

**CITY OF NEW PORT RICHEY, FLORIDA
COMMUNITY REDEVELOPMENT AGENCY COMMERCIAL REAL ESTATE
REDEVELOPMENT GRANT AGREEMENT**

THIS COMMERCIAL REAL ESTATE REDEVELOPMENT GRANT AGREEMENT (hereinafter "Agreement") is entered into this ____ day of _____ 2022, by and between the **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF NEW PORT RICHEY, FLORIDA**, a public body corporate and politic of the State of Florida created pursuant to Part III, Chapter 163, Florida Statutes (hereinafter "Agency"), and **NEW PORT RICHEY HOTEL GROUP, LLC** (hereinafter "Recipient"), of and pertaining to 6206 U.S. Highway 19, New Port Richey, FL 34652, as legally described herein (hereinafter "Property").

WITNESSTETH

WHEREAS, Agency has implemented a Commercial Real Estate Redevelopment Grant Program to provide for the acquisition, repair, renovation and improvements of distressed commercial properties to owners and tenants of the commercial property to, acquire, improve, reconstruct, redevelop and/or rehabilitate such real property in certain areas of the Community Redevelopment Area (hereinafter "CRA");

WHEREAS, this program has been established to assist owners and tenants of non-residential structures or properties within the New Port Richey community redevelopment district;

WHEREAS, said reconstruction program provides Recipient with a reimbursement for the acquisition, repair, construction or rehabilitation costs and rental payments, if applicable, based on the reimbursement and other parameters of the Grant program;

WHEREAS, Recipient has applied for and been approved by Agency to receive certain non-residential structures or properties program funds for the acquisition, repair, improvement, reconstruction, redevelopment and/or rehabilitation of the Property (legally described in Attachment "D" hereof), and lease payments, if applicable, pursuant to the CRA Commercial Real Estate Redevelopment Grant Application submitted by the Recipient (hereinafter "Application"), a copy of which is attached hereto as Attachment "A" and incorporated herein by reference;

WHEREAS, as a result of Agency accepting and approving Recipient's Application, Agency and Recipient desire to enter into this Agreement so that Agency may reimburse Recipient for those costs and expenses which Agency deems eligible for reimbursement;

WHEREAS, Recipient shall initially pay for costs and expenses incurred in performing the scope of work on the Project (as hereinafter defined) and lease payments, if applicable; and thereafter, provided Recipient performs the covenants, duties, obligations and provisions contained herein, Agency shall reimburse Recipient for those pre-approved amounts listed and described herein; and

WHEREAS, Agency and Recipient desire to enter into this Agreement in order to define each party's duties and obligations with respect to the use of the Program Funds (as hereinafter defined) to be provided by Agency.

NOW, THEREFORE, upon the mutual covenants and conditions hereof, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

(1) **RECITALS**. The recitals stated above are true, accurate and correct and are incorporated herein by this reference.

(2) **TERM OF AGREEMENT**. This Agreement shall be effective upon execution and continue until fully performed by the parties on the terms set forth herein.

(3) **APPLICATION**. The Application submitted by Recipient for grant funding assistance and valid cost estimates, by a licensed contractor, shall be an integral part of this Agreement. The Application submitted complies with all the parameters of the CRA Commercial Real Estate Redevelopment Matching Grant Program and CRA Plan, a copy of the Grant program is attached hereto as Attachment "B" and incorporated herein by this reference.

(4) **SCOPE OF THE PROJECT**. Recipient shall fully perform and/or construct all of the improvements, reconstruction, redevelopment and/or rehabilitation of the Property as listed and described in Attachment "C", attached hereto and incorporated herein by this reference, in accordance with the scope of work described therein (hereinafter "Project"). Also listed and described on Attachment "C", attached hereto, is a list of reimbursable costs and the amount of the grant to be paid to Recipient (hereinafter the "Project Funds"), provided Recipient performs and/or constructs the Project in accordance with all of the terms and conditions contained herein. Recipient shall not deviate from the Project and the terms and conditions of this Agreement.

(5) **COMPLIANCE WITH APPLICABLE LAWS**. Recipient shall comply with any and all applicable codes and standards in performing the approved scope of work for which Agency is providing the subject funding. The Project shall be constructed and the Project Funds shall be paid in accordance with the requirements of Chapter 163, Florida Statutes, pertaining to community redevelopment agencies.

