*Ballard Spahr Draft 06/30/2021b*

# Reciprocal Easements and Covenants Agreement

***(Landmark Mall Redevelopment Project)***

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*[The Easement Plan and CDD Conditions will be finalized prior to recording.]*

# Reciprocal Easements and Covenants Agreement

*(Landmark Mall Redevelopment Project)*

THIS RECIPROCAL EASEMENTS AND COVENANTS AGREEMENT (which is more particularly defined in Article 1 as the "**REA**") is made as of the _______ day of ___________________ 2021 ("**Effective Date**") by **LANDMARK LAND HOLDINGS, LLC**, a Delaware limited liability company qualified to transact business in the Commonwealth of Virginia ("**Developer**" and as more particularly defined in Article 1); **INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF ALEXANDRIA**, a political subdivision of the Commonwealth of Virginia (the "**IDA**"); and **INOVA HEALTH CARE SERVICES**, a Virginia nonstock corporation ("**Inova**").

R E C I T A L S:

A. The real property located in the City of Alexandria, Virginia described on **Exhibits A-1 and A-2** hereto (sometimes referred to herein collectively as the "**Project**") is the site of the former Landmark Mall and is being redeveloped with planned uses to include a hospital and other healthcare facilities, and mixed-use commercial and residential improvements. The real property described on **Exhibit A-1**, which is more particularly defined in Article 1 as the "**Hospital Parcel**", is the portion of the Project that is planned to be redeveloped with a hospital, cancer center, medical office building and related improvements including private roads and a publicly accessible open space (collectively the "**Hospital Facilities**"). The real property described on **Exhibit A-2**, which is more particularly defined in Article 1 as the "**Mixed-Use Parcel**", is the portion of the Project that is planned to be redeveloped to include, among other things, retail, office and other commercial uses, residential multi-family buildings, roads and streetscape, publicly accessible open spaces, a fire station, and a public bus transportation hub.

B. IDA is the fee owner of the Hospital Parcel, having acquired such fee interest from Developer immediately prior to the execution of this REA. Pursuant to the Hospital Ground Lease (defined in Article 1), Inova is the lessee of the Hospital Parcel and shall be deemed to be the Hospital Owner (defined in Article 1) for purposes of this REA for so long as Inova is considered the Hospital Owner pursuant to Section 13.3(b) of this REA. Developer is the fee owner of the Mixed-Use Parcel. Pursuant to the Development Agreement (defined in Article 1), Developer is responsible for the development and construction of certain public and private infrastructure and other improvements that are planned for the Project, including certain work to be performed by or on behalf of Developer on the Hospital Parcel to place the Hospital Parcel in a "pad-ready" condition prior to Inova's construction of the Hospital Facilities.

C. To facilitate the pending redevelopment of the Project and the long-term use and operation of the Project, the parties hereto intend and desire by this REA to establish and impose certain easements, covenants, conditions, restrictions, rights, obligations, and responsibilities as between and among the Hospital Parcel and the Mixed-Use Parcel and their respective Owners, and Developer and REA Manager.

NOW, THEREFORE, in consideration of the forgoing recitals incorporated into and made a substantive part of this REA, the provisions set forth in this REA, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto hereby agree, grant and declare that the Parcels shall be conveyed, sold, encumbered, leased, occupied, built upon from time to time and otherwise used, improved, operated, maintained, or transferred in whole or in part subject to this REA and all of the easements, covenants, conditions, restrictions, rights, obligations, and responsibilities set forth in this REA, which shall run with the land and be binding upon and, subject to the provisions set forth in this REA, inure to the benefit of all parties having or acquiring any right, title or interest in any or all of the Parcels or any part thereof, including each Owner.

## ARTICLE 1
## DEFINITIONS

As used in this REA the following terms shall have the following meanings:

"**Additional Hospital Parking Spaces**" is defined in Section 3.8(c).

"**Affiliate**" means with respect to any Person, a Person that, directly or indirectly, Controls, is Controlled by, or is under common Control with, such Person.

"**Appraised Value**" is defined in Section 4.5(b).

"**Benefited Party**" is defined in Section 3.1.

"**Benefited Property**" is defined in Section 3.1.

"**BID**" means any business improvement district or similar program or association that may be established from time to time that includes all or part of the Project.

"**Burdened Owner**" is defined in Section 3.1.

"**Burdened Property**" is defined in Section 3.1.

"**CDA**" means the Landmark Community Development Authority, established by ordinance of the City to impose a special assessment on portions of the Project as may be necessary to fund any shortfalls between ad valorem real property taxes collected on taxable Project tax parcels during the City's fiscal year over a base year and the total debt service paid during such fiscal year on general obligation bonds issued by the City to fund certain public infrastructure improvements in the Project.

"**CDD**" means the Coordinated Development District Plan #2020-00007 for the Project approved by the City on _____________, 2021, as may be amended from time to time.

"**CDD Conditions**" means the development approval conditions for the Project set forth in the CDD that are attached hereto as **Exhibit E**, as may be amended from time to time.

"**City**" means the City of Alexandria, a municipal corporation of Virginia.

"**Comparable Buildings**" means buildings and other improvements in the Washington D.C. Metropolitan Area of similar size, quality, characteristics and reputation to the buildings and other improvements that comprise the Parcels.

"**Control**" (including correlative terms "Controlled by" and "under common Control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through ownership of voting security, ability to elect members to such Person's board of directors or similar governing body, by contract or otherwise.

"**Co-Owners**" is defined in Section 11.3.

"**CPI**" means the percentage increase in the Consumer Price Index for All Urban Consumers, all items in U.S. City Average, not seasonally adjusted (1982-84 equals 100), as issued by the U.S. Department of Labor, Bureau of Labor Statistics, for the applicable period of time in which such increase is to be measured pursuant to provisions of this REA.

"**Cure Right Easement**" is defined in Section 9.5.

"**Curing Party**" is defined in Section 9.5.

"**Defaulting Party**" means any Party that fails to pay, or perform an obligation required to be paid or performed under the terms of this REA, in each case beyond any applicable notice and cure periods.

"**Developer**" means Landmark Land Holdings, LLC, a Delaware limited liability company qualified to transact business in the Commonwealth of Virginia, and its successors and assigns to whom any of the Developer rights or obligations under this REA are specifically assigned or transferred pursuant to Section 14.17.

"**Developer Rights Period**" means the period commencing with the Effective Date and ending on the earlier of (i) the date that the Developer no longer owns any portion of the Mixed-Use Parcel, (ii) the date that is twenty-five (25) years after the Effective Date, and (iii) such other date that Developer, in its sole discretion, elects to terminate the Developer Rights Period by a written instrument recorded in the Land Records.

"**Developer's Scope of Work**" is defined in Section 3.2(b)(i).

"**Developer Initial Capital Improvements To Project Garage**" means the work for the initial capital improvements to the Project Garage to be performed by Developer.

"**Development Agreement**" means the Landmark Mall Development and Financing Agreement dated ______________, 2021, by and among the City, Developer, and Inova, as may be amended from time to time.

"**Easement Area**" means any area for which an easement is provided pursuant to this REA.

“**Easement Plan**” is described in Section 3.19 and attached hereto as **Exhibit D**, as may be amended from time to time.

“**Effective Date**” is defined in the introductory paragraph.

“**Eligible Mortgagee**” means a Mortgagee under a Mortgage for which the Parties received written notification that it be designated as an Eligible Mortgagee under this REA, including for purposes of Sections 4.2(c)(iv), 10.1, 11.1(b), 12.1, and 12.3. Such written notification shall identify the Eligible Mortgagee including its name and address and the legal description of the Parcel(s) on which it holds a Mortgage.

“**Emergency**” means a condition requiring repair, replacement or other action immediately necessary or immediately required by Laws for the preservation of improvements or other property on the Parcels, or for the health or safety of persons, or required to avoid the suspension of business operations or any necessary service to a Parcel.

“**Exercise Notice**” is defined in Section 4.5(a).

“**Exercise Period**” is defined in Section 4.5(a).

“**Force Majeure**” means excused delays in completing an obligation within the time period set forth in this REA that is proximately caused by factors outside of the responsible Party’s reasonable control including the following events: (i) any act of God (including weather delays beyond historic weather patterns such as “derechos”), flood, earthquake, fire, mechanical failure of equipment, disease, pandemics, epidemics and the like), (ii) labor strike, civil unrest or work stoppage or slowdown (including failure of building inspectors to reasonably process approvals that cause work stoppage), (iii) unforeseeable interruptions in utility services, (iv) unforeseeable material shortages, transportation and logistics delays, (v) sabotage, war, riot, terrorism, moratorium, (vi) unforeseeable governmental action (including without limitation required work stoppage or closure of construction sites by applicable Governmental Authorities including closures in the general vicinity where the Project is located, and including unforeseen archeological conditions, or closure of government offices that issue necessary permits) or (vii) any other unforeseeable act of any third party unrelated to, and having no arrangements, contractual or otherwise, with the Project or the responsible Party (or any of such Party’s Affiliates) that reasonably prevents an action from being taken through no fault of the responsible Party (or any Affiliates of the responsible Party).

“**Frontage Area**” is defined in Section 4.4(c).

“**Full Replacement Value**” is defined in Section 6.1(a)(i).

“**Governmental Authority**” means any federal, state, City or other government and instrumentality of any such government that has jurisdiction over the Project or its Owners, including any person, agency or other entity that is authorized by law to perform any executive, legislative, judicial, regulatory, or administrative functions.

“**Hospital Facilities**” is defined in Recital A.

“**Hospital Ground Lease**” means the lease of the Hospital Parcel by and between IDA, as lessor, and Inova, as lessee, as may be amended from time to time.

“**Hospital Owner**” means the Owner of the Hospital Parcel. Pursuant and subject to Section 13.3(b), Inova shall be deemed the Owner of the Hospital Parcel under certain circumstances.

“**Hospital Parcel**” means the real property that is described on **Exhibit A-1**, including all improvements now or hereafter located therein and appurtenances thereto.

“**Hospital Parcel Density Rights**” is defined in Section 5.2(c).

“**Hospital Below-Grade Garage**” is defined in Section 3.8(a).

“**Hospital Above-Grade Garage**” is defined in Section 3.8(d).

“**Hospital Parcel Reserved Development Rights**” is defined in Section 5.2(a).

“**Hospital Parking Area**” means the area located in the westerly portion of the Project Garage and generally adjacent to the cancer center containing 550 parking spaces, which area is labeled as such on the Easement Plan. *[The Hospital Parking Area depicted on the Easement Plan may include certain drive aisles and other improvements appurtenant and immediately adjacent to the 550 parking spaces.]*

“**Hospital Services**” is defined in Section 4.4(a).

“**Hospital SWM Facility**” is defined in Section 3.10(b).

“**Impacted Party**” is defined in Section 7.1.

“**Indemnified Loss**” is defined within the definition of “Indemnify”.

“**Indemnified Person**” is defined within the definition of “Indemnify”.

“**Indemnify**” in any provision of this REA which requires one Person to Indemnify any other Person, shall mean that the Person upon whom the indemnification obligation is imposed (the “**Indemnifying Person**”) shall be obligated to defend, indemnify and hold harmless such other Person and such other Person’s direct and indirect partners, members, officers, directors, employees, agents and representatives (individually an “**Indemnified Person**” and collectively, the “**Indemnified Persons**”) from and against any and all Loss (i) to the extent arising out of or resulting from an act, omission, event, occurrence, or condition caused by the Indemnifying Person or its partners, members, officers, directors, employees, agents, representatives or contractors, and (ii) with respect to which the Indemnifying Person is required to Indemnify such Indemnified Persons under this REA (an “**Indemnified Loss**”). Any Indemnified Person may demand that the Indemnifying Person defend, on behalf of the Indemnified Person, any claim, lawsuit or other proceeding filed against the Indemnified Person by a third party relating to an Indemnified Loss, or may elect instead to conduct its own defense using counsel approved by the Indemnifying Person (which approval shall not be unreasonably withheld or delayed), but in either such case the

indemnification provisions hereof shall be fully applicable and the Indemnifying Person shall be responsible for paying all reasonable costs of the Indemnified Person's defense, including reasonable attorneys' fees and court costs.

"**Indemnifying Person**" is defined within the definition of "Indemnify".

"**Land Records**" means the land records maintained by the Clerk of the Circuit Court of Alexandria, Virginia, or any successor entity charged with maintaining said land records.

"**Laws**" means all laws, statutes, codes, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, land use and zoning requirements and policies, permits, licenses, authorizations, directions and requirements of all governments, departments, commissions, boards, courts, authorities, agencies, officials and officers, foreseen and unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to any Parcel or Parcels or any part thereof, including but not limited to the conditions of the CDD and other Project Plans.

"**Legal Process**" is defined in Section 11.3(a)(i).

"**Loss**" means all claims, demands, losses, actual damages, liens, liabilities, injuries, deaths, penalties, costs and expenses, relocation or disruption of use, fines, lawsuits and other proceedings, judgments and awards rendered therein, including reasonable attorneys' fees and court costs.

"**Maintain**" means the act of performance of Maintenance.

"**Maintenance**" means and refers, as the context may require, to inspection, maintenance, operation, management, cleaning, landscaping, testing, repair, renovation, replacement and/or reconstruction of improvements and equipment within a Parcel.

"**Maintenance Easement**" is defined in Section 3.5.

"**Maintenance Responsibility and Cost Allocation Schedule**" is the schedule set forth on **Exhibit B**, as it may be amended from time to time.

"**Material Interference**" shall mean (as applicable) an act or omission that would result in (i) a material and adverse interference with an Owner's (or its Permittees') use, enjoyment, operation, or insurability of its Parcel, or portion thereof, including without limitation (x) through the institution of any material changes or restrictions on permitted uses, or (y) as a result of any requirement to make material modifications to such Owner's Parcel, or portion thereof, without such Owner's reasonable approval, (ii) any material and adverse effect on an Owner's (or its Permittees') use of any Shared Facility or other easement, license, restriction, covenant or condition granted or established by, or for the benefit of, such Owner (or its Permittees) hereunder, (iii) any change that would materially and adversely diminish the nature and overall quality of the Project, as compared to Comparable Buildings, as reasonably determined by the affected Owner(s), (iv) any material impact on the operating costs, systems, exterior architecture, accessibility or security of any improvements or Shared Facilities, (v) any change in the allocations of expenses or other obligations that inequitably impacts one or more Parcels in relation to the other Parcels (including without limitation with respect to a change in the allocation of Shared

Costs), or (vi) any other material imposition of additional liabilities or obligations on an Owner, or reduction in any rights or remedies of an Owner. As used in this REA, any Material Interference with an Owner (or its Permittees) shall also be deemed to be Material Interference with such Owner's Parcel, and vice versa.

"**Mortgage**" means any mortgage, deed of trust, deed to secure debt or other similar instrument created for the purpose of securing a bona fide indebtedness encumbering, or originally encumbering, an entire Parcel and/or any bona fide indebtedness of an Owner, and recorded among the Land Records, or any mortgage, deed of trust, deed to secure debt or other similar instrument created for the purposes of refinancing such indebtedness and recorded among the Land Records.

"**Mortgagee**" means the secured party under a Mortgage.

"**Mixed-Use Parcel**" means the real property that is described on **Exhibit A-2**, including all improvements now or hereafter located therein and appurtenances thereto. In addition to the discrete Parcel identified on **Exhibit A-2** as of the Effective Date, each separate subdivided lot, parcel, land unit, or other portion of the property described on **Exhibit A-2** (including all improvements now or hereafter located therein and appurtenances thereto) that may be established as a discrete property tax parcel after the Effective Date, except for any individual residential dwelling that may be established as a separate condominium unit or other tax parcel, shall be deemed a distinct "Mixed-Use Parcel" and a "Parcel" for purposes of this REA. Developer may execute and record amendments or supplements to this REA to identify such Mixed-Use Parcels that may be established from time to time. For the avoidance of doubt, the term "Mixed-Use Parcel" is not intended to suggest that each individual Parcel within the property described on **Exhibit A-2** will necessarily contain a mix of residential, commercial or other multiple uses, but rather that each Mixed-Use Parcel is within the portion of the Project described on **Exhibit A-2** that is outside of the Hospital Parcel, which as a whole is planned to be a mixed-use development.

"**Mixed-Use Parcel Density Rights**" is defined in Section 5.2(c).

"**Mixed-Use Parcel Owner**" means the Owner of a Mixed-Use Parcel, including each Owner of an individual Mixed-Use Parcel as to that specific Parcel as applicable in the context of this REA.

"**Mixed-Use Parcel Reserved Development Rights**" is defined in Section 5.2(a).

"**Mixed-Use Parcel SWM Facilities**" means any storm water management detention vaults, pipes and facilities and other storm water management equipment and improvements located in the Project that are designed and intended to serve the Mixed-Use Parcel.

"**New Hospital Ground Lease**" is defined in Section 4.5(d).

"**Non-Controllable Costs**" is defined in Section 4.2(c).

"**Non-Performing Party**" is defined in Section 14.9.

"**Notice**" means any communication effected in the manner prescribed in Article 11 of this REA.

"**Operating Stoppage**" is defined in Section 4.5(a).

"**Other Agreements**" is defined in Section 2.4.

"**Other Owner Award**" is defined in Section 7.2.

"**Owner**" means the record owner, whether one or more Persons, of fee simple title to a Parcel. If a condominium, cooperative, or home owners association regime is established on all or a portion of a Parcel, the term "Owner" shall mean the unit owners association of such condominium, cooperative, or home owners association, acting through its governing body or its duly authorized representative. The term "Owners" means, collectively, the Owners of the Parcels.

