii) could materially and adversely affect the ability of Owner or Developer to perform their obligations hereunder.

(h) No Undisclosed Liabilities. Neither Owner nor the Site is subject to any material liability or obligation, including contingent liabilities, other than loans to finance the Highside Market Project. Developer nor Owner is in default under or in breach of any material contract or agreement, and no event has occurred which, with the passage of time or giving of notice (or both) would constitute such a default, which has a material adverse effect on the ability of Developer or Owner to perform its obligations under this Agreement.

(i) Tax Matters. Owner and Developer have prepared and filed in a substantially correct manner all federal, state, local, and foreign tax returns and reports heretofore required to be filed by them and have paid all taxes shown as due thereon. No governmental body has asserted any deficiency in the payment of any tax or informed Owner or Developer that such governmental body intends to assert any such deficiency or to make any audit or other investigation of Owner or Developer for the purpose of determining whether such a deficiency should be asserted against Owner or Developer.

(j) ERISA and Related Matters. Neither Owner nor Developer maintain any retirement or deferred compensation plan, savings, incentive, stock option or stock purchase plan, unemployment compensation plan, vacation pay, severance pay, bonus or benefit arrangement, insurance or hospitalization program or any other fringe benefit arrangement for any employee, consultant or agent of Owner or Developer, whether pursuant to contract, arrangement, custom or informal understanding, which does not constitute an "Employee Benefit Plan" (as defined in §3(3) of ERISA). Owner or Developer does not maintain nor has Owner or Developer ever contributed to any Multiemployer Plan (as defined in §3(37) of ERISA). Owner or Developer does not currently maintain any Employee Pension Benefit Plan subject to Title IV of ERISA. There have been no "prohibited transactions" (as described in §406 of ERISA or §4975 of the Internal Revenue Code) with respect to any Employee Pension Benefit Plan or Employee Welfare Benefit Plan maintained

by Owner or Developer as to which Owner or Developer has been a party.

(k) Principal Office. The address of Owner and Developer's principal place of business is P.O. Box 1601, Columbus, Georgia 31902.

(l) Licenses and Permits. Owner and Developer will at all appropriate times possess all franchises, patents, copyrights, trademarks, trade names, licenses and permits, and rights in respect of the foregoing, adequate for the conduct of its business substantially as now conducted or as it is intended to be conducted with respect to the Highside Market Project, without known conflict with any rights of others.

(m) Project Location. The Highside Market Project is located wholly within Columbus and further, wholly within the Uptown TAD.

(n) Utilities. All utility services necessary and sufficient for the construction and operation of the Highside Market Project will at all appropriate times be available through dedicated public rights of way or through perpetual private easements.

(o) Plans. Owner or Developer has furnished to Columbus true and complete sets of the Plans, subject to modifications and amendments. The Plans so furnished to Columbus comply with all applicable governmental requirements, all Project Approvals, and all restrictions, covenants and easements affecting the TAD Project.

(p) Funding Sources for Project Financing. Owner, at its own cost, secured the necessary financing for construction of the TAD Project.

(q) Liens. Other than as disclosed in writing to Columbus, there are no material liens of laborers, subcontractors, or materialmen on or respecting the TAD Project on the Effective Date.

(r) Construction Schedules. The Highside Market Project Construction Schedule and the TAD Project Construction Schedule, as amended or modified from time to time, including any Project Modifications or Material Modifications, accurately reflect the schedule of construction of the Highside Market Project and the TAD Project, respectively.

(s) Budget. The TAD Project Budget accurately reflects the expenditures for the TAD Project.

(t) Title. As of the Effective Date, 211 13th, LLC holds fee simple title to parcel on which the Highside Market Project is located.

Section 3.2 *Representations and Warranties of Columbus.* Columbus hereby represents and warrants to Owner and Developer that:

(a) Organization and Authority. Columbus is a consolidated government duly created and existing under the laws of the State. Columbus has the requisite power and authority to execute and deliver this Agreement, to incur and perform its obligations hereunder, and to carry out the transactions contemplated by this Agreement.

(b) Due Authorization, Execution and Delivery. The execution, delivery, and performance

of this Agreement has been duly authorized by all necessary action and proceedings by or on behalf of Columbus, and no further approvals or filings of any kind, including any approval of or filing with any governmental authority, are required by or on behalf of Columbus as a condition to the valid execution, delivery, and performance by Columbus of this Agreement. This Agreement, when duly executed and delivered by each party hereto, will be the valid, binding, and enforceable obligation of Columbus in accordance with its terms, subject to matters and laws affecting creditors' right generally as to political bodies and to general principles of equity.