(6) **GRANT FUNDING**. The payment of Program Funds is contingent upon the same being budgeted and appropriated by Agency and the City of New Port Richey, Florida as required by law. This Agreement shall automatically be terminated upon the failure of Agency or the City of New Port Richey, Florida to budget and appropriate the necessary funds to fund this Agreement. Upon such termination, any Program Funds already budgeted and appropriated shall be disbursed in accordance with the terms hereof. Nothing contained in this Agreement shall be deemed to require Agency or the City of New Port Richey, Florida to budget or appropriate any funds for this Agreement. Recipient acknowledges that available grant funds are dependent up Agency and City of New Port Richey, Florida budget approval and appropriation, and there is no guarantee that Program Funds will be available in subsequent fiscal years.

(7) **AMOUNT OF GRANT.** Agency shall provide grant funding assistance in the amount of Two Hundred Fifty Thousand and 00/100 Dollars (\$250,000.00) to Recipient (hereinafter "Program Funds"), as provided herein. The aforesaid Program Funds shall be payable as Project expenditure reimbursements, payable in installments determined by Agency, prior to completion of the Project, upon Agency's approval thereof and Agency's appropriation of the funds in its budget. The amount of Program Funds is based upon a total expenditure of Project costs by Recipient in the amount of \$2,500,000.00 (hereinafter "Required Expenditures"). To the extent that Recipient fails to expend the full amount of Required Expenditures, the Program Funds for Project cost reimbursement shall be reduced by the percentage of the difference of actual Project expenditures and the Required Expenditures, and the installment payments shall be reduced, accordingly.

(8) **PAYMENT OF COSTS.** Recipient shall pay all of the costs and expenses associated with the implementation and construction of the Project, despite any changes, delays, or overages occurring in or to the Project, and despite any other cause that might otherwise delay or prevent the Project from being completed. Recipient shall pay all costs through the acquisition of its own construction loan, equity loan, mortgage, or other type of funding, including without limitation, cash. To the extent the subject grant includes lease payment reimbursements, Recipient shall pay all rent payments for the Property prior to be reimbursed for the same by Agency.

(9) **REIMBURSEMENT OF AGENCY.** Subject to the covenants, duties, obligations, and provisions contained herein, Agency shall pay all of the reimbursable costs listed on Attachment "C", in accordance with the Grant Funding Category, as approved by Agency prior to completion of the Project, in the sole and absolute discretion of Agency. In the event the costs of the Project exceed the amount budgeted and appropriated, or the amount listed on Attachment "C", Recipient shall pay all such costs and expenses over said amount to properly complete the Project. Recipient shall be obligated to repay Agency all Program Funds paid by Agency in the event Recipient fails to provide all of the following to Agency, to the satisfaction of Agency:

- (a) Satisfactory completion of the Project in compliance with the terms of this Agreement, consistent with the final approval of Agency and issuance of a certificate of occupancy by the City of New Port Richey, Florida (hereinafter "Certificate of Occupancy");
- (b) The submittal of required receipts, invoices, affidavits and other appropriate documentation by Recipient to Agency, showing that all financial obligations as to the improvements or construction have been satisfied, as well as the invoices for all fees or other compensation for services, expenses or costs submitted in detail sufficient for a proper pre-audit and post-audit thereof; and
- (c) Submission of photographs of the improved area or areas and a final inspection by Agency.

(10) **MAINTENANCE OF IMPROVEMENTS.** Recipient shall maintain all grant funded improvements for a period of five (5) years. If any of the grant funded improvements are removed, demolished, intentionally or by neglect, or Recipient fails to maintain the renovations and improvements during the five-year period following receipt of the grant funds, Recipient shall

repay the grant funds to Agency, within thirty (30) days of notice thereof by Agency in the following amounts during the following time periods:

<u>Time</u>	<u>Amount Due CRA</u>
0 to one (1) year after grant funds received	90%
One (1) to two (2) years after grant funds received	80%
Two (2) to three (3) years after grant funds received	60%
Three (3) to four (4) years after grant funds received	40%
Four (4) to five (5) years after grant funds received	20%
Five (5) years after grant funds received	0%

(11) **RECORDS MANAGEMENT.** All original records pertinent to this Agreement shall be retained by Recipient for three (3) years following the date of termination of this Agreement or of submission of the final close-out report by Agency, whichever is later.