"**Parcel**" or "**Parcels**" means the Hospital Parcel and the Mixed-Use Parcel(s), individually or collectively as the context may require (including all improvements now or hereafter located in, and appurtenances to, such Parcel(s)).

"**Parcel Lessee**" means a lessee of an entire Parcel.

"**Party**" means, individually, each Owner, Developer, and REA Manager from time to time, and they are referred to collectively as the "**Parties**".

"**Payee**" means any Party that is owed any sum of money by another Party under the terms of this REA, including Developer, REA Manager, and any Owner required to perform Maintenance for which it is entitled to payment of Shared Costs.

"**Permitted MOB Uses**" is defined in Section 4.4(b).

"**Permitted Hospital Parking Users**" is defined in Section 3.8(a).

"**Permittees**" means a tenant under a lease of all or any portion of a Parcel, and the respective officers, directors, employees, agents, partners, contractors, patients, customers, guests, invitees, and licensees of a Party and such tenant.

"**Person**" means any natural person, partnership, association, corporation, limited liability company and any other entity or form of business organization or association, or one or more of them, as the context may require.

"**Prime Rate**" means the prime rate as published in the "Money Rates" section of the Wall Street Journal or any reasonably comparable prime rate selected by a Payee in the event that the Wall Street Journal ceases to publish such prime rate.

"**Project**" means, collectively, the Hospital Parcel and the Mixed-Use Parcel(s).

"**Project Garage**" means the existing above-grade parking structure that is parallel to I-395 within an area of the Mixed-Use Parcel, a portion of which parking structure abuts the Hospital Parcel.

"**Project Plans**" means the CDD and all other zoning plans, site plans, subdivision plats, regulatory plans, dedication deeds and agreements, development agreements, and/or building plans for the Property approved by the City or other applicable Governmental Authorities, including all amendments thereto as may be made from time to time.

"**Public Access Easement**" means any access easement or other covenant or agreement, including amendments thereto, that may be entered into from time to time as required by the CDD or other Project Plans to provide public access to private roads, walkways, parks and open space, and other common use areas within the Project.

"**Purchase Option**" is defined in Section 4.5(a).

"**Qualified Appraiser**" is defined in Section 4.5(b).

"**REA**" means this Reciprocal Easements and Covenants Agreements, including all Exhibits attached hereto, as may be amended from time to time.

"**REA Manager**" means the Owner from time to time of the Project Garage. As of the Effective Date, the Owner of the Project Garage and REA Manager is Landmark Land Holdings, LLC.

"**Responsible Party**" is defined in Section 7.1.

"**Review Costs**" is defined in Section 3.14(a).

"**Shared Costs**" means those costs and expenses that are required to be shared by multiple Parties pursuant to this REA.

"**Shared Facilities**" is defined in Section 2.2.

"**Taking**" is defined in Section 7.2.

"**Temporary Development Easement**" is defined in Section 3.2(a).

"**Tie-Back Work**" is defined in Section 3.2(b)(i).

"**Utility Capacity Allocation**" means, as to each Parcel, the electric, telecommunications, gas, water, sanitary sewer and other utilities necessary to serve the improvements on such Parcel that are constructed in accordance with the Project Plans and the Development Agreement.

## ARTICLE 2
## PROPERTY SUBJECT TO REA; DESCRIPTION OF SHARED FACILITIES; OTHER AGREEMENTS

***Section 2.1 Property Subject to REA.*** All of the real property described on **Exhibits A-1 and A-2** to this REA, including all improvements and appurtenances thereto, is hereby subjected to this REA and shall be held, conveyed, hypothecated, encumbered, sold, leased, rented, used, occupied and improved subject to this REA, including each and every covenant, condition,

easement, and restriction set forth or incorporated in this REA. The property identified on **Exhibit A-1** consists of the Hospital Parcel and the property identified on **Exhibit A-2** consists of the Mixed-Use Parcel as described thereon and further defined in Article 1.

***Section 2.2 Shared Facilities***. For purposes of this REA, the Shared Facilities are certain areas and improvements within the Project that are used in common by multiple Owners subject to the provisions of this REA. As used in this REA, the term "Shared Facilities" means and refers to the following:

(a) The following areas located in the Mixed-Used Parcel and shown on the Easement Plan:

(i) the plaza and adjacent open space laneway located on Block F;

(ii) the plaza and adjacent open space laneway located on Block N;

(iii) the park located on Block P;

(iv) the paseo located on Block R;

(v) the private roads that are shown on the Easement Plan as ______________________;

(vi) the Mixed-Use Parcel SWM Facilities; and

(vii) the Project Garage (subject to Sections 3.8 and 4.1).

(b) The following areas located in the Hospital Parcel and shown on the Easement Plan:

(i) the open space located on Block Q; and

(ii) the private roads that are shown on the Easement Plan as ______________________.

***Section 2.3 Public Access Easements and BID Requirements.*** Some or all of the Shared Facilities or other portions of the Project may be subject to Public Access Easements, granted to the City, and/or included within a BID. In the event of any inconsistency between the terms and provisions of any such Public Access Easement or BID and this REA, the terms and provisions of the Public Access Easement or BID, as applicable, shall supersede and control over this REA. For example, responsibilities for performing Maintenance and the allocation of Maintenance costs as set forth in this REA may differ and be superseded as to those portions of the Project that are dedicated to the City or for which a Public Access Easement is granted or which is included within a BID. Notwithstanding the foregoing, no Public Access Easement or BID shall be deemed to alter the rights of Developer and REA Manager with respect to temporary closures of Shared Facilities located in the Mixed-Use Parcel pursuant to Section 3.12 of this REA. Notwithstanding the foregoing, no Public Access Easement or BID entered into after the Effective Date of this REA shall alter any rights or obligations or increase any costs under this REA as to

the Hospital Parcel or Hospital Owner unless expressly agreed to in writing by IDA, and by Inova for so long as Inova is considered the Hospital Owner pursuant to Section 13.3(b) of this REA.

***Section 2.4 Other Agreements***. Additional declarations, easement agreements and other covenants, supplements to this REA, and other instruments (collectively, "Other Agreements") may be entered into from time to time by REA Manager, Developer and other Owners of the Mixed-Use Parcel in order to establish rights and obligations between and among them and/or to allocate or alter rights and obligations applicable to the Mixed-Use Parcel under this REA as between or among the anticipated multiple Owners of the various Mixed-Use Parcels. Notwithstanding the foregoing, no Other Agreement entered into after the Effective Date of this REA shall alter any rights or obligations or increase any costs under this REA as to the Hospital Parcel or Hospital Owner unless expressly agreed to in writing by IDA, and by Inova for so long as Inova is considered the Hospital Owner pursuant to Section 13.3(b) of this REA.

## ARTICLE 3
## EASEMENTS AND COVENANTS

***Section 3.1 In General.*** There are hereby declared, reserved, created, established and granted (a) for the benefit of the Parcels and Owners, (b) for the benefit of Developer in connection with Developer's rights and obligations under the Development Agreement and otherwise as set forth in this REA, and (c) for the benefit of REA Manager in connection with its rights and obligations under this REA, reciprocal easements, licenses, restrictions, covenants and/or conditions located upon, binding on, or otherwise affecting or encumbering the Parcels, as described in and subject to the terms and conditions set forth in this REA. The creation, establishment or grant of an easement, license, restriction, covenant and/or condition under this REA shall, subject to the terms and conditions set forth in this REA, bind and burden each Parcel which, for the purposes of this REA, shall be deemed to be a servient tenement. Each Parcel, or portion thereof, so bound and burdened by an easement, license, restriction, covenant and/or condition shall sometimes be referred to in this REA as a "**Burdened Property**" and the Owner of a Burdened Property shall sometimes be referred to in this REA as a "**Burdened Owner**". The creation, establishment or grant of an easement, license, restriction, covenant and/or condition for the benefit of a Parcel pursuant to this REA shall, for the purposes of this REA, be deemed to be a dominant tenement. Each Parcel, or portion thereof, so benefited by an easement, license, restriction, covenant and/or condition shall sometimes be referred to in this REA as a "**Benefited Property**" and the Owner of a Benefited Property or other Party benefited by an easement, license, restriction, covenant and/or condition pursuant to this REA, including Developer and REA Manager, shall sometimes be referred to in this REA as a "**Benefited Party**". No easement, license, restriction, covenant and/or condition shall be deemed to have been granted by implication. The easements, licenses, restrictions, covenants and/or conditions created, established and granted in this REA shall be perpetual and free of charge except as otherwise specifically set forth in this REA, are subject to the general conditions and prior notice provisions, as applicable, that are set forth in this REA (including Section 3.17) and may be used by the Benefited Party and its Permittees subject to the provision of this REA, including Sections 13.3 and 14.3(b).

***Section 3.2 Development Easements***.

(a) In connection with the redevelopment of the Project, and construction of improvements within and upon a Parcel, there is hereby granted for the benefit of each Parcel, the Owner of such Parcel, Developer, and their respective contractors, subcontractors, employees and agents, temporary, non-exclusive, easements and rights of passage on such limited portions of the other Parcels, if any, as is necessary for the Benefited Party, its contractors, subcontractors, employees and agents, to perform development work and construct and install such improvements, including for ingress and egress related to such activities, including, without limitation, in the exercise of the other easements set forth in this Section 3.2 ("**Temporary Development Easement**"). The Owners and other Benefited Parties shall reasonably cooperate in their respective exercise of the Temporary Development Easement so as not to unreasonably delay or interfere with the development and construction of improvements being conducted on any other Parcel. The Temporary Development Easement shall expire with respect to a Parcel as a Benefited Property upon issuance of a final certificate of occupancy or equivalent governmental approval issued with respect to the improvements constructed on such Parcel as part of its redevelopment. Without limitation to the foregoing, the Mixed-Use Parcel Owner hereby grants for the benefit of the Hospital Parcel, the Hospital Owner, and its designees, contractors, subcontractors, employees and agents, temporary, non-exclusive, easements and rights of passage (including vehicular access) on and over the Mixed-Use Parcel (i) to perform or cause to be performed the Public Infrastructure Improvements, Private Infrastructure with Public Access, and Offsite CDD Infrastructure, each as defined in the Development Agreement, or any portion of the same, in the event the Hospital Owner exercises its rights under the Development Agreement to take over and complete such work, and (ii) subject to and in accordance with the requirements set forth in Section 4.1(b), to utilize the Hospital Parking Area for temporary construction worker parking and temporary construction trailers, together with ingress and egress related to such activities, in connection with the construction of the Hospital Facilities.

(b) (i) In connection with Developer's work pursuant to the Development Agreement or other agreements between Developer and any Owner ("**Developer's Scope of Work**"), or in connection with Hospital Owner's work on the Hospital Parcel, Developer and Hospital Owner shall have easements and rights to install tie backs and perform underpinning work on the Hospital Parcel and, as applicable, any Mixed-Use Parcel (the "**Tie-Back Work**"). The Tie-Back Work may include, without limitation, the following: (A) underpinning work, (B) the placement of tieback rods, (C) the placement of sheeting and shoring and brackets, and (D) the Maintenance of any of the foregoing, all as deemed necessary by Developer or Hospital Owner to secure the foundations and/or structural components of the Developer's Scope of Work or Hospital Owner's work; provided, however, all Tie-Back Work shall be at locations above or below grade and at depths approved by the Burdened Owner, which approval shall not be unreasonably withheld or conditioned, and shall not disturb or affect any of the Developer's Scope of Work or Hospital Owner's work (including, without limitation, any pavement, curbing, landscaping, utility lines or structures). Prior to commencing the Tie-Back Work on any Parcel, Developer or Hospital Owner, as applicable, will deliver plans and specifications for the Tie-Back Work to the applicable Burdened Owner and its consultants for review and approval, which approval shall not be unreasonably withheld or conditioned. A Burdened Owner's approval shall not be considered unreasonably withheld if the Tie-Back Work would result in Material Interference with a Burdened Parcel as reasonably determined by the Burdened Owner. The Burdened Owner will respond with

any comments to those plans, including changes to such plans pursuant to subsection (b)(ii) below, within fifteen (15) days after delivery. In the event of disapproval, in whole or in part, the Parties will diligently cooperate to resolve points of disagreement. If the Burdened Owner fails to timely respond, a second notice of such matters shall be provided to the Burdened Owner. If the Burdened Owner fails to respond within fifteen (15) days after receipt of the second notice (i.e., a minimum total of thirty (30) days after the notice was initially sent), then the Burdened Owner shall be deemed to have consented to the Tie-Back Work, provided that the second notice to the Burdened Owner included substantially the following language in all capital letters: "SECOND NOTICE: IF NO RESPONSE IS GIVEN TO THIS NOTICE WITHIN 15 DAYS OF YOUR RECEIPT OF THIS NOTICE, YOUR APPROVAL OF THE MATTERS REFERENCED IN THIS NOTICE WILL BE DEEMED TO HAVE BEEN GIVEN". The Tie-Back Work shall be performed in accordance with the approved (or deemed approved) plans and specifications.

(ii) Should changes in the Tie-Back Work become necessary that would affect or alter the scope of Tie-Back Work, then Developer shall inform in writing, and shall receive written approval from the Burdened Owner of such changes pursuant to subsection (b)(i) above. The Tie-Back Work may then commence and shall proceed in accordance with the updated approved (or deemed approved) plans.

(iii) All above-ground protective measures shall be removed by Developer after their use, and any damage to any improvements located then on a Burdened Parcel shall be promptly restored by Developer as nearly as practicable to their prior condition. Any below grade work performed in accordance with plans approved therefor shall remain in and about the Burdened Parcel and Developer shall not be obligated to remove any underpinning work, tieback rods, sheeting, shoring and brackets placed by it in and about the Hospital Parcel or other applicable Burdened Parcel in accordance with plans approved therefor. If any Tie-Back Systems are left embedded at the Hospital Parcel or other Burdened Parcel after the completion of the Developer's Scope of Work, Developer shall deliver to the Burdened Owner as-built drawings detailing the approximate location, composition and dimensions thereof.

(c) (i) The Owners shall have easements and rights to swing an unloaded boom of a tower crane over the other Owners' Parcels in connection with the performance of the Developer's Scope of Work and the Hospital Owner's work on the Hospital Parcel as often as is reasonably necessary during such work, provided the same does not result in Material Interference with or put at risk improvements constructed upon or ongoing construction activity on a Burdened Parcel. The Benefited Party shall provide not less than seven (7) days' prior written notice to the Burdened Owner of (A) its installation and location of a tower crane, and (B) its commencement of swinging the boom over the Burdened Parcel.

(ii) If two or more cranes are erected in the Project with overlapping swing air space, the boom height of the later-to-be-erected crane(s) shall be erected at a height of not less than ten (10) feet higher or lower than all other pre-existing booms. Developer and other applicable Owners shall cause their respective crane operators to coordinate in real time regarding load movements to avoid collisions (including when such tower cranes are idle) and will cause such crane operators to be in constant radio contact with one another while in operation.

(iii) Developer and any Owner that causes a tower crane to be used in the Project expressly accepts and retains all risks associated with the installation, operation, maintenance, dismantling or securing of such crane and the passage of the boom of the crane over a Burdened Parcel from time to time. Developer and any such Owner shall (A) permit only personnel who are trained and qualified according to the standards set forth by the Crane Manufacturers' Association of America to operate, supervise, and guide the crane, (B) erect, operate and dismantle the crane in compliance with applicable Laws, and (C) obtain (or cause to be obtained), at its sole expense, all permits and authorizations from applicable Governmental Authorities necessary for the use and operation of the crane.

(d) Upon request, IDA, Inova and/or any other applicable Burdened Owner shall promptly execute or consent to any reasonable application for such permits and authorizations, at no cost to the Burdened Owner, to the extent required by Law in order for a Benefited Party to avail itself of the rights granted under this Section.

(e) Each Benefited Party agrees to Indemnify the Burdened Owner with respect to any Loss suffered by the Burdened Owner arising out of or related to construction and development activities performed by or on behalf of the Benefited Party pursuant to this Section 3.2.

***Section 3.3 Encroachment Easement***. There is hereby granted for the benefit of each Parcel and Owner a non-exclusive right and easement ("**Encroachment Easement**") for encroachments and for the Maintenance of encroachments in the event that (a) there are minor inaccuracies in or minor variations from the plans and specifications for the construction of Parcel improvements, that are otherwise consistent with the Project Plans, occurring due to construction means, methods and/or techniques, (b) there are minor inaccuracies in the description of any Parcel, or (c) there shall be minor settlement or shifting of any building or other improvements following completion of construction so that any part of such building or other improvements encroaches or shall thereafter encroach upon any part of the adjoining Parcel. The Encroachment Easement shall exist, as to a particular encroachment, only so long as the encroaching item shall remain standing and in existence, including if rebuilt or replaced substantially in accordance with its original construction.

***Section 3.4 Support Easement***. There is hereby granted for the benefit of each Parcel and Owner a non-exclusive right and easement of support in and to any columns, foundations, structural members, slabs, beams, party walls, braces and footings located within or otherwise part of an adjacent Parcel as of the Effective Date, or installed after the Effective Date as part of redevelopment or construction in accordance with the Project Plans, that provide support for the building or other improvements within or part of another Parcel.