(c) No Litigation. There are no actions, suits, proceedings, or investigations of any kind pending or threatened against Columbus before any court, tribunal or administrative agency or board or any mediator or arbitrator that questions the validity of this Agreement or any action taken or to be taken pursuant hereto.

(d) TAD Resolution. The TAD Resolution has been validly adopted, remains in full force and effect, and has not been amended or supplemented since its date of adoption except by Resolution No. 140-16, adopted May 10, 2016, which authorized the execution of a Memorandum of Understanding with the Muscogee County School District for all school tax millage to be added to the TAD increment. No amendment of or supplement to the TAD Resolution is contemplated by Columbus.

(e) Redevelopment Agent. Columbus has been duly designated as Redevelopment Agent for the Uptown TAD as contemplated by the Redevelopment Powers Law.

Section 3.3 *Parties to Cooperate.* The parties hereto acknowledge that they are entering into this Agreement based on projections that the Highside Market Project will generate Tax Allocation Increment in at least the amounts shown on Schedule E hereto. Columbus, Owner, and Developer will cooperate as provided in this Agreement in order to ensure that Tax Allocation Increment generated by the Highside Market Project in the Uptown TAD are collected and deposited into the Tax Allocation District #3 Fund in accordance with the terms of this Agreement, thereby permitting reimbursement of Reimbursement Costs advanced by Owner or Developer in connection with the TAD Project as contemplated by this Agreement.

Section 3.4 *Payment of Administrative Fee and Expenses.* Owner and Developer acknowledge and agree that Columbus shall be entitled to an Administrative Fee and to be reimbursed its professional, legal, and administrative expenses from the Tax Allocation District #3 Fund and such payments shal1 have the first priority of payment from the Tax Allocation District #3 Fund. In the event that in any year there are insufficient funds in the Tax Allocation District #3 Fund to pay such fees and expenses, the unpaid amounts shall accrue and be payable from the first available future deposits into the Tax Allocation District #3 Fund. Such fees shall be determined on an annual basis and shall not exceed $5,000 per year.

ARTICLE IV
DEVELOPMENT AND CONSTRUCTION

Section 4.1 *Construction of the TAD Project and Highside Market Project.*

(a) Developer shall develop and construct the TAD Project in substantial conformance with the Plans and the descriptions thereof set forth in Schedules A-2 and B-2, which will be used as the basis for reimbursement of Advances under Section 6.2.

(b) Developer shall construct the TAD Project and the Highside Market Project in accordance with all applicable Legal Requirements.

(c) Developer shall develop and construct the Highside Market Project in substantial conformance with the Plans and the descriptions thereof set forth in Schedules A-2 and B-2 which will be used as the basis for reimbursement of Advances under Section 6.2. To the extent that any such modification is a Material Modification, Developer will comply with the procedures set forth in Section 5.1. Columbus agrees to use commercially reasonable efforts to assist Developer with the Highside Market Project on the terms set forth in this Agreement to further the public purposes of the Redevelopment Plan and the Redevelopment Powers Law.

(d) Developer or Owner shall provide Columbus with a final cost summary of all costs and expenses associated with the Highside Market Project, a certification that the Highside Market Project has been completed, and evidence that all amounts owing to contractors and subcontractors have been paid in full evidenced by customary affidavits executed by such contractors.

Section 4.2 *Approvals Required for the Project.* Owner or Developer on Owner's behalf shall obtain all necessary Project Approvals for the TAD Project and, upon its completion, shall certify to Columbus that the Highside Market Project complies with all Legal Requirements of any governmental body regarding the use or condition of the TAD Project and the Highside Market Project.

Section 4.3 *Unreasonable Delay or Abandonment; Cessation of Work.* Developer shall use all commercially reasonable efforts to complete the Highside Market Project and the TAD Project in the timeframes stated in Schedules C-1 and C-2, subject to delays that are out of Developer's control, such as material acquisition, labor shortage, weather delays, etc. Developer shall not halt construction or work on the Highside Market Project or the TAD Project for more than thirty (30) days. In the event construction or work on the Highside Market Project or the TAD Project is halted for more than thirty (30) days, Columbus shall provide, in a written notice, Developer thirty (30) days to continue the construction or work. Should Developer fail to continue construction or work, Developer shall be considered in default of this Agreement.