- (a) Notwithstanding the foregoing, if any litigation, claim or audit is commenced before the expiration of the three (3) year period and extends beyond the three (3) year period, the records shall be maintained until all litigation, claims or audit findings involving the records have been resolved.
- (b) All records, including supporting documentation of all program costs, shall be sufficient to determine compliance with the requirements and objectives of the budget and scope of work - Attachment "C" - and all other applicable laws and regulations.
- (c) Recipient, and its agents, including all subcontractors or consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to Agency and/or its employees and agents. "Reasonable" shall be construed according to the circumstances but ordinarily shall mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, on Monday through Friday. "Agents" shall include, but not be limited to, auditors retained by Agency or the City of New Port Richey, Florida.

(12) **PUBLIC RECORDS.** Upon request from Agency's custodian of public records, Recipient shall provide Agency a copy of any requested public records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in the Florida Public Records Act or as otherwise provided by law. Recipient shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if Recipient does not transfer the records to the Agency. Upon completion of this Agreement, Recipient shall transfer, at no cost to the Agency, all public records in the possession of Recipient or keep and maintain public records required by the Agency to perform the services provided in this Agreement. If Recipient transfers all public records to the Agency upon completion of this Agreement, Recipient shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Recipient keeps and maintains public records upon completion of this Agreement, Recipient shall meet all applicable requirements for retaining public records. All records stored electronically

must be provided to Agency, upon request from Agency's custodian of public records, in a format that is compatible with the information technology systems of Agency.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (727) 853-1024, MANNSD@CITYOFNEWPORTRICHEY.ORG, AND 5919 MAIN STREET, NEW PORT RICHEY, FLORIDA 34652.

(13) **STATUS REPORTS.** During the term of this Agreement and any renewals thereof, Recipient shall be responsible for proving to Agency that the Project has been, or is in the process of being, completed in accordance with the provisions contained herein and in such proportions that completion of the entire project will occur within the Term of this Agreement or any approved extension thereof.

- (a) Recipient shall provide Project progress reports to Agency as reasonably requested, and Agency may require reports as needed; and
- (b) Agency may terminate the Agreement if reports are not received within thirty (30) days after the date upon which such reports are requested.

(14) **MONITORING.** Recipient shall constantly monitor its performance under this Agreement to ensure that time schedules are being met, the scope of work is being accomplished within specified time periods, and other performance goals are being achieved.

- (a) The foregoing review shall be made for each function, or activity set forth in Attachment "C" to this Agreement, and the terms and conditions of this Agreement.
- (b) Agency may perform on-site or other types of Project monitoring as it deems necessary. Should activities or deliverables be found to be insufficient in meeting the stated terms of this Agreement, Agency may request explanations, amendments or further specifications to the submitted report to which Recipient shall promptly respond.

(15) **SUBCONTRACTS.** If Recipient subcontracts any of the work required under this Agreement, the following shall apply:

- (a) Recipient shall include in the subcontract that the subcontractor shall hold Agency and Recipient harmless against all claims of whatever nature arising out of the subcontractor's performance of work under this Agreement; and
- (b) No subcontract shall relieve Recipient of its responsibilities to ensure that all funds issued pursuant to this Agreement are administered in accordance with all state and federal requirements, and this Agreement.

(16) **LEGAL AUTHORIZATION.** Recipient certifies that it possesses the legal authority to receive the funds to be provided under this Agreement. Recipient also certifies that the undersigned possesses the authority to legally execute and bind Recipient to the terms of this Agreement and that the undersigned are all persons having, legal or equitable title to the Property on which the Project is being performed.