***Section 3.5 Maintenance Easement***. Each Owner, Developer, and REA Manager shall have and is hereby granted non-exclusive easements and licenses on, over and across such portions of the other Parcels as reasonably necessary from time to time for the performance of Maintenance to the Owner's Parcel or other areas that the Benefited Party is responsible for Maintaining pursuant to and subject to this REA, including Maintenance of applicable Shared Facilities by REA Manager, together with the right of ingress, egress, passage and performance of work incident

thereto for such Benefited Party and its contractors, subcontractors, employees and agents ("Maintenance Easement").

***Section 3.6 Utility Easements, Etc.*** Non-exclusive easements and rights of access and use are hereby granted and reserved for the benefit of each Owner and the Parcels for installation, use and Maintenance of utilities, including electricity, water, sewer, drainage, gas, cable television, telephones, internet and other communication lines, conduits, shafts, grease traps, life safety systems, and such other items and equipment that serve a Parcel, and further including rights to connect to and use any such utilities and other items and equipment that may exist or be located within the Parcels from time to time, with all such easement areas being consistent with any locations and Utility Capacity Allocations for such utilities or other items as reflected in the Development Agreement and/or the Project Plans. No Parcel shall exceed its respective Utility Capacity Allocation as to any utility that serves such Parcel.

***Section 3.7 Access***. Reciprocal non-exclusive easements and rights are hereby granted and reserved for the benefit of each Owner and Permittee for reasonable and necessary vehicular, bicycle, and pedestrian access to and from its Parcel, to and from the Project Garage, including the use of entrances, exits, driveways, drive aisles, stairways, and elevators within the Project Garage, and over all private roads, bike lanes, sidewalks, paths and other exterior access ways that are reasonably intended for common use.

***Section 3.8 Parking Easements***.

(a) There are hereby granted for the benefit of the Hospital Owner exclusive easements and rights to use the parking spaces in the Hospital Parking Area for vehicular parking by staff, physicians, patients and visitors of the Hospital Facilities ("**Permitted Hospital Parking Users**"), together with non-exclusive easements and rights of use within the Project Garage and such other portions of the Mixed-Use Parcel as reasonably necessary for vehicular and pedestrian access to and from the Hospital Parking Area. As referenced in Section 4.1, the Hospital Owner is responsible for paying a share of expenses for the Project Garage and is entitled to parking revenues paid by Permitted Hospital Parking Users. In addition to the Hospital Parking Area located within the Project Garage, a below-grade parking garage is planned to be constructed on the Hospital Parcel as part of the Hospital Facilities (the "**Hospital Below-Grade Garage**"). The Hospital Owner is responsible for the construction and all Maintenance of the Hospital Below-Grade Garage, at the Hospital Owner's sole expense, and the Owner of the Mixed-Use Parcel (and any Person acting under the Mixed-Use Parcel Owner) shall have no right to park within or otherwise use or traverse the Hospital Below-Grade Garage.

(b) Any rights of Owners and Permittees of the Mixed-Use Parcel or others to use the remainder of the Project Garage, including use of any parking spaces in the Project Garage other than the parking spaces in the Hospital Parking Area, are anticipated to be set forth in Other Agreements.

(c) In the event that the Hospital Below-Grade Garage is constructed with only one level of below-grade parking, there is hereby granted for the benefit of the Hospital Owner a non-exclusive easement and right to use up to an additional two-hundred (200) parking spaces within the Project Garage (the "**Additional Hospital Parking Spaces**") for vehicular parking by

Permitted Hospital Parking Users, together with non-exclusive easements and rights of use within the Project Garage and such other portions of the Mixed-Use Parcel as may be reasonably necessary for vehicular and pedestrian access to and from the Additional Hospital Parking Spaces, during the hours of 9 a.m. to 5 p.m., Mondays through Fridays, at prevailing monthly market rates as determined by the REA Manager from time to time and applied on a consistent and non-discriminatory manner toward Hospital Owner. For the avoidance of doubt, REA Manager is entitled to all revenues generated from fees paid by users of the Additional Hospital Parking Spaces. In the event that the Hospital Below-Grade Garage is constructed with more than one level of below-grade parking, no easement rights for Additional Hospital Parking Spaces shall be deemed to have been granted for the benefit of the Hospital Owner.

(d) The Hospital Owner is hereby granted (i) non-exclusive easements for the installation and Maintenance of an integrated vehicular and pedestrian connection between the above-grade parking garage planned to be constructed on the Hospital Parcel as part of the Hospital Facilities (the "**Hospital Above-Grade Garage**") and the Project Garage in the area shown as "_________________" on the Easement Plan, and (ii) the right to connect the Hospital Above-Grade Garage to the Project Garage. The Hospital Owner is responsible for the construction and all Maintenance of the Hospital Above-Grade Garage, including all costs to integrate and connect the Hospital Above-Grade Garage and the Project Garage, at the Hospital Owner's sole expense, and the Owner of the Mixed-Use Parcel (and any Person acting under the Mixed-Use Parcel Owner) shall have no right to park within or otherwise use or traverse the Hospital Above-Grade Garage except as expressly provided herein. The integration of the Hospital Above-Grade Garage and material modifications to any portion of the Hospital Above-Grade Garage abutting the Project Garage shall be done in accordance with plans that are approved by Developer in advance and in writing (and otherwise subject to Section 3.17 of this REA), such approval not to be unreasonably, withheld, conditioned, or delayed. The Hospital Owner shall comply with all applicable Laws relating to the Hospital Above-Grade Garage. Developer, REA Manager, and any affected Mixed-Use Parcel Owner may exercise self-help pursuant to Section 9.5 if the Hospital Owner fails to properly Maintain the integrated vehicular and pedestrian connection between the Hospital Above-Grade Garage and the Project Garage and such failure could reasonably be expected to result in any Material Interference with the use, occupancy, or operation of the Project Garage or any Mixed-Use Parcel. The Hospital Owner shall be liable for any and all Loss relating to the exercise of its easements under this Section or any failure to properly Maintain the Hospital Above-Grade Garage and shall Indemnify each other Party for any such Loss.

***Section 3.9 Shared Facilities Easements.*** Non-exclusive easements and rights of access are hereby granted and reserved within the Project for the benefit of each Owner to reasonably access and use the Shared Facilities for their reasonably intended purposes, subject to this REA (including Sections 2.3 and 2.4), other applicable matters of record and applicable Laws, and reasonable and non-discriminatory rules and regulations regarding the use of the Shared Facilities that may be established or modified from time to time by Developer or REA Manager consistent with the conditions of the CDD and any Public Access Easements. Non-exclusive easements and rights of access are hereby granted and reserved for the benefit of Developer and REA Manager over all portions of the Mixed-Use Parcel for all purposes relating to their responsibilities under this REA, including for Maintenance of the Shared Facilities.

***Section 3.10 Storm Water Management Easements***.

(a) Each Mixed-Use Parcel Owner is hereby granted non-exclusive easements and rights of use for the drainage, discharge, and transmission of storm water runoff to, through and into the Mixed-Use Parcel SWM Facilities and the right to connect to the Mixed-Use Parcel SWM Facilities as necessary to serve such Owner's Parcel and consistent with the Project Plans.

(b) The Hospital Owner is hereby granted (i) exclusive easements for the installation and Maintenance of a storm water management facility and related equipment beneath the Project Garage and adjacent to the Hospital Parcel in the area shown as "_________________" on the Easement Plan (the "**Hospital SWM Facility**"), and (ii) non-exclusive easements and rights of use for the drainage, discharge, and transmission of storm water from the Hospital SWM Facility into the Mixed-Use Parcel SWM Facilities and the right to connect the Hospital SWM Facility to the Mixed-Use Parcel SWM Facilities. Installation and Maintenance of the Hospital SWM Facility shall be the responsibility of the Hospital Owner at its sole cost. The installation of and material modifications to the Hospital SWM Facility shall be done in accordance with plans that are approved by Developer in advance and in writing (and otherwise subject to Section 3.17 of this REA), such approval not be unreasonably withheld, conditioned, or delayed. The Hospital Owner shall comply will all applicable Laws relating to the Hospital SWM Facility, including treating water in accordance with all applicable governmental standards before it is discharged from the Hospital SWM Facility to the Mixed-Use Parcel SWM Facilities. Developer, REA Manager, and any affected Mixed-Use Parcel Owner may exercise self-help pursuant to Section 9.5 if the Hospital Owner fails to properly Maintain the Hospital SWM Facility or treat water in the Hospital SWM Facility. The Hospital Owner shall be liable for any and all Loss relating to the exercise of its easements under this Section or any failure to properly Maintain the Hospital SWM Facility or treat water in the Hospital SWM Facility and shall Indemnify each other Party for any such Loss.

(c) The easements under this Section 3.10 shall include rights for drainage and discharge of water over the surface of the Project consistent with the Project Plans or from any properly installed and functioning storm drainage equipment installed consistent with the Project Plans as part of the initial redevelopment of the Project.

***Section 3.11 Signage***.

(a) Reciprocal easements are hereby established as between the Hospital Parcel and the Mixed-Use Parcel for reasonable wayfinding signage, with the specific sign material and appearance and locations of such signage to be reasonably agreed to between the Burdened Owner and Benefited Party from time to time.

(b) Subject to applicable Laws, Developer reserves easements and rights of use to install and Maintain temporary and permanent signage within the Mixed-Use Parcel, including signs relating to construction and development, for wayfinding, for advertising and other commercial purposes, and to grant and delegate signage easements, licenses and other signage rights within the Mixed-Use Parcel to Owners, Permittees and others. Without limiting this Section 3.11(b), Developer shall have the right to enter into agreements from time to time for the placement of revenue producing digital signs or other signs within the Mixed-Use Parcel, upon such terms as may be agreed to by Developer, including the allocation of revenue from such signs.

***Section 3.12 Events/Programming.*** Easements and rights are granted and reserved to Developer and REA Manager to temporarily close off and/or restrict access to the private roads, plazas, paseo, open space and other portions of the Shared Facilities that are located within the Mixed-Use Parcel for temporary periods, including for purposes such as programming, street activation for community activities and involvement, and holding special events, provided that no such use shall unduly restrict access to or use of the Hospital Parking Area or any necessary vehicular access to the Hospital Parcel, and provided such activities are conducted subject to applicable Laws.

***Section 3.13 Other Easements*.**

(a) Subject to any other specific easement rights and provisions of this REA that pertain to any Easement Area, and the terms and conditions hereof (including Section 3.17), to the extent that any provision of this REA expressly identifies easements or shared areas, including **Exhibit B** or **Exhibit D**, each Benefited Party of such easement or shared area shall have easements and reasonable rights of use and access thereto for their reasonably intended purposes to the extent serving or benefiting the Parcel of such Benefited Party.

(b) To the extent that any items or areas within a Parcel are designed or intended to serve or benefit another Parcel or are reasonably necessary to provide access to, or facilitate use by, a Benefited Party in the exercise of its easements or other rights under this REA, the Benefited Party shall have easements and reasonable rights of use and access thereto for their reasonably intended purposes in serving or benefiting the Parcel of such Benefited Party regardless of whether such items or areas are expressly identified in this REA, but subject to any other specific easement rights and provisions of this REA that pertain to any Easement Area (including Section 3.17). Such easements shall be subject to the prior written approval of the Burdened Owner to the extent required by Section 3.17(c).

***Section 3.14 Documentation of Easements and Covenants*.**

(a) Upon the request of any affected Party, the other affected Parties shall jointly execute, deliver and record among the Land Records such amendments to this REA (including, without limitation, amendments to the Maintenance Responsibility and Cost Allocation Schedule attached hereto as **Exhibit B**, the Easement Plan attached hereto as **Exhibit D**, and the CDD Conditions attached hereto as **Exhibit E**), as may be reasonably necessary or appropriate to confirm or to adjust and revise the specific "as-built" location of any easements or other areas of the Parcel set forth in this REA (such amendments to include, where feasible, revised and updated descriptions or depictions of such areas) and to allocate the responsibility to pay certain Shared Costs if applicable, which allocation may be modified only upon agreement of the affected Parties in accordance with the terms of this REA, and any such amendment shall be subject to the approval of each applicable Benefited Party and Burdened Owner in its reasonable discretion. Unless otherwise agreed to by the affected Parties, the Party who requests such amendment of this REA shall be principally responsible for arranging for the preparation and recordation of the amendment, including the preparation of revisions to the Exhibits hereto, and shall pay all out of pocket costs incurred to prepare such amendment (including reasonable attorneys' fees and engineering costs). Each Party shall be responsible for its own costs and expenses incurred in connection with the review of any proposed amendment entered into pursuant to this Section

3.14(a) ("**Review Costs**"). Any Party may request an amendment to this REA to provide further specificity to the rights granted herein, including to specifically identify the location of any easement, license, restriction, covenant or condition pursuant to the express terms of this REA or otherwise agreed to in writing by the applicable Parties, to provide for appropriate insurance requirements applicable to the Benefited Party, or to otherwise reasonably request changes hereto based on the Parties' understanding that the rights granted herein may be preliminary in nature and subject to the further mutual agreement of the Parties in their reasonable discretion as and when the Project redevelopment is more fully implemented, including as to plans and specifications, scope of work and duration.

(b) Upon the termination or release of any easement, license, restriction, covenant or condition pursuant to the express terms of this REA or otherwise agreed to in writing by the Benefited Parties thereof, in whole or in part, the same shall be effective upon the recording of an instrument among the Land Records, executed by the affected Parties, that evidences such termination or release. Upon the reasonable request of any applicable Party, an instrument memorializing the termination or release (in whole or in part), as the case may be, of any easement, license, restriction, covenant or condition shall be executed by the affected Parties and recorded among the Land Records, any such termination or release to be subject to the approval of each applicable Benefited Party and Burdened Owner in its reasonable discretion. Any and all out of pocket costs incurred in connection therewith shall be paid by the Party making such request, except for the Review Costs of the other Parties.

(c) Notwithstanding any provision of this REA, it shall not be necessary for a Party that is not benefited or burdened by a particular easement, license, restriction, covenant or condition to execute any instrument, including any instrument contemplated by this Section 3.14 or amendment to this REA, to memorialize the existence, modification, termination or release of such easement, license, restriction, covenant or condition.

***Section 3.15 No Dedication of Easements.*** Nothing contained in this REA shall be deemed to constitute a dedication of any Parcel or any portion or portions thereof to any governmental body or agency or to the general public, or be construed to create any rights in or for the benefit of any third Person, it being the intention that this REA shall be strictly limited to and for the purposes expressed herein and for the sole benefit of the parties set forth in Section 14.3.

***Section 3.16 Non-Merger***. Notwithstanding that the Parcels, or any portion thereof, may now or in the future be owned by the same Person, the easements, licenses, restrictions, covenants and conditions granted under this REA shall not be extinguished by merger.

***Section 3.17 Extent and Conditions of Easements and Rights Granted***.

(a) All easements, licenses, access and use rights granted or established in this REA, and the use thereof, shall be limited to the extent and duration of usage reasonably necessary to accomplish the purposes for which the same are granted or established and to minimize in all cases any disruption to the Burdened Property.

(b) Notwithstanding the foregoing, or anything to the contrary set forth in this REA, each Benefited Party entering another Owner's Parcel pursuant to an easement, license, covenant or other right granted under this REA to perform construction work or Maintenance as contemplated hereunder shall, at its sole cost and expense: (i) take all measures reasonably required to protect the Burdened Owner and its Permittees and the property and business of each from injury or damage arising out of or caused by such entry, including procuring such insurance as required in this REA or as the Burdened Owner may otherwise reasonably require (including insurance naming the Burdened Owner as an additional insured); (ii) perform any work at a time, for a duration and in such manner so as not to result in any Material Interference with the use, occupancy, operation of, or ingress to and egress from, the Burdened Owner's Parcel or any improvements located thereon or the Project Garage; (iii) undertake all reasonable efforts and utilize all reasonable diligence so that the period of construction or Maintenance on or affecting the Burdened Owner's Parcel is as short as reasonably practicable (without incurring any obligations for payment of overtime or premium); (iv) do all things reasonably necessary and proper in accordance with the standards of the building construction industry in the Washington D.C. Metropolitan Area to keep that portion of the Burdened Owner's Parcel which is subject to such easement, license, covenant or other right in a safe and clean condition, and in compliance with all applicable Laws; (v) upon completion of such work, promptly replace and restore any portions of the Burdened Owner's Parcel that were damaged or altered in connection with the exercise of such easement or other right as nearly as feasible to their condition prior to the performance of such work; and (vi) perform such work or Maintenance pursuant to such rules and restrictions as may be reasonably imposed by the Burdened Owner prior to the commencement thereof.

(c) A Benefited Party shall not exercise any easement or license rights that could reasonably be expected to result in any Material Interference with the use, occupancy, operation of, or ingress to and egress from, the Burdened Owner's Parcel unless the Burdened Owner (i) is given at least ten (10) days' prior written notice as to the nature and location of any work to be performed pursuant to such easements and licenses including, as applicable, a schedule of the estimated commencement and completion of Maintenance, construction or development work and reasonable time for the Burdened Owner to make required arrangements and to give reasonable notice to its Permittees, (ii) gives its prior written approval thereto, not to be unreasonably withheld, conditioned or delayed; and (iii) the provisions of Section 3.17(b) above are complied with to the reasonable satisfaction of the Burdened Owner; provided that the foregoing shall not apply in the case of Emergency, in which event such notice, whether written or oral, as is practicable under the circumstances shall be given, but in all cases prompt written notice shall be given thereafter.