ARTICLE V
RESPONSIBILITIES

Section 5.1 ***Modifications.***

(a) ***Material Modifications*****. Owner shall certify to Columbus that no material modification will be made to the TAD Project or the Highside Market Project, except as disclosed on schedule A-2 or B-2, as amended or modified in writing pursuant to this Agreement by Developer to Columbus.**

(b) ***Project Modifications.*** **Owner shall certify to Columbus that there will be no Project Modifications, as defined herein, not noted on schedule A-2 or B-2, as amended or modified in writing pursuant to this Agreement by Owner to Columbus, and that any modification to the TAD Project Budget as a result of such Project Modification shall be reflected on an updated Budget to be presented to Columbus.**

Section 5.2 *Completion of the Project.* Developer shall complete construction of the TAD Project substantially in accordance with Schedules C-1 and C-2 in a good and workmanlike manner free and clear of all liens and claims for materials supplied or for labor or services performed, subject to any lawful protest in accordance with Section 5.7.

Section 5.3 *Compliance with Documents.* Owner shall remain in compliance with its obligations and covenants in the Loan Documents, if any, pursuant to which amounts were or are to be loaned or otherwise made available to Owner to finance construction of the TAD Project and the Highside Market Project.

Section 5.4 *Litigation.* Owner and Developer will notify Columbus in writing, within fifteen (15) business days of its having knowledge thereof, of any actual or pending litigation or adversarial proceeding in which a claim is made against Owner or Developer or against the Site or the TAD Project, in any case which Owner or Developer reasonably considers may impair Owner or Developer's ability to perform its obligations under this Agreement, and of any judgment rendered against Owner or Developer in any such litigation or proceeding. Owner or Developer will notify Columbus in writing and within fifteen (15) business days of any matter that Owner or Developer reasonably considers may result or does result in a material adverse change in the financial condition or operation of Owner or Developer or the TAD Project.

Section 5.5 *Maintenance of the Project.* During the term of this Agreement, maintenance of the TAD Project and Highside Market Project will be the shared responsibility and burden of Owner and Developer. Upon Columbus' final installment payment pursuant to this Agreement, all responsibilities and liabilities of Developer to maintain the TAD Project and Highside Market Project pursuant to this provision and Agreement shall be released and shall become the full responsibility and liability of 211 13th, LLC, or its successors or assigns.

Section 5.6 *Records and Accounts.* Owner has and will keep true and accurate records and books of account in connection with the TAD Project in which full, true, and correct entries will be made on a consistent basis, in accordance with generally accepted accounting principles.

Section 5.7 *Liens and Other Charges.* Owner and Developer have paid and discharged, or will cause to be paid and discharged, before the same become overdue all claims for labor, materials, or supplies that if unpaid might by law become a lien or charge upon the TAD Project unless Owner or Developer is lawfully protesting the same, in which case Owner or Developer will provide a suitable "mechanics lien bond" to discharge such lien from the TAD Project.

Section 5.8 *Compliance with Laws, Contracts, Licenses, and Permits.* Developer will comply in all material respects with (a) all applicable laws, (b) all agreements and instruments by which it or any of its properties may be bound, and all restrictions, covenants and easements affecting the TAD Project, (c) all applicable decrees, orders and judgments, and (d) all licenses and permits required by applicable laws and regulations for the conduct of its business or the ownership, use or operation of its properties.

Section 5.9 *Laborers, Subcontractors and Materialmen.* Developer, at Columbus's request, shall furnish to Columbus final lien waivers from the General Contractor and all subcontractors and materialmen who provided goods or services in excess of $5,000.00 to the projects.

Section 5.10 *Taxes.* To the extent of its interest therein, Owner will pay when due all taxes

imposed upon or assessed against the Site, the Highside Market Project, and the TAD Project, or upon the revenues, rents, issues, income and profits of the Highside Market Project and the TAD Project, or arising in respect of the occupancy, use or possession thereof, and will provide to Columbus, within ten days after a written request therefor, validated receipts showing the payment of such taxes when due. Owner will have the right to appeal an assessment for ad valorem tax purposes.

Section 5.11 *Insurance.* To the extent of its interest therein, Owner will keep the TAD Project and the Highside Market Project continuously insured against such risks as are customarily insured against by businesses of like size and type engaged in the same or similar operations. During the terms of this Agreement, a Certificate of Liability Insurance shall be furnished annually to the City to include endorsements for, at minimum, $1 million in bodily injury and property damage coverage as a combined single limit for each occurrence with a $2 million annual aggregate in reference to the following types of insurance: General Liability for Premises/Operations, Independent Contractors and Sub-Contractors, and Umbrella/Excess Liability.

Section 5.12 *Further Assurances and Corrective Instruments.* Columbus, Owner, and Developer agree that they will, from time to time, execute, acknowledge, and deliver, or cause to be executed, acknowledged, and delivered, such supplements and amendments hereto and such further instruments as may reasonably be required for carrying out the intention or facilitating the performance of this Agreement.