(17) **REPRESENTATIONS AND WARRANTIES.** Recipient represents and warrants that:

- (a) The Property proposed for assistance from Agency pursuant to this Agreement is currently covered by a hazard insurance policy, a flood insurance policy if the Property is located in a required flood zone, and a construction risk insurance policy, and shall remain so insured as a condition of receipt of this assistance;
- (b) Recipient shall only use design and construction methods and materials that are approved, codified, recognized, fall under standard or acceptable levels of practice, or otherwise are determined to be generally acceptable by the design and construction industry and as approved under any requirement of the State of Florida or the City of New Port Richey, Florida;
- (c) In performing the scope of work, Recipient shall ensure performance of all activities described in Attachment "C", to the satisfaction of Agency, in Agency's sole discretion;
- (d) Hazardous and toxic materials, if present at any location where the Project will be performed, are at levels within regulatory limits and do not trigger any enforcement action required by Federal, State or local laws or regulations;
- (e) Hazardous waste, as defined in Section 40 Code of Federal Regulations, shall be handled in a manner which meets all federal, state and local laws and regulations;
- (f) The presence of any condition(s) or material(s) on site, which is subject to federal, state or local environmental laws and regulations (including but not limited to above ground or underground storage tanks or vessels, asbestos, pollutants, irritants, pesticides, contaminants, petroleum products, waste, chemicals and septic tanks), shall be handled and disposed of in accordance with the pertinent requirements;
- (g) Upon the commencement date, there are no violations of record or threatened against the structure or Property where the Project is to be performed and that the said structure and Property is in compliance with all applicable City Codes; and
- (h) Recipient acknowledges and agrees, at its own expense, to promptly comply with all requirements of any legally constituted public authority made necessary by reason of Recipient's use of said Project Funds.

(18) **INSURANCE.** At all times during the effectiveness of this Agreement, the Property and the structure on which the scope of work for the Project is to be performed shall be covered by a hazard insurance policy, in an amount equivalent to the value of the Property and any improvements thereon, as well as a flood insurance policy if the Property is located in a required flood zone, and a construction risk insurance policy, if required, and shall remain so insured as a condition of receipt of any reimbursement contemplated herein. Said insurance policy or policies shall:

- (a) Name Agency as an additional insured;
- (b) Be issued by an insurance company which is acceptable to Agency and licensed to do business in the state of Florida and ruled A VII or better by A.M. Best Company; and
- (c) Provide that said insurance shall not be cancelled unless thirty (30) days prior written notice shall have been received by Agency.

In the event the insurance coverage expires prior to the termination of this Agreement, a renewal certificate shall be issued thirty days prior to said expiration date.

(19) **DEFAULT, REMEDIES, TERMINATION.**

- (a) Upon the occurrence of any of the Events of Default, all obligations on the part of Agency to make any payment of funds hereunder shall terminate, if Agency so elects, and Agency may at its option exercise any of its remedies set forth herein. Notwithstanding the foregoing, Agency may make any payments after any Events of Default without thereby waiving the right to exercise such remedies, and without becoming liable to make any further payment. The aforesaid Events of Default include, without limitation, the following:
 - (i) If any warranty or representation made by Recipient in this Agreement or any previous Agreement with Agency shall at any time be false or misleading in any respect, or if Recipient shall fail to keep, observe or perform any of the terms or covenants contained in this Agreement or any previous agreement with Agency, and has not cured such in a timely fashion, or is unable or unwilling to meet its obligations thereunder;
 - (ii) If funds for the Project from any lender or other source are not received by Recipient because of defaults in the mortgages, construction loan agreements or other loan documents used for Recipient's funding of the Project;
 - (iii) If any Reports required by this Agreement have not been submitted to Agency or have been submitted with incorrect, incomplete or insufficient information;
 - (iv) If Recipient has failed to perform and complete in a timely manner

any of the Project work required under the scope of work attached hereto as Attachment "C";