***Section 3.18 Right to Maintain Easement Areas.*** If a Burdened Owner or other Party is obligated pursuant to this REA to Maintain the areas, systems and facilities upon the Burdened Owner's Parcel in and to which a Benefited Party has been granted a right or easement under this REA, and the Burdened Owner or other Party fails to do so in accordance with the terms of this REA, the Benefited Party shall have all of the rights and remedies of a Curing Party as set forth in Section 9.5 of this REA, including the right to enter upon the Burdened Property to perform such work as may be necessary for the Benefited Party to have a reasonably equivalent use and benefit as the Benefited Party would otherwise have if the Burdened Owner had Maintained the areas, systems and facilities subject to the rights or easements for the benefit of the Benefited Party.

***Section 3.19 Easement Plan***. Attached to this REA as Exhibit D is the Easement Plan. The parties acknowledge that the Easement Plan may be preliminary in nature and may be updated from time to time in connection with the activities on the properties in order to identify the location and types of certain specific Easement Areas. Any update to the Easement Plan shall be subject to the approval of the applicable Burdened Owners and Benefited Parties in their reasonable discretion. The Easement Plan shall not be deemed a limitation on any easements, general or otherwise, that are expressly provided for in this REA, regardless of whether such easements under this REA are shown on the Easement Plan, provided, however, that to the extent Easement Areas are shown on the Easement Plan, the easements and rights thereto shall be limited to the areas shown on the Easement Plan except to the extent reasonably necessary for the exercise of such easements and rights, such as for access thereto or as otherwise provided in this REA.

## ARTICLE 4
## OPERATION, USE AND MAINTENANCE OF PARCELS

***Section 4.1 Project Garage***.

(a) Project Garage Maintenance. REA Manager shall be responsible for Maintenance of the Project Garage and may from time to time delegate any and all operational and other Maintenance responsibilities for the Project Garage to a separate, reputable parking garage management company or other reputable parking manager in accordance with a commercially reasonable, market-rate parking management agreement. REA Manager shall have all easements and rights of access within the other Parcels that are reasonably necessary for the performance of its Maintenance of the Project Garage. Hospital Owner shall cooperate with REA Manager in the Maintenance of the Project Garage, provided that REA Manager shall not cause any Maintenance to be performed that would adversely impact the use or operation of Hospital Parking Area in any material respect without the prior written consent of Hospital Owner, not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, REA Manager may, with at least ten (10) business days' prior written notice, including a plan and reasonably detailed description, to Hospital Owner but without requiring Hospital Owner's consent, temporarily close or otherwise restrict the use of not more than ten percent (10%) of the Hospital Parking Area for not more than seven (7) days as necessary during any incidence of repairs, repaving, restriping or other non-routine Maintenance of the Project Garage; provided that such prior notice, number and duration of restricted Hospital Parking Area shall not apply in cases of Emergency. REA Manager may implement reasonable, non-discriminatory rules and regulations from time to time with respect to the Project Garage, including towing policies and/or fines for vehicles that are parked in violation of such rules and regulations, provided that any such rules and regulations applicable to the Hospital Parking Area shall require the prior written consent of Hospital Owner, not to be unreasonably withheld, conditioned or delayed.

(b) Shared Costs for the Project Garage. Except for the Developer Initial Capital Improvements To Project Garage, which are the sole obligation of the Developer and shall not be included as part of the Shared Expenses of the Project Garage, all other expenses of any nature for Maintenance and operation of the Project Garage including, but not limited to, cleaning, sweeping, striping, power washing, painting, maintenance, capital repairs and reserves, insurance premiums, deductibles and self-insured retentions for Project Garage insurance, and parking management fees, shall be part of the Shared Costs for the Project Garage that are allocated

between the Hospital Owner and the Mixed-Use Parcel Owner as set forth on **Exhibit B**. The percentage of Shared Costs allocated to the Mixed-Use Parcel Owner for the Project Garage as set forth in on **Exhibit B** is subject to further allocation among multiple Owners of the Mixed-Use Parcel under Other Agreements or otherwise. Hospital Owner's use of the Hospital Parking Area pursuant to this REA and its obligation to contribute its allocated percentage of Shared Costs for the Project Garage and any other Shared Costs shall commence as of either (i) the date Inova occupies the Hospital Facilities under the Hospital Ground Lease, or (ii) such earlier date that Hospital Owner requests to commence use of all or any portion of the Hospital Parking Area for any purpose by written notice to the REA Manager given at least fifteen (15) days prior to commencing such use; provided, however, the Hospital Owner shall have no obligation to contribute to capital repairs for the Project Garage until the earlier of the date that is five (5) years after (A) the date the Hospital Owner commences use of twenty-five (25) or more of the parking spaces in the Hospital Parking Area, and (B) the date of completion of the hospital. Hospital Owner shall upon request promptly execute and deliver to REA Manager written confirmation of such commencement date.

(c) Parking Income. Hospital Owner may from time to time establish parking fees for parking in the Hospital Parking Area by Permitted Hospital Parking Users and Hospital Owner shall be entitled to the revenues paid by Permitted Hospital Parking Users for use of the Hospital Parking Area. To the extent that the REA Manager is responsible for management of the Hospital Parking Area, any revenues collected by REA Manager may be applied by REA Manager to offset Hospital Owner's allocation of Shared Costs for the Project Garage. REA Manager shall from time to time establish parking fees for all parking spaces in the Project Garage other than the Hospital Parking Area and for all parkers other than Permitted Hospital Parking Users. REA Manager shall be entitled to all revenues generated from parking fees paid by users of the Project Garage other than revenues generated from parking fees paid by Permitted Hospital Parking Users for use of the Hospital Parking Area, subject to applicable provisions of Other Agreements. To the extent that the REA Manager is responsible for management of the Hospital Parking Area, REA Manager shall keep accurate records of all revenues from Permitted Hospital Parking Users that REA Manager collects and shall provide an accounting of the same to Hospital Owner on a monthly basis.

***Section 4.2 Maintenance and Shared Costs***.

(a) Maintenance Responsibility and Cost Allocation Schedule. Certain items of Maintenance, including for the Project Garage, and the allocation of expenses for such Maintenance items shall be in accordance with the Maintenance Responsibility and Cost Allocation Schedule attached to this REA as **Exhibit B**.

(b) Standard of Maintenance. The Maintenance of the Project Garage and Easement Areas shall be performed (i) in a good and commercially sound manner consistent with the maintenance standards for Comparable Buildings, (ii) in an efficient and economical manner with costs and expenses incurred in connection therewith at reasonable market rates and competitive with costs and expenses for comparable services or materials in Comparable Buildings, (iii) in accordance with all applicable Laws, (iv) in a manner that does not result in Material Interference with the use, occupancy, or operation of any Parcel, and (v) in accordance with insurance requirements pursuant to this REA. Except if impracticable under the

circumstances and except for normal routine Maintenance, each Party shall give prompt notice to each other affected Party of the necessity for performance of any Maintenance pursuant to the requirements of this REA (1) upon another Owner's Parcel, or (2) that will require temporarily closing or obstructing any portion of the Project Garage used by the affected Party or its Permittees, which shall be subject to relocation of the parking spaces needed for an Owner's Parcel in a manner reasonably approved by the affected Owner.

(c) Annual Budget for Shared Costs.

(i) REA Manager and any other Payee required to perform Maintenance of any improvement or facility, the use, benefit, service or enjoyment of which is shared with other Owner(s) and for which other Owner(s) are required to contribute to the costs of Maintenance as a Shared Cost (including Shared Costs for the Project Garage), shall provide such other Owner(s) with an annual budget at least sixty (60) days prior to the beginning of each calendar year detailing such projected Shared Costs for such calendar year, which budget may include reasonable reserves agreed upon by the affected Owners for future capital repairs and replacements. A partial year budget for the calendar year in which any Shared Costs commence may be established. Adjustments to more accurately reflect such estimated costs may be made during any calendar year, provided that at least thirty (30) days' notice of the change is provided to the payor. Unless a different payment schedule is agreed to by the applicable parties, commencing on the 1st day of January of the next calendar year, and continuing on the first calendar day of each month thereafter throughout the calendar year, an Owner required to contribute to Shared Costs shall pay the Payee an amount equal to one-twelfth (1/12) of said Owner's respective allocated share of projected annual Shared Costs (as may be adjusted pursuant to the preceding sentence), as such allocated shares are referenced in **Exhibit B**.

(ii) Within ninety (90) days after the expiration of each calendar year, each Payee shall furnish to such other Owner(s) a statement showing in reasonable detail the actual Shared Costs incurred during the preceding calendar year for such Maintenance and, upon written request, the Payee shall provide the other Owner(s) with the opportunity to review and to make copies of invoices and other materials confirming the statement of Shared Costs. In case of an underpayment, within thirty (30) days after the receipt of the later of such statement or the confirming materials, the owing Owner shall pay to the Payee an amount equal to such underpayment. In case of an overpayment, the Payee shall credit the next monthly payment(s) owed by such Owner until the overpayment amount has been fully credited and applied. Notwithstanding the foregoing, if a Payee incurs Maintenance costs in excess of the amounts budgeted for as the result of emergency repairs, insurance costs, utilities and other non-discretionary items (collectively "**Non-Controllable Costs**"), such Payee shall not be required to wait until the end of the calendar year to seek reimbursement of any underpayment and instead shall have the right to seek immediate reimbursement in the amount of such underpayment. In such case, an Owner responsible for payment shall reimburse the Payee within thirty (30) days following written demand provided with reasonable backup documentation.

(iii) The failure or delay of a Payee to prepare or adopt an annual budget for any calendar year, or a dispute by a paying Owner as to the budgeted amount being charged, shall not constitute a waiver or release in any manner of another Owner's obligation to pay its allocable share of Shared Costs to such Payee whenever the same shall be determined or resolved.

In the absence of an annual budget or in the event of such dispute, an Owner shall continue to pay its allocable share of Shared Costs to the Payee at the rate established for the previous calendar year as increased by the percentage increase to the CPI for the twelve-month period ending the month prior to the new calendar year until the new payment is established, provided that such CPI increase shall not limit the amount payable for Non-Controllable Costs as otherwise set forth in this Section. All budget figures and other information set forth in any proposed annual budget for Shared Costs may be estimates only and shall not be deemed a cap on the amount of actual Shared Costs for which an Owner may be charged.

(iv) REA Manger shall keep or cause to be kept complete and detailed books, records and accounts of its transactions with respect to the Shared Costs consistent with sound accounting principles and in accordance with practices consistently applied by REA Manager. For a period of three (3) years from and after delivery of an annual reconciliation, REA Manager shall make such books, records, invoices and accounts available for inspection by the other Owners during normal business hours upon reasonable notice. Furthermore, during such three year period, any other Owner may, at its sole cost and expense, engage a recognized national, regional or local certified public accountant or property manager, or engage such Owner's comptroller or chief financial officer, for the purpose of auditing the books and records maintained with respect to the Shared Costs. In the event such audit reveals undisputed errors in the determination of Shared Costs charged to one or more of the Owners for the relevant time period in excess of two percent (2%), REA Manager will make appropriate adjustments in the amounts charged, and will refund, or at REA Manager's election will offset against other amounts then due from an Owner, any overpaid amounts to the applicable Owner within thirty (30) days after being apprised in writing of such error(s).

***Section 4.3 Maintenance and Use Generally***. Except as provided herein with respect to the Maintenance of the Project Garage, any Shared Facilities and other areas located within a Parcel that are the responsibility of another Party to Maintain pursuant to this REA, each Owner shall be responsible for Maintaining its Parcel (including all improvements therein) in a manner consistent with the maintenance standards for Comparable Buildings. Each Owner shall Maintain its Parcel in a manner which will not adversely affect the structural integrity or use of any other Parcel or cause any other Parcel to fail to comply with applicable Laws. Each Owner shall comply with all applicable Laws in the use and operation of its Parcel and in the exercise of its applicable easements, rights and obligations under this REA.

***Section 4.4*** **Permitted and Prohibited Uses**.

(a) Without the prior written consent of the REA Manager, which consent shall not be unreasonably withheld, conditioned, or delayed, the use of the Hospital Parcel shall be limited to the following uses (collectively "**Hospital Services**"): (i) health care services customarily offered by an acute care hospital and cancer center, (ii) emergency services and urgent care, (iii) ambulatory surgery, (iv) reference diagnostic radiology and imaging for patients not directly served by individual physician practices, (v) cardiac catheterization, (vi) outpatient surgery centers, and (vii) Permitted MOB Uses. The Hospital Parcel shall not be used for any residential dwellings or lodging except as customarily provided in connection with the Hospital Services (e.g., Ronald McDonald House, Life with Cancer, etc.).

(b) The Mixed-Use Parcels may be used for any purposes permitted under the Project Plans and applicable Laws, which uses shall be consistent with comparable mixed-use developments in Washington D.C. Metropolitan Area, and which may include medical office buildings for physician practices ("**Permitted MOB Uses**"). Notwithstanding the foregoing or anything to the contrary in this REA, without the prior written consent of the Hospital Owner, which may be withheld in Hospital Owner's sole discretion, Permitted MOB Uses shall not include and the Mixed-Use Parcels shall not be used for Hospital Services, nor shall any of the following services be performed within a Permitted MOB Use: infusion, dialysis, radiation therapy, magnetic resonance imaging, positron emission tomography, or other similar imaging services that may be developed from time to time (regardless of whether such services are incidental as part of a physician's practice as a physician). Notwithstanding the foregoing, physicians otherwise performing Permitted MOB Uses may provide analog x-ray, dual energy x-ray, and ultrasound and sonogram imaging services to such physician's own patients (who are seen professionally and billed for such services by such physician) and incidental as part of such physician's practice as a physician. The term "incidental as part of such physician's practice as a physician" as used in the previous sentence means that such services are those that a physician customarily provides in connection with, but ancillary to, the normal course of the treatment of its patients and not as the primary service provided by such physician (e.g., an obstetrician's ancillary use of a sonogram would be "incidental" to their practice as a physician as provided herein, but such obstetrician shall not be permitted to perform sonograms for unaffiliated obstetricians on a referral basis). For the avoidance of doubt, the following uses shall be permitted with respect to the Fire Station Unit, as defined in the Development Agreement: EMS station, fire station, police station, or other similar use or government administrative offices.

(c) Without being deemed to expand the scope of permitted uses on any Parcel, none of the Parcels (including the Hospital Parcel and each Mixed-Use Parcel) shall be used for, or permitted to be used for, any of the uses set forth in **Exhibit C**. In addition, the following are prohibited on the Hospital Parcel in the areas on the Hospital Parcel adjacent to Road 6 between the Project Garage and the cancer center shown as "_________________" on the Easement Plan (the "**Frontage Area**"): any loading dock, service areas, waste transfer, bio-waste disposal, or other "back of house" uses, provided that the Hospital Owner may install transformers in the Frontage Area in accordance with the Project Plans.

***Section 4.5 Hospital Parcel Purchase Option*** .

(a) If at any time within fifty (50) years after the initial opening of the hospital, (i) the Hospital Ground Lease has terminated, and (ii) the Hospital Parcel ceases to be operated as an acute care hospital for more than two (2) years, subject to extension equal to the length of any delays due to Force Majeure (an "Operating Stoppage"), then Developer or its designee shall have the right to purchase the Hospital Parcel in accordance with this Section ("Purchase Option"), provided that Developer (A) is not then in default under this REA beyond applicable notice and cure periods, and (B) there was no event of default by Developer under the Development Agreement that was not cured by Developer during the pendency of the Development Agreement. Within ninety (90) days after an Operating Stoppage occurring after the Hospital Ground Lease has terminated (the "Exercise Period"), Developer may exercise its Purchase Option by written notice to IDA (or successor fee owner of the Hospital Owner) stating that Developer has elected to exercise its Purchase Option ("Exercise Notice"). Notwithstanding any other provisions of this

REA, for purposes of this Section 4.5 the term "Hospital Owner" shall mean the owner of fee title to the Hospital Parcel and not any lessee (including Inova). Such purchase shall be for a sum equal to the then fair market value of the Hospital Parcel, as determined by a Qualified Appraiser in accordance with this Section. For the avoidance of doubt, the fair market value of the Hospital Parcel shall include both the value of the land of the Hospital Parcel and the value of all improvements thereon, including without limitation, the Hospital Facilities.