Section 5.13 *Performance by Owner and Developer.* Owner and Developer will perform all acts to be performed by them hereunder and will refrain from taking or omitting to take any action that would materially violate the respective party's representations and warranties hereunder or render the same materially inaccurate as of the Effective Date and subsequent Requisition dates or that in any material way would prevent the consummation of the transactions contemplated hereby in accordance with the terms and conditions hereof.

Section 5.14 *Restrictions on Easements and Covenants.* Except for Permitted Exceptions, Owner will not create or suffer to be created or to exist any easement, right of way, restriction, covenant, condition, license or other right in favor of any Person which affect or might affect title to the TAD Project or the Highside Market Project or the use and occupancy thereof or any part thereof without obtaining the prior approval of Columbus (such approval not to be unreasonably withheld), other than easements and rights of ways customary for utilities which do not materially and adversely affect the use of the TAD Project or the Highside Market Project for its intended purposes.

Section 5.15 *Access to the Site.* Upon a minimum of five (5) days' notice from Columbus, Owner will permit persons designated by Columbus to access the Site and to discuss the status of the TAD Project and the Highside Market Project with representatives of Owner, all in such detail and at such times as Columbus may reasonably request. All such access must be during normal business hours and in a manner that will not unreasonably interfere with activities of the TAD Project, or the Highside Market Project or with Owner's business operations generally. Columbus must be accompanied by a representative of Owner during any access contemplated by this Section.

Section 5.16 *Owner's Delivery of Documents.* Owner shall deliver to Columbus the following:

(a) Most recent plat of the Site;

(b) Title Policy, including any Permitted Exceptions;

(c) Corporate Resolutions authorizing Owner to enter into this Agreement (see Section 3.1(b)); and

(d) Certification of the good standing of Owner from the Georgia Secretary of State; and Developer's most recent financial statements.

Section 5.17 *Developer's Delivery of Documents.* Developer shall deliver to Columbus the following:

(a) Corporate Resolutions authorizing Developer to enter into this Agreement (see Section 3.1(b)); and

(b) Certification of the good standing of Developer from the Georgia Secretary of State; and Developer's most recent financial statements.

Section 5.18 *Scope of Owner and Developer Commitments.* All representations, warranties and obligations of Owner and Developer hereunder shall be personal to Owner and Developer, and in no event shall Owner or Developer be deemed to be in default of any representation, warranty, or other obligation under this Agreement as a result solely of the noncompliance by any other property owner or occupant of a portion of a property located in the Uptown TAD with the terms of this Agreement; provided, however, if this Agreement is assigned pursuant to Section 9.5, any successor in interest to Owner or Developer shall be bound by all of the obligations of Owner or Developer, as the case may be, as set forth herein.

ARTICLE VI
DISBURSEMENT AND REIMBURSEMENT

Section 6.1 *Advances.*

(a) Owner, in its sole discretion as to timing and amount, may make or cause to be made Advances in connection with the TAD Project.

(b) Owner may submit Requisitions to Columbus for its review and approval for reimbursement for any such Advances as described in Section 6.2.

Section 6.2 *Disbursements.* Subject to compliance by Owner and Developer with all of the terms and conditions of this Agreement, the funds deposited into the Tax Allocation District #3 Fund will be available for disbursement to Owner for reimbursement of Advances in connection with the TAD Project at such times and in such amounts as determined (each a "Disbursement") in accordance with the following procedures:

(a) *Requisition:* Owner will submit a Requisition and invoice to Columbus annually. The Requisition will include (i) the TAD Project Budget and the itemized schedule of values prepared by the General Contractor, Owner, or Developer of the total Reimbursement Costs for which amounts on deposit in the Tax Allocation District #3 Fund are requested (the "Schedule of Values"), and (ii) all costs incurred for construction and non-construction expenses for the Reimbursement Costs from the date of the previous Requisition to the date of the current annual Requisition, which Reimbursement

Costs have been itemized under the applicable line items of the TAD Project Budget as set forth in Exhibit D-2. The accuracy of the cost breakdown in the Requisition must be certified by Owner, and hard construction costs must be certified by the General Contractor. The total Reimbursement Costs over the term of the agreement shall not exceed $1,984,269.00, and no annual requisition/invoice shall exceed $396,853.80.

(b) *Supporting Evidence*. All Requisitions must be accompanied by evidence in form and content reasonably satisfactory to Columbus (including, but not limited to, certificates and affidavits of Owner) showing:

(i) Copies of all bills or statements or canceled checks for any indirect or non-construction expense for which the Disbursement is requested (other than land valuation as set forth on Schedule D and construction interest);

(ii) That all construction has been conducted substantially in accordance with the Plans (and all changes thereto approved by Columbus or otherwise permitted pursuant to the terms hereof); and

(iii) That there are no liens outstanding against the TAD Project except for (A) those set forth in the Title Policy, (B) inchoate liens for property taxes not yet due and payable, (C) liens being contested in accordance with the terms and conditions set forth in applicable law, and (D) loans for the construction of the TAD Project.