- (v) If Recipient fails to obtain the certificate of occupancy for the completion of the Project within the Term of this Agreement or any approved extension thereof;
 - (vi) If Recipient sells, transfers or conveys the Property within three (3) years of the issuance of the Certificate of Occupancy for the Project, or if Recipient is a tenant and fails to lease the Property for a period of at least three (3) years;
 - (vii) If the ownership or managers of Recipient or its manager is changed within three (3) years of the issuance of the Certificate of Occupancy for the Project;
 - (viii) If Recipient commits any misrepresentation in the grant application, misuses any funds, commits fraud, fails to comply with applicable rules, laws and regulations, fails to perform in a timely manner, or fails to permit public access to any document, paper, letter, or other material forming part of the Project documents; or
 - (ix) If Recipient fails to pay any amounts due under this Agreement when due.
- (b) Upon any Event of Default, Agency may, at its option, exercise any one or more of the following remedies, either concurrently or consecutively, and the pursuit of any one of the following remedies shall not preclude Agency from pursuing any other remedies contained herein or otherwise provided at law or in equity:
- (i) Terminate this Agreement, provided that Recipient is given at least fifteen (15) days prior written notice of such termination. The notice shall be effective when placed in the United States mail, first class mail, postage prepaid, by registered or certified mail-return receipt requested, to the address set forth in paragraph (26) herein;
 - (ii) Commence an appropriate legal or equitable action to enforce performance of this Agreement;
 - (iii) Withhold or suspend payment of all or any part of a request for payment of Project Funds;
 - (iv) Recover from Recipient any Project Funds paid to Recipient, together with interest at the maximum rate allowed by law, for which Agency shall have a lien against the Property, unless Recipient is a tenant, along with any other damages, attorneys' fees and court costs as provided herein, which shall be enforceable through an action for damages and foreclosure;

- (v) Exercise any corrective or remedial actions, to include but not limited to, requesting additional information from Recipient to determine the reasons for or the extent of noncompliance or lack of performance; or
- (vi) Exercise any other rights or remedies which may be otherwise available under law.
- (c) This Agreement may be terminated by the written mutual consent of the parties.
- (d) Notwithstanding the foregoing, Recipient shall not be relieved of liability to Agency by virtue of any breach of this Agreement by Recipient. Agency may withhold any payments to Recipient, from this or any other agreement between Recipient and Agency, for purpose of set-off until such time as the exact amount of damages due Agency from Recipient is determined.

(20) **LIABILITY.** Recipient agrees to be fully responsible for its own negligent acts or omissions or tortious acts, and those of its successors, assigns, agents, employees, invitees, contractors, subcontractors, or independent contractors. Nothing herein shall be construed as consent by Agency to be sued by third parties in any matter arising out of any contract.

(21) **INCORPORATION OF LAW, RULES, REGULATIONS AND POLICIES.** The parties shall be governed by applicable local, state and federal laws, rules, regulations and agreements.

(22) **ATTACHMENTS.**

- (a) All attachments to this Agreement are incorporated herein as if set out fully herein.
- (b) In the event of any inconsistencies or conflict between the language of this Agreement and the attachments hereto, the language of such attachments shall be controlling, but only to the extent of such conflict or inconsistency.
- (c) This Agreement has the following attachments:

Attachment "A"	Application;
Attachment "B"	CRA Commercial Real Estate Redevelopment Grant Program Parameters;
Attachment "C"	Approved Project / Scope of Work / Reimbursable Costs & Amounts/Current photographs of project location; and
Attachment "D"	Legal description of Property.

(23) **VALIDITY, ACCURACY.** The validity of this Agreement is subject to the truth and accuracy of all the information, representations, and materials submitted or provided by Recipient, in the Application, in any subsequent submission or response to any Agency request,

or in any submission or response to fulfill the requirements of this Agreement, and such information, representations, and materials are incorporated by reference.

(24) **FORCE MAJEURE.** If the structure on which the Project is to be performed is partially or totally destroyed or rendered partially or fully untenable by storm, fire, lightning, earthquake, hurricane, or other casualty prior to completion of the Project, Agency may retain any Project Funds not then yet paid to Recipient.

(25) **LIMITATION OF LIABILITY.** None of the provisions of this Agreement shall cause Agency to be liable to Recipient, or anyone claiming by, through or on behalf of Recipient, for any special, indirect or consequential damages, including, without limitation, lost profits or revenues. In no event shall any individual, employee, council member, director or agent of Agency, or any other similar party, be held liable to Recipient, or anyone claiming by, through or under Recipient, for the performance of or by Agency or Recipient under this Agreement, or any amendment or modification hereto.