(b) For purposes hereof, any appraiser that is a member of the American Institute of Real Estate Appraisers (or a successor organization) and is neither itself an Affiliate of Developer or Hospital Owner nor is employed by a Person who is an Affiliate of Developer or Hospital Owner, with at least ten (10) years of immediately prior experience appraising commercial real estate (including, without limitation, hospital properties) in the Washington D.C. Metropolitan Area shall be deemed a "**Qualified Appraiser**". If Developer and Hospital Owner cannot agree on a mutually acceptable Qualified Appraiser within thirty (30) days following Hospital Owner's receipt of an Exercise Notice, then within the next thirty (30) day period Developer and Hospital Owner shall each select a Qualified Appraiser. If either Developer or Hospital Owner fails to select a Qualified Appraiser within such thirty (30) day period and such failure continues for more than five (5) business days after a reminder notice is sent to the party that failed to select a Qualified Appraiser, the Appraised Value determined by the Qualified Appraiser selected by the other party shall be final and binding. Within thirty (30) days after its appointment, each selected Qualified Appraiser shall notify Developer, Hospital Owner and the other Qualified Appraiser (if applicable) of its determination of the then fair market value of the Hospital Parcel (each, an "**Appraised Value**"). Such two (2) Qualified Appraisers shall have ten (10) days to attempt to reach agreement as to a final Appraised Value. If such two (2) Qualified Appraisers shall fail to concur, then such two (2) Qualified Appraisers shall designate a third Qualified Appraiser within ten (10) days thereafter and Developer and Hospital Owner shall jointly engage such selected third Qualified Appraiser to perform the services contemplated by this Section 4.5(b). If the two (2) Qualified Appraisers fail to agree upon the designation of such third Qualified Appraiser within ten (10) days, then either party may apply to the American Arbitration Association in northern Virginia or any successor thereto in northern Virginia having jurisdiction for the designation of such third Qualified Appraiser. Such third Qualified Appraiser shall make its own independent determination of the fair market value of the Hospital Parcel, as so improved, and shall select one of the two (2) Appraised Values that is closest to the determination of fair market value made by the third Qualified Appraiser. The third Qualified Appraiser shall provide written notice to each Party of such selection of one of the Appraised Values within thirty (30) days of its engagement by the Parties, and such Appraised Value selected by the third Qualified Appraiser shall be a final determination of the purchase price to be paid by Developer under the Purchase Option for all purposes hereunder. Each party shall pay its own counsel fees and expenses, including the expenses and fees of any Qualified Appraiser selected by it in accordance with the provisions hereof, and the parties shall share equally the fees and expenses of any single Qualified Appraiser or, if applicable, third Qualified Appraiser.

(c) Unless otherwise agreed to by Developer and Hospital Owner, closing on the Hospital Parcel pursuant to the Purchase Option shall occur within sixty (60) days after the agreement upon or determination, as the case may be, of the fair market value of the Hospital Parcel, as so improved. At closing, Developer shall pay the agreed upon or determined, as the case may be, purchase price for the Purchase Option to Hospital Owner or its designee and Hospital

Owner shall convey fee title to the Hospital Parcel to Developer or its designee with the same warranty of title that was provided to Hospital Owner upon its acquisition of fee title to the Hospital Parcel and with closing costs and taxes allocated between the parties as is customary for commercial real estate sales transactions in the City of Alexandria.

(d) If Developer is entitled to exercise the Purchase Option but fails to do so within the Exercise Period, then the Purchase Option shall be automatically deemed to have expired and shall be of no further force or effect. Notwithstanding the foregoing, if Developer is entitled to exercise the Purchase Option but, prior to the end of the Exercise Period, Hospital Owner enters into a new ground lease for the Hospital Parcel with a lessee that will operate the Hospital Parcel for Hospital Services (a "**New Hospital Ground Lease**") then Developer's right to exercise the Purchase Option shall be suspended during the term of the New Hospital Ground Lease, but in no event shall such right extend beyond the expiration of the Developer Rights Period. In such event, Developer shall have a Purchase Option under the same terms and conditions set forth in this Section if (i) the New Hospital Ground Lease terminates within fifty (50) years and (ii) there is an Operating Stoppage. Further, notwithstanding the foregoing, if Developer exercises its Purchase Option under the terms of this Section 4.5 in connection with a termination of either the Hospital Ground Lease or a New Hospital Ground Lease before the expiration of the Developer Rights Period, but Developer then fails to close on the purchase of the Hospital Parcel under the Purchase Option as so exercised due to no fault or failure of Hospital Owner, then the Purchase Option shall be automatically deemed to have expired and shall be of no further force or effect. Upon Hospital Owner's written request, Developer shall execute and deliver a recordable document that acknowledges the termination of the Purchase Option and Hospital Owner shall have the right to record such document in the Land Records at Hospital Owner's expense.

(e) The Purchase Option shall be subordinate and subject to any rights that Inova may have under the Hospital Ground Lease to purchase the fee interest in the Hospital Parcel during the term of the Hospital Ground Lease.

## ARTICLE 5
## DEVELOPMENT MATTERS

***Section 5.1 Cooperation in Redevelopment Between Hospital Parcel and Mixed-Use Parcel***. Subject to the provisions of the Development Agreement, the Hospital Owner and the Mixed-Use Parcel Owner shall mutually cooperate to the extent that either Owner reasonably requires CDD amendments, amendments to Project Plans, permits, consents, approvals, utility easements, additional development easements, or other rights or information from the other Owner to fulfill any requirements imposed by any Governmental Authority, utility company or otherwise in connection with the redevelopment of its Parcel(s). Upon request, the other such Owner shall reasonably provide such consents, approvals, rights, or information, provided that (a) all costs and expenses related to the same shall be borne by the requesting Owner (except Review Costs), (b) such consents, approvals, rights, or information shall not result in Material Interference with the use of or business operations within the cooperating Owner's Parcel(s) (as reasonably determined by the cooperating Owner), and (c) shall otherwise be subject to the cooperating Owner's approval in its commercially reasonable discretion.

***Section 5.2 Reserved Development Rights; Performance of CDD Conditions*.**

(a) All rights, title and interest in and to any and all transferable development rights, excess density, unused development rights and credits including floor area ratio (FAR), combined lot development rights, tax abatements, excess storm water capacity credits, decisions as to which portions of the Mixed-Use Parcel may be included in a BID and the scope of services provided thereto through a BID, and similar development and related rights and interests accruing or pertaining to the Mixed-Use Parcel, including any additional rights or interests that may be granted or accrue to the Mixed-Use Parcel after the date of this REA (collectively, the "**Mixed-Use Parcel Reserved Development Rights**"), are reserved for the benefit of Developer, and its successors and assigns to whom any such Mixed-Use Parcel Reserved Development Rights have been expressly assigned in writing and recorded in the Land Records. Developer may, in its sole discretion from time to time, make any such assignment of Mixed-Use Parcel Reserved Development Rights. No other Owner nor any other party shall have any right, claim or control in or to any Mixed-Use Parcel Reserved Development Rights merely by acquiring title to, or any other interest in, a Parcel unless and only to the extent any Mixed-Use Parcel Reserved Development Rights are expressly assigned by a written instrument recorded in the Land Records pursuant to this Section. Any party acquiring an interest in any Parcel, including each Owner, agrees (i) not to impede or interfere in any material respect with any award, use, transfer, or application by Developer of any Mixed-Use Parcel Reserved Development Rights, and (ii) in the event that such party's cooperation and/or signature is required for the award, use, transfer, or application of any Mixed-Use Parcel Reserved Development Rights by Developer (or any successor or assign of the Mixed-Use Parcel Reserved Development Rights), to fully and promptly cooperate with Developer (or such successor or assign) in requests therefore, all at no cost or expense to the party whose cooperation is requested. For the avoidance of doubt, the Mixed-Use Parcel Reserved Development Rights do not include the rights, title and interest in and to any and all transferable development rights, excess density, unused development rights and credits including floor area ratio (FAR), combined lot development rights, tax abatements, excess storm water capacity credits, and similar development and related rights and interests accruing or pertaining to the Hospital Parcel, including any additional rights or interests that may be granted or accrue to the Hospital Parcel after the date of this REA (collectively, the "**Hospital Parcel Reserved Development Rights**").

(b) The Hospital Parcel Reserved Development Rights are reserved for the benefit of Hospital Owner, and its successors and assigns to whom any such Hospital Parcel Reserved Development Rights have been expressly assigned in writing and recorded in the Land Records. Hospital Owner may, in its sole discretion from time to time, make any such assignment of Hospital Parcel Reserved Development Rights. No other Owner nor any other party shall have any right, claim or control in or to any Hospital Parcel Reserved Development Rights merely by acquiring title to, or any other interest in, a Parcel unless and only to the extent any Hospital Parcel Reserved Development Rights are expressly assigned by a written instrument recorded in the Land Records pursuant to this Section.

(c) Any party acquiring an interest in any Parcel, including each Owner, agrees (i) not to impede or interfere in any material respect with any award, use, transfer, or application by Hospital Owner of any Hospital Parcel Reserved Development Rights, and (ii) in the event that such party's cooperation and/or signature is required for the award, use, transfer, or application of

any Hospital Parcel Reserved Development Rights by Hospital Owner (or any successor or assign of the Hospital Parcel Reserved Development Rights), to fully and promptly cooperate with Hospital Owner (or such successor or assign) in requests therefore, all at no cost or expense to the party whose cooperation is requested. With respect to the CDD (as it is approved as of the Effective Date), 4,185,000 square feet of allowable building square footage (the "**Mixed-Use Parcel Density Rights**") is allocated to the Mixed-Use Parcel, and 1,380,000 square feet of allowable building square footage is allocated to the Hospital Parcel (the "**Hospital Parcel Density Rights**"). For the avoidance of doubt, the Mixed-Use Parcel Density Rights and the Mixed-Use Parcel Reserved Development Rights are exclusive of the Hospital Parcel Density Rights and the Hospital Parcel Reserved Development Rights (and vice-versa). No use or development of the Hospital Parcel shall be made that would utilize either the Mixed-Use Parcel Density Rights or the Mixed-Use Parcel Reserved Development Rights unless and only to the extent expressly agreed to in writing by Developer. No use or development of the Mixed-Use Parcel shall be made that would utilize either the Hospital Parcel Density Rights or the Hospital Parcel Reserved Development Rights unless and only to the extent expressly agreed to in writing by Hospital Owner.

(d) Hospital Owner and Mixed-Use Parcel Owner will each satisfy their respective CDD Conditions as set forth on **Exhibit E** within the timeframes established therefor in the CDD and otherwise in order for the other Owner not to be delayed in the design, permitting, construction, use or occupancy of its respective Parcel. Further, and notwithstanding the allocations of the CDD Conditions set forth in **Exhibit E**, any additional or modified requirements of the CDD that may arise as a result of a request of one of the Parties will be borne by such requesting Party. Hospital Owner and Mixed-Use Parcel Owner will reasonably cooperate with each other to accomplish the timely satisfaction of the CDD Conditions.

***Section 5.3 Development Plan Changes Affecting Mixed-Use Parcel***.

(a) Developer shall have the right, during the Developer Rights Period, without the consent of any Owner of a Mixed-Use Parcel or other party in interest thereto, to enter into and amend any and all Project Plans; CDA-related petitions and agreements; BID applications and agreements; utility, access, use, and Maintenance easements, covenants and agreements; and any other instruments that Developer may from time to time deem necessary or desirable in connection with the development of the Mixed-Use Parcel; provided, however, that Developer shall not approve any amendment to the Project Plans that would have a material adverse impact on the use and operation of any Mixed-Use Parcel for its reasonably intended purpose without the written consent of the Owner of such Mixed-Use Parcel, not to be unreasonably withheld, conditioned or delayed.

(b) After the Developer Rights Period, Developer's rights under this Section 5.3 may be exercised with the written consent of Owners representing at least a majority of the land area of the affected Mixed-Use Parcel(s).

(c) No Owner of a Mixed-Use Parcel or any other party in interest thereto (subject to Section 5.3(d)) shall take any action or fail to act in any manner that is contrary to any rights of Developer under this REA and shall not oppose, impede or interfere in any manner with the exercise of any such rights by Developer or its assigns or designees. Unless expressly provided otherwise in this REA, Developer may exercise any of its rights under this REA without the

consent or joinder of any such Owner of Mixed-Use Parcel or other party. However, if requested by Developer, any Owner or other party having an interest in a Mixed-Use Parcel shall promptly join in and execute such instruments that are made by Developer pursuant to its rights under this REA (subject to Section 5.3(d)).

(d) None of the rights exercised by Developer or successors pursuant to Section 5.3 shall be binding on the Hospital Owner without its express written consent (not to be unreasonably withheld, conditioned or delayed) subject, however, to the express provisions otherwise set forth in this REA.

***Section 5.4 Assignment of REA Manager's Rights and Obligations; Dedication of Shared Facilities***. During the Developer Rights Period, Developer may from time to time donate or dedicate any Shared Facilities in the Mixed-Use Parcel to a BID or the City and/or assign any or all rights and obligations under this REA with respect to such Shared Facilities (including REA Manager's responsibilities to Maintain the Shared Facilities) to a BID or the City, provided that doing so does not result in Material Interference with the rights and obligations of Hospital Owner under this REA. Any rights and/or obligations of REA Manager under this REA that are not assigned to a BID or the City may be delegated to a professional property management company or other Person retained by REA Manager with more than five (5) years' experience in managing mixed-use properties of comparable size in the Washington, D.C. Metropolitan Area.

***Section 5.5 Conflicts***. Subject to Section 5.3(d), the provisions of this Article 5 shall control in the event of any conflict with the other provisions of this REA, including Article 3.

## ARTICLE 6
## INSURANCE

***Section 6.1 Required Insurance***.

(a) Subject to Section 6.2, each Owner, at its own cost and expense (subject to reimbursements or payment obligations from a tenant, licensee or other party pursuant to agreements between the Owner and such party), shall cause to be obtained and maintained the following insurance:

(i) Special form causes of loss property insurance in an amount at least equal to the full replacement value of any building and other improvements located in the Owner's Parcel and any Easement Area that exclusively serves the Parcel of such Owner (including the obligation for the Hospital Owner to insure the Hospital SWM Facility, but not the Hospital Parking Area), such replacement value being determined at the time the first such policy is purchased and each anniversary thereafter, without deduction for depreciation (the full replacement value of any improvements being referred to herein as the "**Full Replacement Value**") and either with an agreed value endorsement or with coinsurance waived. Such policies shall include, or provide via a separate policy, coverage for wind, hail and named windstorm, equipment breakdown, and ordinance or law.

(ii) Builders risk insurance with respect to any construction activity conducted on its Parcel from time to time, on a completed value, non-reporting basis.

(iii) Commercial general liability insurance with limits on a per occurrence basis not less than Ten Million Dollars ($10,000,000), which coverages may be satisfied through a combination of primary and umbrella policies. REA Manager shall also maintain commercial general liability insurance in the same amounts to cover its activities as REA Manager under this REA, premiums and deductibles for which shall be allocated to the Owners as set forth on **Exhibit B**. During any period of demolition or construction, each Owner, or the Owners collectively, shall ensure that liability insurance appropriate for the scope of work is in effect for the Owner(s) and any contractor with a contract directly with either Owner, and that any such contractor(s) shall enforce appropriate insurance requirements on any of its subcontractors.

(iv) Statutory Worker's compensation insurance as required by law and Employer's Liability for not less than the following amounts: (x) for each employee, $1,000,000 for Bodily Injury by Accident; (y) for each employee $1,000,000 for Bodily Injury by Disease; and (z) for the policy limit, $1,000,000 for Bodily Injury by Disease.

(b) All policies of insurance shall provide coverage in such amounts and with such deductibles that are reasonable and customary from time to time for Comparable Buildings and otherwise meeting the requirements of this Article 6. Insurance may be obtained under portfolio insurance policies. All policies of insurance shall comply with all applicable requirements of all affected Mortgagee(s). All policies of property insurance and liability insurance provided by each Owner shall include coverage for acts of terrorism.

(c) The insurance policies shall be written by companies with a financial rating of A- X or better under A. M. Best's Rating Guide (or any comparable rating under a revised rating guide). Hospital Owner may self-insure any required coverage(s) or parts thereof, provided that Hospital Owner can demonstrate to Developer's reasonable satisfaction that it (directly or indirectly) possesses sufficient financial resources and controls in order to self-insure its insurance obligations under this REA. So long as the Ground Lease is in effect, Inova may self-insure its insurance obligations hereunder, including through its wholly owned captive insurance company, InovaCap. Upon Developer or REA Manager's request from time to time, Hospital Owner shall provide Developer and/or REA Manager with a current financial statement, audited or certified by its chief financial officer (or equivalent), and other reasonably requested documentation in order to demonstrate the satisfaction of the conditions described in this subsection.

(d) Each Party shall provide evidence of its compliance with the applicable provisions of this Article 6 to another Party promptly upon request via certificates of insurance. If, after at least thirty (30) days written notice is given by a requesting Party, another Party fails to provide evidence of insurance (including any extension, renewal or replacement thereof), then the requesting Party may, but shall not be required to, effect such insurance (or extension, renewal or replacement thereof) and the Party that failed to provide such evidence of insurance shall reimburse such other Party upon demand for the cost of such insurance. Failure of any Defaulting Party to so reimburse upon demand is subject to enforcement by a lien in accordance with Article 9.

(e) If at any time a dispute arises between or among the Parties concerning the coverage and/or limits of insurance obtained pursuant to this Article 6, and if the disputing Parties cannot agree upon the appropriate coverage and/or limits, then

(i) to resolve a dispute concerning limits of insurance coverage required pursuant to this REA, each applicable Party shall select, at its sole cost and expense, an appraiser who is a member in good standing of the American Institute of Real Estate Appraisers, who shall each determine the Full Replacement Value of the applicable Parcel improvements, and the insurance limits in dispute shall be based upon the average of the Full Replacement Value of the Parcel as so determined by the appraisers; and

(ii) to resolve a dispute concerning coverage, each applicable Party shall select, at its sole cost and expense, a professional insurance consultant who has been in the business of insurance consulting or brokerage for commercial real estate in the Washington D.C. Metropolitan Area for at least five (5) years, and the consultants so selected shall each determine the appropriate coverages for the applicable Parcel improvements and the insurance coverage in dispute shall be based upon the average or consensus of such consultants regarding coverages.