(c) *City Review*. The construction for which Reimbursement Costs are included in any Requisition must be reviewed and approved by Columbus or its appointed consultant to verify the approval of the construction, the cost of completed construction, and compliance with the Plans.

(d) *Requisition Term*. Notwithstanding anything to the contrary herein, in no event will Tax Allocation Increment applicable to periods beyond fifteen (15) years after the effective date of this Agreement be used to satisfy outstanding balances due Owner, if any. Obligations due Owner under this Agreement will terminate upon the earlier to occur of (i) the satisfaction of all amounts due Owner as listed in Schedule D-1 or (ii) fifteen (15) years after the effective date of this Agreement.

Section 6.3 *Limited Liability.*

(a) The payment of all obligations required by be paid by Columbus under this Agreement shall be special or limited obligations of Columbus payable only from the Tax Allocation District #3 Fund. Columbus will have no liability to honor any Requisition except from amounts on deposit in the Tax Allocation District #3 Fund.

(b) To the extent permitted by State law, no director, officer, employee or agent of Columbus will be personally responsible for any liability arising under or growing out of the Agreement.

(c) Columbus will not be obligated to disburse any funds to any person under this Agreement other than as directed by Owner or as otherwise permitted under this Agreement.

(d) The maximum term of the Agreement shall not exceed fifteen (15) years from its effective date, and its total liability under the Agreement will not exceed the Reimbursement Costs of $1,984,269.00.

Section 6.4 *Reimbursement.* Provided that there is positive Tax Allocation Increment in the Tax Allocation District #3, properly requisitioned and invoiced Reimbursement Costs will be reimbursed in five annual payments subject to the following conditions:

(a) *Annual Payments*. To the extent that it is available in the Tax Allocation District #3 Fund after the deduction of administrative costs, Columbus shall provide funding to Owner with annual payments in the amount of up to $396,853.80 as set forth on Schedule F for all amounts supported by an approved Requisition. Each year, Owner shall provide a Requisition for any additional costs incurred since the approval of the previous requisition and invoice for the total requested annual payment to the Finance Director. Provided, however, in the event that other Tax Allocation District #3 projects are also entitled to scheduled funding in the same year, and the funds are inadequate to make all scheduled payments after the deduction of administrative expenses, then each project shall receive its proportionate share based on the amount its scheduled payment due that year bears to the total amount of scheduled payments due that year for all projects. For any year in which the Tax Allocation District #3 Fund is insufficient to make the full annual payment due Owner, a shortfall shall accrue to the Owner in the amount of the deficiency ("Accrued Shortfall").

(b) If an Accrued Shortfall exits at the conclusion of the five (5) year schedule set forth in Exhibit F, then Owner will be allowed to recoup up to $396,853.80 of the Accrued Shortfall each year for ten (10) additional years until the shortfall is satisfied. Owner will submit an annual invoice claiming the Accrued Short Fall until the Short Fall is satisfied or the expiration of ten years whichever occurs first. Each annual invoice to recoup an Accrued Shortfall will be treated on the same proportionate basis as all scheduled project payments due in that particular year.

(c) *Forfeiture*. Notwithstanding anything herein to the contrary, if, following the conclusion of the fifteenth year of payments from the Tax Allocation District #3 Fund on the basis set forth above, Owner shall forfeit any amounts set forth in Schedule F that have not been recouped in accordance with the terms set forth above by that date.

ARTICLE VII
INDEMNIFICATION

Section 7.1 *Indemnification.* Owner and Developer will defend, indemnify, and hold Columbus and its agents, employees, officers, and legal representatives (collectively, the "Indemnified Persons") harmless for all claims, causes of action, liabilities, fines, and expenses (including, without limitation, reasonable attorneys' fees, court costs, and all other defense costs and interest) (collectively, the "Losses") for injury, death, damage, or loss to persons or property sustained in connection with or incidental to the construction of the TAD Project. Notwithstanding anything to the contrary in this Article, (a) Owner and Developer's indemnification obligation under this Article is limited to the greater of $3,000,000.00 or the policy limits available under the insurance policies required under Section 5.10; (b) Owner and Developer will not be obligated to indemnify any Indemnified Person for the Indemnified Person's own gross negligence, recklessness, or intentional act or omission.