(26) **INDEPENDENT CONTRACTOR / EMPLOYEE.** At no time shall Recipient be, or be deemed to be, an employee or agent of Agency. All persons hired or employed by or under contract for services with Recipient, or who are subject to the supervision of a general contractor or other similar person, including but not limited to, all employees, agents, contractors, subcontractors, independent contractors, helpers, volunteers, members, successors and assigns of Recipient or Recipient's general contractor, shall not be considered or construed to be employees of Agency either.

(27) **INDEMNIFICATION.** Recipient shall indemnify and hold Agency and its employees, agents, officers and directors harmless from and against any and all claims, demands, causes of action or lawsuits of any kind or character arising directly or indirectly from the operation or performance of this Agreement. Said indemnification includes, but is not limited to, claims, demands, causes of actions, lawsuits for damages or injuries to goods, wares, merchandise and property, and/or for any bodily or personal injury or loss of life in, upon or about the Property and the area immediately surrounding the Property that Recipient uses in connection with the performance of this Agreement. Recipient shall investigate, handle, provide defense for, and pay for and defend against any such claims, demands, causes of action or lawsuits at its sole expense and shall bear all other costs and expenses related thereto, even if the claim, demand, cause of action or lawsuit is groundless, baseless, false or fraudulent.

(28) **RIGHTS CUMULATIVE.** All rights, powers and privileges conferred hereunder upon the parties hereto shall be cumulative to those given by law.

(29) **NOTICES.** Any notice or document required or permitted to be delivered hereunder shall be deemed to be delivered or given when (a) actually received or (b) signed for or "refused" as indicated on the postal service return receipt. Delivery may be by personal delivery, courier service, overnight courier, certified or registered mail, return receipt requested, addressed to the parties hereto at the respective addresses set out opposite their names below, or at such other addresses as they may hereafter specify by written notice delivered in accordance herewith:

Agency:

Community Redevelopment Agency City of New Port Richey
Attn: City Manager
5919 Main St
New Port Richey, FL 34652

Recipient:

New Port Richey Hotel Group, LLC
6206 U.S. Highway 19
New Port Richey, FL 34652

(30) **WAIVER OF RIGHTS.** As additional consideration for and as a specific inducement to Agency entering into this Agreement, Recipient, for itself and for all who may now or hereafter claim by, through or under Recipient, including without limitation, Recipient's agents, contractors, subcontractors, independent contractors, helpers, volunteers, successors and assigns, hereby waives, releases and forever discharges any and all claims that Recipient may now or hereafter have against Agency of any kind or character whatsoever by reason of any acts or occurrences that took place on or after the date of this Agreement including, without limitation, any claims of right to compensation for any improvements, reconstruction, redevelopment or rehabilitation of the Property or subject Project made by Recipient or any person or entity on Recipient's behalf. No failure of either party to exercise any power given either party hereunder, or to insist upon strict compliance by the other party with an obligation hereunder, and no custom or practice of the parties at variance with the terms hereof, shall constitute a waiver of either party's right to demand strict compliance with the terms hereof.

(31) **TIME.** Time is of the essence of this Agreement and of each provision hereof.

(32) **ATTORNEYS' FEES.** Agency and Recipient acknowledge and agree that should either party be required to employ an attorney or attorneys to enforce any of the provisions hereof or to protect its interest under this Agreement, or to recover damages for the breach of this Agreement, the non-prevailing party in any action (the finality of which is not legally contested) agrees to pay to the prevailing party all reasonable expenses of litigation and attorneys' fees, expended or incurred in connection therewith including appellate fees and court costs, if any.

(33) **PARAGRAPH HEADINGS.** Paragraph headings utilized in this Agreement are for convenience only and shall not be deemed to limit or control the contents of any paragraph of this Agreement.

(34) **GOVERNING LAW AND VENUE.** This Agreement shall be construed according to the laws of the State of Florida. The designated venue for any action or lawsuit pertaining to this Agreement shall be in Pasco County, Florida.

(35) **SEVERABILITY.** If any clause or provision of this Agreement is found to be illegal, invalid, or unenforceable under present or future laws effective during the effectiveness of this

Agreement, then and in that event, it is the intention of the parties hereto that the remainder of this Agreement shall not be affected thereby.