***Section 6.2 Project Garage Insurance; Other Shared Facilities***.

(a) Notwithstanding any other provision of this Article 6, REA Manager shall be responsible for obtaining and maintaining the insurance required pursuant to Section 6.1 for the entire Project Garage (not including the Hospital SWM Facility which is the Hospital Owner's responsibility to insure), with premiums, deductibles and any self-insured retentions for such insurance being a Shared Cost of the Project Garage in the allocated percentages set forth on **Exhibit B**. All property insurance proceeds payable for damage or other claims with respect to the Hospital Parking Area shall be delivered to an insurance trustee appointed with the mutual consent of Hospital Owner and REA Manager to be held in trust and disbursed by the insurance trustee as agreed to by Hospital Owner and REA Manager, consistent with the repair and restoration obligations under this Article 6 and Article 7. All property insurance proceeds payable for damage or other claims with respect to any portion of the Project Garage other than the Hospital Parking Area shall be payable to REA Manager, and consistent with the repair and restoration obligations under this Article 6 and Article 7.

(b) In addition to insurance requirements in 6.1, REA Manager shall maintain garage keepers liability insurance with limits on a per occurrence basis not less than Ten Million Dollars ($10,000,000), which coverages may be satisfied through a combination of primary and umbrella policies.

(c) REA Manager may undertake the responsibility for obtaining and maintaining the insurance required pursuant to Section 6.1 for any other Shared Facilities in the Mixed-Use Parcel, with premiums, deductibles and any self-insured retentions for such insurance being a Shared Cost that may be allocated to the Owners of the Mixed-Use Parcel pursuant to Other Agreements.

***Section 6.3 Adjustments to Coverage Amounts.*** Insurance coverage required pursuant to this Article 6 or other provisions of this REA may be reviewed periodically by the Parties and an insurance professional and adjusted if necessary to reflect commercially reasonable coverage for similar properties, including minimum insurance coverage amounts that may be required from time to time. Any adjustments in insurance coverage/limits required shall be by mutual agreement. Written notice of any material change to the insurance requirements shall be provided to all Parties

at least thirty (30) days prior to such change, or such shorter notice as may be required in an Emergency or similar circumstances. Any material change to the insurance coverage required pursuant to this Article 6 shall be subject to the approval of the Hospital Owner and REA Manager.

***Section 6.4 Waiver of Rights of Recovery***. Each Party (a "**Waiving Party**") waives rights of recovery against each other Party with respect to any claim or loss insured against or required to be insured against by the Waiving Party with respect to property insurance under the provisions of Sections 6.1(a)(i) and 6.1(a)(ii).

***Section 6.5 Joint or Coordinated Insurance***. The Parties may agree, in each Party's sole discretion, to procure all or any part of the insurance provided for in this REA via joint insurance policies and/or by coordinating separate policies with one carrier or group of carriers. With respect to any such joint or coordinated insurance, the Parties shall comply with all requirements of this REA, including the provisions of this Article 6, concerning coverages and limits and shall comply with all applicable requirements of all affected Mortgagee(s).

***Section 6.6 Development Agreement and Hospital Ground Lease Insurance Requirements***. The insurance requirements under the Development Agreement and/or the Hospital Ground Lease shall control over this Article 6 to the extent that an insurance matter is within the scope of the Development Agreement and/or the Hospital Ground Lease.

## ARTICLE 7
## CASUALTY AND CONDEMNATION

***Section 7.1 Casualty***.

(a) In the event of any casualty damage to a Parcel that materially diminishes or interferes with the use or benefit of any easement or other right granted to another Party pursuant to this REA or the use of the Parcel of another Owner (each an "**Impacted Party**"), then (i) the Owner of the Parcel so damaged shall have the affirmative duty and obligation to provide notice of such damage to the Impacted Party within seven (7) days following the event that resulted in the damage and shall promptly take all action required to assure that the damaged Parcel does not constitute a nuisance or otherwise present a health or safety hazard; and (ii) as soon as reasonably practicable thereafter, the Owner of the Parcel so damaged or other Party responsible for the Maintenance of the damaged property (the "**Responsible Party**") shall have the affirmative duty and obligation to undertake such repair and/or restoration of the damaged Parcel, or take other reasonably alternative measures, as reasonably determined by the Impacted Party, as may be required to ensure that the Impacted Party receives the continued use and benefit of the affected easements for the purposes intended as provided for in this REA. Such repair and restoration shall be diligently prosecuted to completion by the Responsible Party, subject, however, to then applicable zoning, building, and other Laws. Notwithstanding the foregoing, the repair, restoration or replacement of any improvements, equipment or other property placed or installed within or upon the affected Easement Area shall be the sole responsibility of the Impacted Party responsible for the installation and Maintenance thereof to the extent required under the terms of this REA and such repair, replacement or restoration shall be undertaken by such responsible Impacted Party at its sole cost and expense unless otherwise established as a Shared Cost under this REA.

(b) Notwithstanding Section 7.1(a), in the event of any casualty damage to any portion of the Project Garage, REA Manager shall have the affirmative duty and obligation to undertake the repair and/or restoration of such damaged portion of the Project Garage as otherwise provided in this Section 7.1, and provided REA Manager has obtained and maintained insurance as required by this REA, any costs and expenses incurred in connection with the repair and/or restoration of such damaged portion of the Project Garage that are not covered by insurance proceeds shall constitute a Shared Cost for the Project Garage with the Hospital Owner. If REA Manger fails to obtain and maintain insurance as required by this REA, any costs and expenses incurred in connection with the repair and/or restoration of such damaged portion of the Project Garage that are not covered by insurance proceeds shall be the sole responsibility of the REA Manager.

(c) Each Responsible Party required to undertake any repair or restoration under this Section 7.1 agrees to apply all applicable insurance proceeds applicable to such repair or restoration costs available for such purpose, provided, however, that any Responsible Party obligated to repair or restore a Parcel for the benefit of an Impacted Party shall be obligated to do so regardless of whether or not insurance proceeds are available or sufficient to pay the costs thereof. The Parties agree that their sole obligation to repair or restore in the event of a casualty shall be as expressly set forth in this Section 7.1 and no additional obligations shall be implied except as otherwise expressly set forth in this REA, provided that in the event of damage to a Parcel, the Owner of such damaged Parcel shall in all events promptly remove all debris resulting from such casualty and restore the same to a safe, neat and clean condition such that the damaged Parcel appears to be finished from ground level and otherwise in a good and sightly condition, with no structural beams, construction materials or other related elements exposed to public view.

***Section 7.2 Condemnation***. If the whole or any part of a Parcel or any area subject to an exclusive use right by an Owner pursuant to this REA shall be taken by right of eminent domain or similar authority of law (a "**Taking**"), the entire award for the value of the land and improvements so taken shall belong to the Owner of the Parcel or exclusive use right that is subject to the Taking (which Owner shall also be entitled to settle such award) or to such Owner's Mortgagee, and the other Owner shall have no right to claim any portion of such award by virtue of any other interest created by this REA, except as otherwise provided in this REA. The other Owner may, however, file a separate claim with the condemning authority to the extent of any damage suffered by such Owner resulting from the severance of the land or improvements so taken, including the loss of the use or benefit of any easement benefiting such Owner created pursuant to this REA (an "**Other Owner Award**") provided that the Other Owner Award does not diminish in any respect the amount of the award that may be afforded to the Owner of a Parcel or exclusive use right that is subject to the Taking. In the event of a partial Taking that materially diminishes or interferes with the use or benefit of any easement granted pursuant to this REA, then, to the extent that the remaining portion of the Parcel subject to the partial Taking may be restored so as to continue the use and benefit of the affected easement, and restored as soon as reasonably practicable after the partial Taking, the Owner of the Parcel subject to the partial Taking shall have the affirmative duty and obligation, at its sole cost and expense (except to the extent an Other Owner Award relates to such taken portion), and for the benefit of the Benefited Party of such affected easement, to undertake such repair and/or restoration of the remaining portion or portions of its Parcel as may be required to ensure that the Benefited Party receives, to the extent practicable, the use and benefit of the affected easement. All such restoration shall be diligently

prosecuted to completion, subject to then applicable zoning, building, and other applicable Laws. The condemnation award, to the extent necessary, shall be applied for such purpose and restoration and shall be made without contribution from the other Owners, except that each other Owner shall contribute the amount of any Other Owner Award related to such taken portion, after subtracting such Owner's reasonable costs of recovery of such award. The condemnation proceeds from any award for a partial Taking shall be provided to the Owner of the Parcel subject to the partial Taking for satisfaction of such Owner's obligations under this Section. The sole obligation to restore in an event of a partial Taking shall be as expressly set forth in this Section and no additional obligations shall be implied except as otherwise expressly set forth in this REA and except that the Owner of the condemned Parcel shall in all events promptly remove all debris resulting from such condemnation and restore the same to a safe, neat and clean condition such that the condemned Parcel appears to be finished from ground level and otherwise in a good and sightly condition, with no structural beams, construction materials or other related elements exposed to public view.

***Section 7.3 Additional Restoration Obligations***. If, following a casualty or condemnation described in Sections 7.1 and 7.2, an Owner elects to temporarily or permanently demolish and remove at any time one or more levels of the portion of such Owner's improvements situated above all or a portion of another Parcel, either in connection with a redevelopment of its building or otherwise, then the Owner undertaking such restoration or demolition activity covenants to the Owner of such other Parcel and shall be obligated, at its sole cost and expense, to (a) minimize to the extent reasonably possible any interruption to operations within such Owner's Parcel; (b) preserve street level pedestrian access to all affected areas of the Parcels without interruption to the extent reasonably possible; and (c) ensure that to the extent impacted thereby, the affected Owner's Parcel is provided at all times with a weather-proof roofing system that is reasonably acceptable and approved in advance by such Owner to be located at the uppermost roof level of such portion of the building of the Owner undertaking the restoration or demolition work, if any, which remains above the affected Owner's Parcel following such demolition or restoration activity; provided, however, that if no portion of the Owner's building remains following such demolition activity, then the Owner performing such demolition or restoration work, as applicable, shall preserve the concrete floor slab located immediately above the affected Owner's Parcel and construct thereon a weather-proof roofing system to serve the affected Owner's Parcel that is reasonably acceptable and approved in advance by the affected Owner. Upon any reconstruction of the portion of the Owner's Parcel that is located above another Owner's building, such Owner shall observe all of the requirements of subsections (a), (b) and (c) of this Section 7.3 and shall in all events promptly remove all debris and restore the same to a safe, neat and clean condition such that the Parcel appears to be finished from ground level and otherwise in a good and sightly condition, with no structural beams, construction materials or other related elements exposed to public view.

***Section 7.4 Failure to Perform Restoration***. If a Party defaults in its obligations under this Article 7, and the same continues unperformed beyond applicable grace periods, an impacted non-defaulting Party shall have the all of the rights and remedies of a Curing Party as set forth in Section 9.5 of this REA.

## ARTICLE 8
## WAIVER OF JURY TRIAL; LEGAL FEES

***Section 8.1 Waiver of Jury Trial.*** EACH PARTY AND ANY OTHER PARTY WITH AN INTEREST IN ANY PARCEL WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY SUCH PARTIES IN ANY WAY RELATED TO THIS REA REGARDLESS OF THE FORM OF THE CLAIM(S) MADE OR DAMAGES SOUGHT. THIS WAIVER OF JURY TRIAL WILL EXTEND TO ANY THIRD PARTY NAMED IN ANY PROCEEDING BY AN OWNER, TENANT OR OTHER PARTY WITH AN INTEREST IN A PARCEL. BY ACQUIRING AN INTEREST IN ANY PORTION OF A PARCEL, EACH SUCH PARTY ACKNOWLEDGES THAT THIS WAIVER IS MADE KNOWINGLY, VOLUNTARILY, AND AFTER CONSULTING WITH, OR HAVING HAD THE OPPORTUNITY TO CONSULT WITH, COUNSEL OF ITS OWN CHOOSING AS TO THE MEANING OF THIS WAIVER.

***Section 8.2 Costs and Attorneys' Fees***. Except as expressly set forth in Sections 9.1 and 9.3, and except with respect to the obligation of an Indemnifying Person to Indemnify and Indemnified Person (allowing for the recovery of reasonable attorneys' fees under certain circumstances set forth therein), each Owner shall be responsible for all of its own expenses and attorneys' fees, including, without limitation, all disbursements and litigation expenses incurred by such Owner in connection with an action or proceeding against another Owner arising out of or relating to the terms and conditions of this REA or any default hereunder, and no Owner shall have any obligation to reimburse any other Owner for any such fees, costs and expenses.

## ARTICLE 9
## DEFAULT REMEDIES; LIENS

***Section 9.1 Nonpayment of Costs.*** The failure of any Defaulting Party to pay upon demand any sum of money payable to any Payee pursuant to the provisions of this REA may be enforced in any manner available under applicable Laws, including by a lien in favor of the Payee, provided that the Defaulting Party is given written notice of such default and fails to pay the outstanding amount due within fifteen (15) days after such notice. In addition to any other rights the Payee may have by operation of law or otherwise, the Defaulting Party shall also be liable for all of the Payee's expenses incurred in the collection of the monies due, including but not limited to court costs, reasonable attorneys' fees and disbursements.

***Section 9.2 Interest***. In each instance when an Owner fails to timely pay any sum of money to Payee under this REA, the Payee shall be entitled to interest from the Defaulting Party on the delinquent amount due at the Prime Rate plus five percent (5%) from the date such sum first became due until the date such sum is actually paid.

***Section 9.3 Lien***.

(a) Each Owner shall be deemed to covenant and agree to pay all Shared Costs and other charges payable by such Owner in accordance with this REA. All such costs and charges, together with interest, costs, late fees and reasonable attorneys' fees, shall be a charge and continuing lien on the Owner's Parcel, provided the requirements of applicable law have been

fulfilled. All such costs and charges shall also be the personal obligation of the Owner of the Parcel at the time they became due. The personal obligation for delinquent costs and charges shall not pass to a delinquent Owner's successor in title unless expressly assumed by such successor. The personal obligation for delinquent costs and charges set forth in this Section 9.3 shall not be construed to limit the effect of the limitation of liability provided in Section 14.11.

(b) In the event of a foreclosure under any other Mortgage recorded in the Land Records prior to the date of any lien for Shared Costs or other charges pursuant to this REA, then the proceeds of such foreclosure sale shall be applied: (i) first, to pay all amounts due under the applicable Mortgage, and then (ii) to pay all unpaid Shared Costs by the applicable Owner and other charges under this REA in the order such amounts became due. No such foreclosure, or deed or other conveyance in lieu of foreclosure, shall extinguish the lien for any and all unpaid Shared Costs and other charges under this REA. Any Owner that comes into possession of a Parcel by virtue of foreclosure, or deed or other conveyance in lieu of foreclosure, of a Mortgage shall take the Parcel subject to all such unpaid Shared Costs and other charges. Further, upon the sale or transfer of a Parcel by virtue of foreclosure, or deed or other conveyance in lieu of foreclosure, the Mortgagee or purchaser at such sale or transfer, or other subsequent Owner of such Parcel, shall be liable for all Shared Costs and other charges under this REA applicable to such Parcel thereafter coming due and is subject to a lien therefore in accordance with this REA.

***Section 9.4 Mechanics' and Other Liens.*** Any Party whose action or inaction results in the filing of a mechanic's, materialmen's or other lien affecting any portion of a Parcel shall, within ten (10) business days after receipt of notice of such lien, remove of record any such mechanic's, materialmen's or other lien by filing of a bond or other reasonable security in accordance with applicable Laws. The Party permitting or causing such lien agrees to Indemnify any Owner affected by the lien with respect to such lien. If any Party shall fail to remove of record any such lien, then the affected Owner may remove of record such lien by filing a bond or other reasonable security in accordance with applicable Laws or otherwise discharging such lien, and shall be entitled to immediate reimbursement from the non-paying Owner for the amount of such payment. Failure of any non-paying Owner to so reimburse a paying Owner pursuant to this Section 9.4 shall give rise to a lien in favor of the paying Owner upon the Parcel of the non-paying Owner pursuant to Section 9.3.

***Section 9.5 Self Help***. If a default by a Defaulting Party under this REA continues for thirty (30) days after written notice is given to the Defaulting Party (or if such default shall be of a nature that the same cannot be practicably cured within such thirty (30) day period, then such longer period as is reasonably necessary to effect the cure, provided that the Defaulting Party commences and diligently pursues curing such default within thirty (30) days after receiving a default notice and continuously thereafter), then a non-defaulting Party giving such notice (the "Curing Party") may, without waiving or releasing the Defaulting Party from any obligations under this REA, take appropriate steps to cure such default including, without limitation, the performance of Maintenance or other work, the hiring of contractors, entry onto the Parcel of the Defaulting Party, the payment of any sum secured by lien and/or the filing of a bond to discharge a lien and, in exercising any such rights, pay costs and expenses, employ counsel and incur and pay reasonable attorneys' fees. The Curing Party shall have temporary, non-exclusive, blanket easements and rights of passage ("Cure Right Easement") in such portions of the Defaulting Party's Parcel as may be reasonably required by the Curing Party and its Permittees to cure the Defaulting Party's default,

including performance of the Maintenance or other work; provided that the Curing Party shall use commercially reasonable efforts to minimize its entry onto such Defaulting Party's Parcel in connection with the curing of such default and performance of the Maintenance and shall cooperate reasonably with the Defaulting Party to minimize disruption to the use and occupancy of the Defaulting Party's Parcel in connection with its exercise of the Cure Right Easement. The Defaulting Party shall, upon demand, reimburse the Curing Party for all actual, out of pocket costs and expenses paid or incurred by the Curing Party in the exercise of its rights under this Section. Failure of the Defaulting Party to so reimburse upon demand shall give rise to a lien in favor of the Curing Party upon the Defaulting Party's Parcel as provided in Section 9.3. Nothing in this Section shall be construed to require an Owner to complete or perform any or all of the responsibilities of a Defaulting Party. Notwithstanding the foregoing, the notice provisions set forth in this Section 9.5 shall not apply in the case of Emergency, in which event such notice, whether written or oral and within such time period after default, as is practicable under the circumstances shall be given, but in all cases prompt written notice shall be given thereafter.