Section 7.2 *Notice of Claim.* If an Indemnified Person receives notice of any claim or circumstance which could give rise to Losses, the receiving party must give written notice to Owner within ten (10) business days. The notice must include a description of the indemnification event in reasonable detail, the basis on which indemnification may be due, and the anticipated amount of the

Losses. Such notice will not stop or prevent an Indemnified Person from later asserting a different basis for indemnification or a different amount of Losses than that indicated in the initial notice. If an Indemnified Person does not provide this notice within the ten business-day period, it does not waive any right to indemnification except to the extent that Owner is prejudiced, suffers loss, or incurs expense because of the delay.

Section 7.3 *Defense.* Owner may assume and control the defense of the claim based on the Losses at its own expense with counsel chosen by Owner with the concurrence of the Indemnified Person. Owner will also control any negotiations to settle the claim. Within ten (10) business days after receiving written notice of the indemnification request, Owner will advise the Indemnified Person as to whether or not it will defend the claim. If Owner does not assume the defense, the Indemnified Person will assume and control the defense and all defense expenses actually incurred by it will constitute Losses.

Section 7.4 *Separate Counsel.* If Owner elects to defend a claim, the Indemnified Person may retain separate counsel, at the sole cost and expense of such Indemnified Person, to participate in (but not control or impair) the defense and to participate in (but not control or impair) any settlement negotiations. Owner may settle the claim without the consent or agreement of the Indemnified Person, unless the settlement (i) would result in injunctive relief or other equitable remedies or otherwise require the Indemnified Person to comply with restrictions or limitations that adversely affect the Indemnified Person, (ii) would require the Indemnified Person to pay amounts that Owner does not fund in full, or (iii) would not result in the Indemnified Person's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

Section 7.5 *Survival.* The provisions of Article VII will remain in effect until the later of i) the expiration of two (2) years after certification of completion of the TAD Project or ii) the termination of Columbus' obligation to make payments under this Agreement

ARTICLE VIII
DEFAULT

Section 8.1 *Default by Owner or Developer.*

(a) Until delivery of the certificates of completion for the TAD Project contemplated in Section 4.1, the following will constitute a Default by Owner or Developer, as the case may be:

(i) Failure of Owner or Developer to materially and timely comply with and perform any of its covenants, conditions, or obligations set forth in this Agreement; or

(ii) An Act of Bankruptcy of Owner or Developer.

(b) Until two (2) years after delivery of the certificates of completion for the TAD Project contemplated in Section 4.1, the following will constitute a Default by Owner or Developer:

(i) Any material representation or warranty made by Owner or Developer in this Agreement or subsequently made by it in any written statement or document furnished to Columbus and related to the transactions contemplated by this Agreement is false, incomplete, inaccurate, or misleading in any material respect as of the date such representation or warranty is made; or

(ii) Any material report, certificate, or other document or instrument furnished to Columbus by Owner or Developer in relation to the transactions contemplated by this Agreement is false, inaccurate, or misleading in any material respect; or if any report, certificate, or other document furnished to Columbus on behalf of Owner or Developer , to the extent that Owner or Developer knows such document is false, inaccurate, or misleading and fails to promptly report such discrepancy to Columbus.

Section 8.2 *Remedies.* If a default by Owner or Developer occurs and is continuing thirty (30) days after receipt of written notice to the defaulting party from Columbus specifying the existence of such default (or within a reasonable time thereafter if such default cannot reasonably be cured within such 30-day period, and Owner or Developer, as the case may be, begins to diligently pursue the cure of such default within such 30-day period), the default will become an "Event of Default," and Columbus will be entitled to elect any or all of the following remedies:

(a) Subject to the final sentence in this Section, terminate this Agreement and discontinue further funding hereunder;

(b) Seek any remedy at law or in equity that may be available as a consequence of Owner or Developer's default;

(c) Pursue specific performance of this Agreement or injunctive relief; or

(d) Waive such Event of Default.

Upon termination of this Agreement as provided in this Section, none of the parties hereto will have any further rights, duties, or obligations hereunder except that all amounts due to Owner for unreimbursed Advances will continue to be payable to Owner under the terms of this Agreement.

Section 8.3 *Remedies Cumulative.* Except as otherwise specifically provided, all remedies of the parties provided for herein are cumulative and will be in addition to any and all other rights and remedies provided for or available hereunder, at law or in equity.

Section 8.4 *Agreement to Pay Attorneys' Fees and Expenses.* In the event of an Event of Default by Owner or Developer, if Columbus employs attorneys or incurs other expenses for the collection of amounts due hereunder or for the enforcement of the performance or observance of any covenants or agreements on the part of Owner or Developer contained herein, Owner and Developer agree that each will on demand therefor pay to Columbus, as applicable, the reasonable fees of such attorneys and such other reasonable expenses so incurred by Columbus, the amount of such fees of attorneys to be without regard to any statutory presumption.