(36) **EFFECTIVE DATE**. This Agreement shall become binding upon the parties only after having been signed by the appropriate officer for Recipient and the Executive Director of Agency.

(37) **MODIFICATIONS**. This Agreement may not be amended, modified or revised unless in a written addendum signed by the authorized representatives of Agency and Recipient. Any other attempt at amending, modifying or revising this Agreement shall be null and void and of no force or effect.

(38) **ENTIRE AGREEMENT**. This Agreement, together with the Attachments attached hereto, constitutes the sole and entire understanding between the parties hereto and supersedes all prior representations, agreements and understandings between the parties related to the subject matter hereof, which are merged herein.

(39) **ADVICE OF COUNSEL**. Recipient acknowledges that it has sought and received, if it so desired, the advice of counsel in connection with the meaning and import of each provision of this Agreement and enters into this Agreement with full understanding hereof.

(40) **WAIVER OF RIGHT TO TRIAL BY JURY**. The parties recognize that this Agreement is a relatively complex business document, that the Agreement is relatively lengthy and technical in nature and may be susceptible to misinterpretation if isolated provisions are the subject of review, and that in the event of any dispute as to the rights and obligations of the parties under this Agreement, a judge, rather than a jury, would be the most efficient and best qualified trier of fact. Accordingly, the parties hereby desire, acknowledge and agree to waive their respective rights to a jury trial with respect to any litigation or other legal proceeding based on this Agreement.

(41) **ASSIGNMENT**. Recipient is not permitted to assign or transfer this Agreement, in whole or in part, to any other party or entity. Agency may assign or transfer this Agreement at any time without the consent or approval, written or otherwise, of Recipient.

(42) **COUNTERPARTS**. This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(43) **SURVIVABILITY**. Notwithstanding any other provision in this Agreement, if this Agreement is breached by either party or is terminated by Agency, with or without cause, the terms, conditions and covenants contained herein, other than Paragraphs 7 and 9, shall survive the afore-referenced breach or termination and shall remain viable and effective against the parties hereto.

(44) **RECORDING – USE RESTRICTION, COVENANT RUNNING WITH LAND, LIEN**. This Agreement shall be recorded in the public records of Pasco County, Florida and shall constitute a covenant running with the land against the Property. By execution hereof, Recipient hereby grants Agency a lien against the Property for any and all sums due hereunder, which lien may be foreclosed by Agency in the manner provided by law. Recipient covenants to maintain

all improvements on the Property, and to continue to operate and use the same as a hotel, for a period of ten (10) years from the date of the issuance of the Certificate of Occupancy for the Property. A violation of the aforesaid covenant shall be enforceable in an appropriate court of law, and Recipient acknowledges that injunctive relief shall be available to Agency since the injury to Agency shall be irreparable and the damages will not be easily measurable.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their undersigned officials as duly authorized.

“RECIPIENT”

NEW PORT RICHEY HOTEL GROUP, LLC

By: _____
Paul Simone, as Managing Member

WITNESSES:

Name (printed or typed)

Name (printed or typed)

STATE OF FLORIDA)
COUNTY OF PASCO)

The foregoing instrument was acknowledged before me this _____ day of _____ 2022, by Paul Simone on behalf of New Port Richey Hotel Group, LLC, () who is personally known to me or () who produced a driver's license as identification.

Notary Public-State of Florida
My Commission Expires:

“AGENCY”

COMMUNITY REDEVELOPMENT AGENCY OF
THE CITY OF NEW PORT RICHEY, FLORIDA

BY: _____
DEBBIE L. MANNS, as Executive Director

APPROVED AS TO FORM:

ATTEST:

TIMOTHY P. DRISCOLL, Esq.
General Counsel 2/3/2022

JUDY MEYERS, City Clerk

ATTACHMENT “A”

APPLICATION

ATTACHMENT “B”

CRA COMMERCIAL REAL ESTATE REDEVELOPMENT GRANT PROGRAM
PARAMETERS

ATTACHMENT “C”

**APPROVED PROJECT / SCOPE OF WORK / REIMBURSABLE COSTS &
AMOUNTS/CURRENT PHOTOGRAPHS OF PROJECT LOCATION**

ATTACHMENT "D"

LEGAL DESCRIPTION OF PROPERTY