## ARTICLE 10
## AMENDMENTS; TERMINATION

***Section 10.1 Amendments; Termination***. Except as may be otherwise provided in this REA (including pursuant to, but as limited by, Section 2.4 and Section 3.14(c)), this REA may be amended by a written instrument executed by (i) all Owners impacted by such amendment, and (ii) Developer during the Developer Rights Period, and with the consent of Eligible Mortgagees pursuant to Section 12.3. Notwithstanding the foregoing, upon request any Owner whose execution of any amendment or supplement to this REA is not otherwise required shall promptly execute and deliver an acknowledgement of such amendment or supplement, including Hospital Owner as to any amendments or supplements hereto that may be made by Developer to confirm any subdivision of the Mixed-Use Parcel and reallocation of costs among multiple Mixed-Use Parcels. This REA may be terminated by a written instrument executed by (A) Hospital Owner, (B) at least two-thirds of the Mixed-Use Parcel Owners, and (C) Developer during the Developer Rights Period, and with the consent of Eligible Mortgagees pursuant to Section 12.3. Any amendments or termination instruments to this REA shall be recorded among the Land Records.

***Section 10.2 Debts Survive***. Notwithstanding any termination of this REA in accordance with this Article 10, if at the time of such termination any Owner shall be obligated to pay any sum of money pursuant to the provisions of this REA, such obligation shall not be extinguished until such sum of money, including any interest accruing thereon, has been paid in full.

## ARTICLE 11
## NOTICES; MULTIPLE OWNERSHIP

***Section 11.1 Notices***.

(a) Any notice, demand, election or other communication which any Party shall desire or be required to give pursuant to provisions of this REA (collectively referred to as "**Notices**" and singularly referred to as a "**Notice**") shall be given either by (i) personal service, (ii) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, (iii) mailing utilizing a certified or first class mail postage

prepaid service of the United States Postal Service that provides a receipt showing date and time of delivery, or (iv) delivery by electronic mail (email) with transmittal confirmation and confirmation of delivery to the address for the Party set forth in this Section below or such other address as the Party may provide in writing to the other Parties from time to time. If a current valid address for an Owner has not been provided, then the address of such Owner as reflected for its Parcel in the tax assessment records of the City's Office of Real Estate Assessments may be used for the delivery of Notices under this REA. Rejection or other refusal by the addressee to accept a Notice shall be deemed to be receipt of the Notice sent. For so long as the Hospital Ground Lease is in effect, all notices required to be provided to the Hospital Owner shall be provided to IDA and Inova.

**Developer**

Landmark Land Holdings, LLC
c/o Foulger-Pratt
12435 Park Potomac Avenue, Suite 200
Potomac, Maryland 20854
Attn: Cameron Pratt
Email: cpratt@foulgerpratt.com

With a copy to:

c/o Foulger-Pratt
12435 Park Potomac Avenue, Suite 200
Potomac, Maryland 20854
Attn: General Counsel
Email: ddatch@foulgerpratt.com

**Hospital Owner**

**IDA** (including copies of all notices provided to Inova during the term of the Hospital Ground Lease)

Industrial Development Authority of the City of Alexandria
625 N. Washington Street, Suite 400
Alexandria, Virginia 22314
Attn: Stephanie Landrum, Assistant Secretary
Email: landrum@aexandriaecon.org

With a copy to:

City Manager, City of Alexandria
301 King Street
Alexandria, Virginia 22314

And to:

City Attorney, City of Alexandria
301 King Street, Suite 1300
Alexandria, Virginia 22314

**Inova** (during the term of the Hospital Ground Lease)

Inova Health Care Services
H. Thomas McDuffie, President
Inova Realty
8095 Innovation Park Drive, Building D,
Floor 7, Office 0230
Fairfax, Virginia 22031
Email: tom.mcduffie@inova.org

With a copy to:

John Gaul, General Counsel
Inova Health System
8110 Gatehouse Road, Suite 200-E
Falls Church, Virginia 22042
Email: john.gaul@inova.org

And to:

Timothy S. Sampson
Downs Rachlin Martin PLLC
199 Main Street
Burlington, VT 05402-0190
Email: tsampson@drm.com

**REA Manager**

Landmark Land Holdings, LLC
c/o Foulger-Pratt
12435 Park Potomac Avenue, Suite 200
Potomac, Maryland 20854
Attn: Cameron Pratt
Email: cpratt@foulgerpratt.com

With a copy to:

c/o Foulger-Pratt
12435 Park Potomac Avenue, Suite 200
Potomac, Maryland 20854
Attn: General Counsel
Email: ddatch@foulgerpratt.com

(b) Notice to an Eligible Mortgagee shall be sent to the address provided in accordance with the definition of Eligible Mortgagee in Article 1. Copies of Notices to any Parcel Lessee or Mortgagee shall be provided to the extent required by Section 13.3(a).

***Section 11.2 Change of Owner***. If the Owner of a Parcel changes, then (a) no Notice that purports to have been given by the successor Owner shall be effective, nor shall the Party to whom such Notice is addressed have any obligation to recognize such Notice as having been given, unless the Party to whom such Notice is given has previously or simultaneously therewith been given written notification that reasonably documents such change of ownership, and (b) the successor Owner shall not be entitled to receive any Notice under this REA, and any Notice given (or deemed to have been given) to the prior Owner shall be deemed to have been given to the successor Owner, unless and until such Party providing Notice shall be given written notification that reasonably documents such change of ownership.

***Section 11.3 Multiple Ownership***.

(a) During any period in which any Parcel shall be owned by more than one Person (collectively referred in this Section as "**Co-Owners**"), whether as tenants in common or otherwise, or portions of a Parcel are owned by different Persons, then the following subsections (i) through (iii) shall apply:

(i) any Notice desired or required pursuant to the provisions of this REA to be served upon the Co-Owners shall be sufficient if served as provided for in Section 11.1 or to a single Person, if designated by all of the Co-Owners pursuant to a written notice, executed and acknowledged by all Co-Owners, in form proper for recordation, as the Person to whom the following shall be given, as agent for all Co-Owners, (A) all notices thereafter given to the Co-Owners under this REA, and (B) any service of process in any action or proceeding involving the determination or enforcement of any rights or obligations under this REA, including any notice, summons, complaint or other legal process (collectively "**Legal Process**"). Until any such designation is revoked by written notice given by all Co-Owners, any notice or Legal Process received by the last such designated Person as agent (or if no such Person has been designated, received at the notice address of the Owner of the applicable Parcel at the last notice address specified pursuant to Section 11.1) shall be deemed to have been received by all of such Co-Owners. The Person designated as agent shall retain all rights to receive Legal Process until a subsequent written notice is sent by all Co-Owners revoking such designation and designating a single new Person as agent to receive such notice or Legal Process;

(ii) any notice or Legal Process which purports to have been given or served by such Co-Owners shall be effective if such notice or Legal Process is given or served by a duly authorized agent of all Co-Owners, which agent shall have been designated in a written notice, signed by all of such Co-Owners, previously or simultaneously given to the Party to whom such notice is addressed or upon whom such Legal Process is served, as the agent to give all notices and serve all Legal Process hereunder on behalf of all of such Co-Owners. Until any such designation is revoked by written notice given by all of such Co-Owners, any notice or Legal Process given or served by such designated agent shall be deemed to have been given or served by all such Co-Owners. The last designated Person shall retain all rights to give and serve Legal

Process until a subsequent written notice is sent by all of such Co-Owners revoking said designation and designating a single new Person as agent to give and serve such notice or Legal Process; and

(iii) any action or decision in respect of the Parcel owned by such Co-Owners shall be made by a duly authorized agent of all such Co-Owners, which agent shall have been designated, pursuant to a written notice, executed and acknowledged by all of such Co-Owners, in form proper for recordation, as agent for all of such Co-Owners to make all decisions and take all actions under this REA on behalf of all of such Co-Owners. Notwithstanding the fact that a single agent may be named to act on behalf of all Co-Owners, until any such designation is revoked by written notice given by all Co-Owners, any decision or action by such designated agent shall be deemed to have been authorized by all such Co-Owners and all obligations under this REA impacting the Parcel shall be deemed the obligations of all of such Co-Owners. The last designated Person shall retain all rights to make all decisions and act on behalf of such Co-Owners until a subsequent written notice is sent by all Co-Owners revoking said designation and designating a single new Person as agent.

## ARTICLE 12
## MORTGAGE PROVISIONS

***Section 12.1 Eligible Mortgagee's Cure Right***. In the event of a default by an Owner in the performance of any of its obligations under this REA or of any other provisions contained in this REA, any Eligible Mortgagee of such Owner's Parcel shall have the right to cure the Owner's default upon the same terms and conditions as provided the Owner in this REA. Therefore, wherever an Owner is provided specific rights under this REA with respect to the manner of effecting a cure, its Eligible Mortgagee shall have identical rights for effecting a cure. Additionally, wherever an Owner is provided a specific time within which to cure under this REA, its Eligible Mortgagee shall have a period of time within which to cure running contemporaneously with and extending thirty (30) days beyond the later to occur of such Owner's right to cure such default or such Eligible Mortgagee's receipt of Notice thereof. Likewise, if an Owner is not provided a specific time within which to cure, but is instead given a right to cure within a reasonable period of time, its Eligible Mortgagee shall have a period of time in which to cure running contemporaneously with the reasonable time afforded to such Owner to effect such a cure (or a reasonable period of timing following receipt of Notice of such default if later). Failure of an Owner to provide a copy of a default notice to an Eligible Mortgagee shall in no way affect the validity of the notice of default as it relates to the Defaulting Party but shall make the same invalid as it relates to the interest of the Eligible Mortgagee and its lien upon the affected Parcel. Any such notice to an Eligible Mortgagee shall be provided in the manner required pursuant to Article 11. The giving of any notice of default or the failure to deliver a copy to any Eligible Mortgagee shall in no event create any liability on the part of the Party so declaring a default.

***Section 12.2 Mortgages Subject to this REA***. Any Owner shall have the right to encumber its interest in its respective Parcel by any Mortgage, provided such Mortgage is subject to and subordinate to this REA. The provisions, easements, conditions, restrictions and covenants of this REA shall be binding and effective against any Person whose title is acquired by foreclosure, deed in lieu of foreclosure, trustee's sale, or otherwise.

***Section 12.3 Eligible Mortgagee Consents***. No amendment to this REA that would materially impact the rights, priorities, remedies or interests of an Eligible Mortgagee shall be binding on such Eligible Mortgagee without its consent, not to be unreasonably withheld, conditioned or delayed. If any Eligible Mortgagee is notified of any proposed amendment to this REA or other requests relating to this REA, such notice to include all necessary supporting documentation and materials upon which to make a decision, and the Eligible Mortgagee fails to respond within thirty (30) days after receipt of such notice, a second notice of such matters shall be provided to the Eligible Mortgagee. If the Eligible Mortgagee fails to respond within thirty (30) days after receipt of the second notice (i.e., a minimum total of sixty (60) days after the notice was initially sent), then the Eligible Mortgagee shall be deemed to have consented to the proposed amendment or other matter that is the subject of the notices, provided that the second notice to the Eligible Mortgagee included substantially the following language in all capital letters: "SECOND NOTICE: IF NO RESPONSE IS GIVEN TO THIS NOTICE WITHIN 30 DAYS OF YOUR RECEIPT OF THIS NOTICE, YOUR APPROVAL OF THE MATTERS REFERENCED IN THIS NOTICE WILL BE DEEMED TO HAVE BEEN GIVEN". Such deemed consent shall not apply to any proposed termination of this REA, or to proposed amendments to this REA that alter the priority of lien of an Eligible Mortgagee, or that materially impair or affect a Parcel as collateral or the right of an Eligible Mortgagee to foreclose on a Parcel as collateral. Notices to an Eligible Mortgagee pursuant to this Section shall be sent by nationally recognized overnight courier such as Federal Express or UPS. Nothing in this Section 12.3 shall be deemed to require that notices or requests be provided to Mortgagees other than Eligible Mortgagees unless expressly required by this REA. To the extent that this REA expressly requires consent of a Mortgagee that is not an Eligible Mortgagee (if any), then consent of such Mortgagee may be deemed given provided that the same notice procedures under this Section 12.3 for Eligible Mortgagees are followed.

## ARTICLE 13
## BINDING EFFECT; ASSIGNMENT

***Section 13.1 Provisions Run With the Land***. This REA, including all of the easements, licenses, restrictions, covenants and conditions set forth in this REA, is intended to and shall run with the land benefited and burdened by this REA, and shall bind and inure to the benefit of the Parties and their respective successors in title and assigns.

***Section 13.2 Release on Conveyance***. In the event of any conveyance or divestiture of title to an entire Parcel, the grantor or the Person(s) that are divested of title shall be entirely freed and relieved of all covenants and obligations thereafter accruing under this REA following the date of such conveyance or divestiture, subject to rights and obligations as between such Owner and its Mortgagee. In the event of any conveyance or divestiture of title to any Parcel or any portion thereof, the grantee or the Person(s) who otherwise succeed to title shall be deemed to have assumed all of the covenants and obligations of the Owner of such Parcel (or portion thereof) thereafter accruing under this REA until such grantee or successor is freed and relieved therefrom pursuant to the first sentence of this Section 13.2 and subject to rights and obligations as between such Owner and its Mortgagee.

***Section 13.3 Assignment of Rights to Parcel Lessees and Mortgagees; Inova as Hospital Owner During Term of Hospital Ground Lease***.

(a) Any Owner may, without the necessity of conveying title to such Owner's Parcel, assign or otherwise transfer in writing to any Parcel Lessee or Eligible Mortgagee, all or any of the rights, privileges, easements and rights of entry given to such Owner under this REA (including, without limitation, any right to make any election, to exercise any option or discretion, to give any notice, to perform any work on a Parcel, and to receive any and all moneys payable to such Owner), and any such Parcel Lessee may in turn assign or otherwise transfer all or any such rights, privileges, easements and rights of entry to its Mortgagee, and any such Parcel Lessee or Mortgagee may exercise any such right, privilege, easement and right of entry so assigned or otherwise transferred to it to the same extent as if in each instance this REA specifically granted such right, privilege, easement or right of entry to such Parcel Lessee or Mortgagee; provided, however, that except for Inova as the Parcel Lessee pursuant to Section 13.3(b), the other Parties shall not be bound to recognize any other such assignment or other transfer, or the exercise or accrual of any rights pursuant to such assignment or other transfer, until such other Parties are given written notice of such assignment or transfer in accordance with the notice requirements set forth in Article 11. Said notice shall be accompanied by a copy of the instrument effecting such assignment or other transfer. If the instrument effecting such assignment or other transfer shall provide that such Parcel Lessee or Mortgagee shall receive copies of notices given under this REA to the assignor and if the above-mentioned notice of assignment or other transfer given by such Parcel Lessee or Mortgagee shall designate not more than two addresses to which such copies shall be sent, then the Party who is given written notice as aforesaid of such assignment or other transfer, and any successor or assign of such Party or such other person, shall thereafter, simultaneously with the giving of any notice under this REA to such assignor or transferor, give to such Parcel Lessee or Mortgagee a copy of such notice pursuant to Article 11 and no such notice shall be effective against such Parcel Lessee or Mortgagee unless a copy thereof is given to such Parcel Lessee or Mortgagee as aforesaid. Any such Parcel Lessee or Mortgagee to whom rights, privileges, easements or rights of entry are assigned or otherwise transferred pursuant to this Section 13.3(a) shall, within ten (10) business days after written request made by any Party, execute, acknowledge and deliver to such Party or to any existing or prospective purchaser, mortgagee or Parcel Lessee designated by such Party, an estoppel certificate in recordable form containing the statements called for in Section 14.12 except that (i) the statements called for in clauses (a) and (f) of Section 14.12 shall be set forth only to the extent said Parcel Lessee or Mortgagee has knowledge of the information required thereby, and (ii) the words "Party executing such certificate", wherever the same appears in Section 14.12 shall be deemed instead to refer to the Parcel Lessee or Mortgagee executing such estoppel certificate.

(b) Without requiring any further notice of assignment or transfer pursuant to Section 13.3(a) above, from and after the effective date of the Hospital Ground Lease and thereafter during the term of the Hospital Ground Lease (or until the Hospital Ground Lease sooner terminates prior to commencement of its term), Inova shall be deemed to be the Hospital Owner for all purposes of this REA, with all rights and obligations of the Hospital Owner under this REA, subject to the following: (i) IDA shall have the right, but not the obligation, to cure any default by Inova as the Hospital Owner under this REA that remains uncured for more than thirty (30) days after written notice of default is provided to IDA and Inova; and (ii) any amendment to this REA or other recorded easements or covenants, or to the CDD or other Project Plans, to the extent that

it requires the consent of the Hospital Owner, shall be executed by both IDA, as the fee Owner of the Hospital Parcel, and by Inova, as the ground lessee of the Hospital Parcel, to evidence such consent of the Hospital Owner. IDA and Inova shall upon request promptly execute and deliver to a Party written confirmation of the term of the Hospital Ground Lease and the status of Inova as the Hospital Owner under this REA during the term of the Hospital Ground Lease.