Section 8.5 *Default by Columbus.* The following will constitute a default by Columbus: Any material breach by it of any representation made in this Agreement or any material failure by it to observe and perform any covenant, condition or agreement on its part to be observed or performed hereunder, for a period of thirty (30) days after written notice specifying such breach or failure and requesting that it be remedied, given to it by Owner; provided that in the event such breach or failure can be corrected but cannot be cured within said 30-day period, the same will not constitute a default hereunder if corrective action is instituted by the defaulting party or on behalf of the defaulting party within said 30-day period and is being diligently pursued.

Section 8.6 *Remedies Against Columbus.* Upon the occurrence and continuance of a default by Columbus hereunder, Owner may seek specific performance of this Agreement or pursue any other remedies available at law or in equity.

ARTICLE IX
MISCELLANEOUS

Section 9.1 *Term of Agreement.* This Agreement will commence on the Effective Date and will terminate on the earlier to occur of the date on which all Reimbursement Costs for the TAD Project have been fully reimbursed to Owner as listed in Schedule D-1 from the Tax Allocation District #3 Fund or fifteen (15) years after the Effective Date.

Section 9.2 *Notices.* Any notice sent under this Agreement (except as otherwise expressly required) must be written and mailed or sent by overnight courier or personally delivered to an officer of the receiving party at the following addresses:

If to Owner:

211 13th, LLC
Attn: Christopher S. Woodruff
P.O. Box 1601
Columbus, Georgia 31902

If to Developer:

Cotton Development, LLC
Attn: Christopher S. Woodruff
P.O. Box 1601
Columbus, Georgia 31902

With a copy to:

Morgan & Lyle, P.C.
Attn: Alston E. Lyle
P.O. Box 2056
Columbus, GA 31902

If to Columbus:

City Manager
100 10th Street
Columbus, GA 31901

With copies to:

City Attorney
100 10th Street
Columbus, Georgia 31901

Finance Director
100 10thStreet
Columbus, Georgia 31901

Each party may change its address by written notice in accordance with this Section. Any communication addressed and mailed in accordance with this Section will be deemed to be given when so mailed, and any communication so delivered in person will be deemed to be given when receipted for by, or actually received by the party identified above.

Section 9.3 *Amendments and Waivers.* Any provision of this Agreement may be amended or waived if such amendment or waiver is in writing and is signed by the parties hereto. No course of dealing on the part of any party to this Agreement, nor any failure or delay by any party to this Agreement with respect to exercising any right, power, or privilege hereunder will operate as a waiver thereof.

Section 9.4 *Invalidity.* In the event that any provision of this Agreement is held unenforceable in any respect, such unenforceability will not affect any other provision of this Agreement.

Section 9.5 *Successors and Assigns.* Owner and Developer may not assign this Agreement or any of their rights hereunder or any interest herein without the prior written consent of Columbus, provided that Owner or Developer may, without the prior consent of Columbus, assign this Agreement and all or any portion of its rights hereunder and interests herein to:

(i) Any Affiliate of it or to any entity which controls, is controlled by or under common control with it;
(ii) Any purchaser of more than 60% of the total acreage of the Highside Market Project;
(iii) Any lender providing financing for all or any part of the Highside Market Project; or
(iv) The Georgia limited liability company, Highside Market, LLC.

Owner or Developer will provide written notice to Columbus of any such assignment. Upon any such assignment of the obligations of Owner or Developer hereunder, the assigning party will be deemed released from such obligations, and the assignor shall assume all of Owner or Developer's rights, interests, obligations, representations, and warranties pursuant to this Agreement. Notwithstanding the above, Owner and Developer may collaterally assign this Agreement and its rights hereunder and interest herein, without the consent of Columbus, to a lender to secure any acquisition, development, or loan for the TAD Project or the Highside Market Project.

Section 9.6 *Schedules; Titles of Articles and Sections.* The Schedules attached to this Agreement are incorporated herein and will be considered a part of this Agreement for the purposes stated herein, except that in the event of any conflict between any of the provisions of such Schedules and the provisions of this Agreement, the provisions of this Agreement will prevail. All titles or headings are only for the convenience of the parties and may not be construed to have any effect or meaning as to the agreement between the parties hereto. Any reference herein to a Section or subsection will be considered a reference to such Section or subsection of this Agreement unless otherwise stated. Any reference herein to a Schedule will be considered a reference to the applicable Schedule attached hereto unless otherwise stated.

Section 9.7 *Applicable Law.* This Agreement is a contract made under and will be construed in accordance with and governed by the laws of the United States of America and the State of Georgia.

Venue shall be in Columbus, Georgia.

Section 9.8 *Entire Agreement.* This written agreement represents the final agreement between the parties and may not be contradicted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements between the parties.

Section 9.9 *Approval by the Parties.* Whenever this Agreement requires or permits approval or consent to be hereafter given by any of the parties, the parties agree that such approval or consent may not be unreasonably withheld, conditioned or delayed, and will be deemed given if no written objection is delivered to the requesting party within ten (10) business days after delivery of the request to the approving party.

Section 9.10 *Additional Actions.* The parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed as of the ___ day of ____________, 2021.

COLUMBUS, GEORGIA

By:______________________________
Its: City Manager

Attest: __________________________
Its: Clerk of Council

211 13TH, LLC

By: Cotton QO Fund, LLC, a Georgia limited liability company, its Manager

By: ___________________________________
Christopher S. Woodruff, its Manager

Cotton Development, LLC

By: ___________________________________
Christopher S. Woodruff, its President

SCHEDULE A-1
Site Description

All that lot, tract or parcel of land situate, lying and being in Columbus, Muscogee County, Georgia, being known and designated as **"PARCEL 201, 1.69± AC",** as said lot appears upon a map or plat entitled **"Survey of Parcel 101, Replat of City Lots 343, 344, 345 & Part of City Lot 346, Columbus, Muscogee County, Georgia for 211 13th LLC",** dated June 30, 2020, prepared by Haralson & Adams, Registered land Surveyors, recorded in **PLAT BOOK 166, FOLIO 187,** of the records in the Office of the Clerk of the Superior Court of Muscogee County, Georgia, to which reference is made for the specific location and dimensions of said parcel.

SCHEDULE A-2
Site Plan

[INSERT SITE PLAN]

SCHEDULE B-1

Highside Market Project Description

A new mixed-use, urban infill redevelopment project expanded to include three (3) total buildings comprised of retail, restaurant, office space, and public gathering areas. Combined, all three (3) properties will have 20,000 square feet of retail and 10,300 square feet of office space.

SCHEDULE B-2

TAD Project Description

TAD funds will enable Owner to design and implement improvements to include ADA accessible sidewalks and bus stops, outdoor greenspaces for public gathering, stormwater and drainage improvements, public parking infrastructure, and connection of sidewalks to Dragon Fly Trail. TAD funds will also be used toward the infrastructure required for creating 57 onsite parking spaces and thoughtfully designed outdoor public gathering spaces.

SCHEDULE C-1

Highside Market Project Schedule

Schedule C-1 and Schedule C-2 are incorporated in one schedule for convenience.

[See attachment]

SCHEDULE C-2

TAD Project Schedule

Schedule C-1 and Schedule C-2 are incorporated in one schedule for convenience.

[See attachment]

SCHEDULE D-1

Highside Market Project Budget

Development Costs/Sources	**Amount**	**% of Total**
Land Costs	$1,675,000.00	13.02%
Hard Costs	$9,473,360.00	73.65%
Soft Costs	$1,362,939.00	10.60%
Financing Costs	$351,289.00	2.73%
Total Costs	$12,862,588.00	100%

SCHEDULE D-2

TAD Project Budget

Development Costs/Sources	Amount	% of Total
Construction Costs + Contingency	$1,389,287.00	70.02%
Right of Way Improvements	$509,882.00	25.70%
Landscaping Design	$41,100.00	2.07%
TAD Design Fee	$44,000.00	2.21%
Total Costs	$1,984,269.00	100.00%

SCHEDULE E

Tax Allocation Increment Highside Market Estimate

Year	Tax Increment
Dec 1, 2022	$128,096.76
Dec 1, 2023	$134,219.12
Dec 1, 2024	$134,219.12
Dec 1, 2025	$140,586.39
Dec 1, 2026	$140,586.39
Dec 1, 2027	$147,208.34
Dec 1, 2028	$147,208.34
Dec 1, 2029	$154,095.17
Dec 1, 2030	$154,095.17
Dec 1, 2031	$161,257.48
Dec 1, 2032	$161,257.48
Dec 1, 2033	$168,706.27
Dec 1, 2034	$168,706.27
Dec 1, 2035	$176,453.02
Dec 1, 2036	$176,453.02

SCHEDULE F

Projected Schedule of Payments

Payment Date	Amount
December 15, 2021	$396,853.80
December 15, 2022	$396,853.80
December 15, 2023	$396,853.80
December 15, 2024	$396,853.80
December 15, 2025	$396,853.80
Total	$1,984,269.00