(c) Without requiring any further notice of assignment or transfer pursuant to Section 13.3(a) above or any further certification or affirmation from Inova, following the termination or expiration of the Hospital Ground Lease, the fee owner of the Hospital Parcel shall be deemed to be the Hospital Owner under this REA.

## ARTICLE 14
## MISCELLANEOUS

***Section 14.1 Table of Contents, Headings and Captions***. The table of contents, headings and captions in this REA are included only as a matter of convenience and for reference; they do not define, limit or describe the scope or intent of this REA, and they shall not affect the interpretation thereof.

***Section 14.2 Construction of Certain Words***. The words “herein,” “hereunder,” “hereto,” “hereby,” “hereinafter” and like words, wherever the same appear in this REA, mean and refer to this REA in its entirety and not to any specific Article, Section or subsection of this REA, unless expressly otherwise provided. The following words and phrases shall be construed as follows: (i) “at any time” shall be construed as “at any time or from time to time”; (ii) “any” shall be construed as “any and all”; (iii) “including” and “include” shall be construed as “including but not limited to”; (iv) “will” and “shall” shall each be construed as mandatory; (v) the words “in,” “to,” “on,” “over,” “within,” “through,” “upon,” “across,” or “under,” with respect to an easement granted or reserved with respect to any Parcel shall mean, as the context may require, any one or more of such words. Except as otherwise specifically indicated, all references to Article, Section and subsection numbers or letters shall refer to Articles, Sections and subsections of this REA, and all references to exhibits refer to the exhibits attached to this REA. The use of any gender in this REA shall include all genders and the use of the singular shall include the plural, and vice versa, as the context may require.

***Section 14.3 REA For Benefit of Owners, Developer and REA Manager***.

(a) The easements, covenants, licenses and all other rights under this REA are for the exclusive benefit of the Owners, Developer, and REA Manager and are not for the benefit of any third party nor shall this REA be deemed to have conferred any rights, express or implied, upon any third party except for rights of Eligible Mortgagees that are expressly provided in this REA. It is expressly understood and agreed that no modification or amendment of this REA, in whole or in part, shall require any consent or approval on the part of any Permittee.

(b) Permittees who are not Owners are not intended third-party beneficiaries of this REA, it being understood and agreed that references to the use of easements, licenses, restrictions, covenants or conditions by Permittees are for the benefit of their respective Owners,

Developer, or REA Manager, and, except as otherwise expressly provided in this REA, may not be directly enforced by any Permittee that is not an Owner, Developer, or REA Manager.

(c) Notwithstanding the foregoing, the City is hereby irrevocably designated a third party beneficiary of all rights and interests of IDA under this REA, including without limitation, as an indemnitee under all indemnifications granted by the Parties hereunder, and the City has the right to independently enforce the terms of this REA. It is acknowledged that the City shall have no liability or obligations under this REA arising from its status as a third party beneficiary. All Parties acknowledge and agree that the City is aware of and accepts its designation as a third party beneficiary under this REA.

***Section 14.4 Waiver of Default; Remedies Cumulative***. A waiver of any default by a Party must be in writing and no such waiver shall be implied from any omission by a Party to take any action in respect of such default. Any waivers of any default in the performance of any provisions of this REA shall not be deemed to be a waiver of any subsequent default in the performance of the same provisions or any other term or provision contained in this REA. The consent or approval by a Party to, or of, any act or request requiring consent or approval shall not be deemed to waive or render unnecessary the consent or approval to or of any subsequent similar acts or requests. Unless expressly provided to the contrary in this REA, the rights and remedies given to a Party under this REA shall be deemed to be cumulative and no one of such rights and remedies shall be exclusive of any of the others, or of any other right or remedy at law or in equity which it might otherwise have by virtue of a default under this REA, and the exercise of one such right or remedy by a Party shall not impair such Party's standing to exercise any other right or remedy.

***Section 14.5 Governing Laws***. This REA shall be construed and governed in accordance with the laws of the Commonwealth of Virginia.

***Section 14.6 Default Shall Not Permit Termination of REA***. No default under this REA shall entitle any Owner to terminate, cancel or otherwise rescind this REA.

***Section 14.7 Counterparts***. If executed by multiple parties, this REA may be signed in several counterparts, each of which shall be deemed an original, and all such counterparts shall constitute one and the same instrument.

***Section 14.8 Severability***. If any term, provision or condition contained in this REA shall to any extent be invalid or unenforceable, the remainder of this REA (or the application of such term, provisions or condition to Persons or circumstances other than those in respect of which it is invalid or unenforceable) except those terms, provisions or conditions which are made subject to or conditioned upon such invalid or unenforceable term, shall not be affected thereby, and each term, provision and condition of this REA shall be valid and enforceable to the fullest extent permitted by law.

***Section 14.9 Time of Essence; Force Majeure***. Time is of the essence with respect to the performance of each of the provisions contained in this REA. Notwithstanding the foregoing or any other provision of this REA, a Party (referred to in this Section as a "Non-Performing Party") shall not be deemed to be in default in the performance of any obligation on the Non-

Performing Party's part to be performed pursuant to this REA, other than an obligation requiring the payment of a sum of money, if and so long as non-performance of such obligation shall be directly caused by Force Majeure; provided, however, that within fifteen (15) days of the Non-Performing Party's receipt of written notice from Developer, REA Manager, or an Owner referring to non-performance by the Non-Performing Party of any such obligation, the Non-Performing Party shall notify such other Party in writing of the existence and nature of the Force Majeure and the steps, if any, which the Non-Performing Party shall have taken or is preparing to take to eliminate the Force Majeure delay. Thereafter, the Non-Performing Party shall from time to time and within fifteen (15) days of any written request of such other Party, keep such Party fully informed, in writing, of all further developments concerning such Force Majeure and the efforts, if any, being made by the Non-Performing Party to perform its obligations. Whenever a Party is prevented or delayed in performance of any obligation under this REA by Force Majeure, such Party shall use commercially reasonable efforts to mitigate any adverse impacts and to eliminate such cause and/or to find another manner of performing its obligations under this REA as soon as reasonably practicable.

***Section 14.10 Conformity to Laws***. Each Owner shall promptly comply or cause compliance with all Laws which may at any time be applicable to its Parcel. Each Owner shall have the right, after prior Notice to the other affected Parties, to contest by appropriate legal and/or administrative proceedings diligently conducted in good faith, in the name of itself and/or the other affected Parties (as owner of a dominant estate in the easements created by this REA on such Parcel), the validity or application of any Laws and may delay compliance therewith until a final decision has been rendered in such proceedings and appeal therefrom is no longer possible, provided that such delay shall not render the Parcel or any part thereof liable to forfeiture, involuntary sale or loss, result in involuntary closing of the business conducted thereon, materially adversely impair operation or hinder use of a Parcel by its Owner or Permittees, or subject another Party to criminal or quasi-criminal liability. The other affected Parties shall cooperate to the fullest extent necessary with the contesting Owner in any such proceeding but shall not be required to expend any funds except Review Costs in so doing.

***Section 14.11 Limited Liability***. No direct or indirect members, directors, officers, partners, employees, beneficiaries, shareholders, participants, advisors, trustees or agents of a Party shall be personally liable in any manner or to any extent under or in connection with this REA. The foregoing is in addition to, and not in limitation of, any limitation on liability applicable to any Party or such members, directors, officers, partners, employees, beneficiaries, shareholders, participants, advisors, trustees or agents of any Party provided by law or by any other contract or agreement or instrument. Notwithstanding anything in this REA to the contrary, the liability of any Party under this REA shall be limited solely to its interest in the Project.

***Section 14.12 Estoppel Certificates***. Each Party shall at any time, within ten (10) business days after written request by another Party or an Eligible Mortgagee, execute, acknowledge and deliver to the requesting Party or to any existing or prospective purchaser, Mortgagee, prospective Mortgagee, or Parcel Lessee designated by the requesting Party, a certificate in recordable form stating any of the following as is requested:

(a) whether this REA is unmodified and in force and effect, or if there has been a modification or modifications, whether this REA is in force and effect, as modified, and identifying the modification agreement or agreements;

(b) whether or not, to such Party actual knowledge, there is any existing default under this REA in the payment of any sum or the performance of any obligation owing to the Party executing such certificate, and whether or not there is any existing default with respect to which a notice of default has been given by the Party executing such certificate, or whether the Party executing such certificate has received a notice of default from another Party and, in any such cases, specifying the nature and extent of the default;

(c) whether or not, to such Party's actual knowledge, there are any sums which the Party executing such certificate is entitled to receive or demand from another Party under this REA, and if there is any such sum, specifying the nature and extent thereof;

(d) whether or not the Party executing such certificate has performed or caused to be performed, or is then performing or causing to be performed, any Maintenance or other work not in the normal course of operation of a Parcel, the cost of which such Party is or will be entitled to charge in whole or in part to the requesting Party but has not yet charged to the requesting Party, and if there is any such Maintenance or other work, specifying the nature and extent thereof;

(e) whether or not there are any set-offs, defenses or counterclaims then being asserted or otherwise known by the Party executing such certificate against enforcement of any obligations under this REA which are to be performed by the Party executing such certificate and, if so, the nature and extent thereof;

(f) whether or not there has been any revision in the allocation of any costs for the performance of any Maintenance which has not been covered in a modification referred to in clause (a) above, and if so, setting forth the revision or revisions;

(g) whether or not the Party executing such certificate has given any notice making a demand or claim under this REA which has not yet been discharged or otherwise resolved and, if so, a copy of any such notice shall be delivered with the certificate;

(h) whether or not, to such Party's actual knowledge, there is any pending dispute involving the Parties and, if so, specifying the nature and, if applicable, the dollar amount of the dispute;

(i) whether or not, to such Party's actual knowledge, there is any pending litigation against the Party executing such certificate with respect to its Parcel, if applicable, and whether such Party has received notice of any pending or threatened litigation or injunctive action from another Party or with respect to the matters covered by this REA;

(j) the current address or addresses to which notices given to the Party executing such certificate are required to be mailed pursuant to Article 11;

(k) such additional information as may be reasonably requested.

***Section 14.13 Taxes***. It is expected that that the Parcels will be assessed separately and that taxes, if any, based upon such assessments shall be imposed separately on each Parcel. The Owners shall use commercially reasonable efforts, and cooperate with each other, so that the Parcels shall at all times be assessed as separate parcels of real estate and taxed separately. Each Owner shall individually pay any taxes and other charges imposed upon such Owner's Parcel.

***Section 14.14 Rule Against Perpetuities***. If and to the extent that any of the easements, covenants, conditions or restrictions granted or established under this REA would, in the absence of the limitation imposed by this Section 14.14, be invalid or unenforceable as being in violation of the rule against perpetuities or any other rule of law relating to the vesting of interests in property or the suspension of the power of alienation of property, then notwithstanding any other provision of this REA, any such easements, covenants, conditions or restrictions, shall terminate if not previously vested, on the date that is twenty-one (21) years after the death of the last survivor of the members of the 117$^{th}$ United States Congress.

***Section 14.15 No Partnership or Joint Venture***. Nothing in this REA shall be deemed to create a partnership, joint venture, or similar relationship between or among any Parties.

***Section 14.16 Exhibits***. All exhibits attached to this REA are incorporated into and made a substantive part of this REA.

***Section 14.17 Developer Successors***. Any and all rights, reservations, easements, interests, exemptions, privileges, powers, obligations, and liabilities of Developer under this REA, or any part of them, may be assigned or transferred, exclusively or non-exclusively, by Developer by an instrument in writing recorded in the Land Records that expressly sets forth the matters being assigned or transferred, provided that any such assignee or transferee shall be an Owner or an Affiliate of an Owner.

***Section 14.18 Duration of REA***. The provisions of this REA shall run with and bind the land perpetually unless terminated in accordance with Article 10 or to the extent any provision in this REA is expressly limited in duration by its terms.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the undersigned have caused this Reciprocal Easements and Covenants Agreement to be executed as of the Effective Date.

**LANDMARK LAND HOLDINGS, LLC,**
a Delaware limited liability company qualified to transact business in the Commonwealth of Virginia

By: FP Landmark Land, LLC,
its Managing Member

By: ________________________________
Name: B. Cameron Pratt
Title: Authorized Person

STATE/COMMONWEALTH OF ________________________

CITY/COUNTY OF __________________________

The foregoing instrument was acknowledged before me this ______ day of _______________________________, 2021, by B. Cameron Pratt, as Authorized Person of FP Landmark Land, LLC, the managing member of Landmark Land Holdings, LLC.

WITNESS my hand and official seal this _____ day of ____________________, 2021.

____________________________________________
Notary Public

My commission expires: ______________________
My Notary Registration Number: ______________

[Notary Seal]

**INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF ALEXANDRA**, a political subdivision of the Commonwealth of Virginia

By: ______________________________
Name: ______________________________
Title: ______________________________

STATE/COMMONWEALTH OF ______________________

CITY/COUNTY OF ________________________

The foregoing instrument was acknowledged before me this ______ day of ______________________________ 2021, by ______________________________, as ______________________________ of Industrial Development Authority of the City of Alexandria.

WITNESS my hand and official seal this _____ day of ____________________ 2021.

______________________________
Notary Public

My commission expires: _____________________
My Notary Registration Number: ______________

[Notary Seal]

**INOVA HEALTH CARE SERVICES**,
a Virginia nonstock corporation

By: ______________________________
Name: ______________________________
Title: ______________________________

STATE/COMMONWEALTH OF ______________________

CITY/COUNTY OF ________________________

The foregoing instrument was acknowledged before me this ______ day of ______________________________, 2021, by ______________________________, as ______________________________ of Inova Health Care Services.

WITNESS my hand and official seal this _____ day of ____________________, 2021.

______________________________
Notary Public

My commission expires: ______________________
My Notary Registration Number: ______________

[Notary Seal]

# EXHIBIT A-1

## Legal Description of the Hospital Parcel

# EXHIBIT A-2

## Legal Description of the Mixed-Use Parcel

# EXHIBIT B
# Maintenance Responsibility and Cost Allocation Schedule

| | Maintenance Item(s) | Responsible Party | Allocation of Maintenance Costs |
|---|---|---|---|
| 1. | Project Garage | REA Manager | Hospital Owner: 25%<br>Mixed-Use Parcel Owner: 75%<br>(subject to further allocation among multiple Owners of the Mixed-Use Parcel)<br>*[This allocation is pro-rata based on the 550 parking spaces in the Hospital Parking Area in proportion to the approximate total number of parking spaces in the Project Garage following the Developer Initial Capital Improvements To Garage and is subject to adjustment based on changes to such number of parking spaces.]* |
| 2. | Shared Facilities located in the Mixed-Use Parcel | REA Manager | Mixed-Use Parcel Owner: 100%<br>(subject to further allocation among multiple Owners of the Mixed-Use Parcel) |
| 3. | Shared Facilities located in the Hospital Parcel | Hospital Owner | Hospital Owner: 100% |
| 4. | Mixed-Use Parcel SWM Facilities | REA Manager | Mixed-Use Parcel Owner: 100%<br>(subject to further allocation among multiple Owners of the Mixed-Use Parcel) |
| 5. | Hospital SWM Facility and any storm water management facilities located on the Hospital Parcel | Hospital Owner | Hospital Owner: 100% |
| 6. | Premiums and deductible for commercial general liability insurance policies insuring REA Manager pursuant to Section 6.1(a)(iii) | REA Manager | Hospital Owner: 25%<br>Mixed-Use Parcel Owner: 75%<br>(subject to further allocation among multiple Owners of the Mixed-Use Parcel)<br>*[This allocation is subject to adjustment based on the final determination of the responsibilities of REA Manager with respect to the Hospital Parcel.]* |
| 7. | Except as otherwise expressly provided in this REA (including this Maintenance Responsibility and Cost Allocation Schedule and pursuant to Section 2.3) and applicable Other Agreements, all other improvements and other items within a Parcel shall be the responsibility of the Owner of such Parcel. | Owner of the applicable Parcel | Owner of applicable Parcel: 100%<br>(except as otherwise expressly provided in this REA and applicable Other Agreements) |

# EXHIBIT C
# Prohibited Uses

1. Thrift shop, pawn shop, flea market or store primarily selling merchandise that is used, damaged or discontinued, but specifically permitting community events, farmers' markets and artisans' markets, otherwise subject to this REA and applicable Laws.
2. Auction room.
3. The display or sale of paraphernalia for use with illicit drugs.
4. A methadone clinic or other drug or alcohol addiction treatment facility (except for addiction treatment that may otherwise be part of the Hospital Services provided in the Hospital Parcel).
5. A central laundry or dry cleaning plant (which shall not preclude any laundry facilities that may operate on the Hospital Parcel ancillary to the Hospital Services, or a "drop off" and "pick up" dry cleaning service where all dry cleaning processes shall be located outside of any Parcel).
6. A service station, automotive repair shop, truck stop or vehicle fueling station.
7. Car wash, provided that REA Manager may permit mobile washing and detailing services.
8. Any establishment engaged in the business of selling, exhibiting or distributing pornographic or obscene materials.
9. Monument sales, mortuary, crematorium or funeral parlor.
10. Sale of taxidermy products.
11. Sale of guns or ammunition or the operation of any gun range.
12. Tattoo or body piercing parlor or similar establishment.
13. Massage parlor or establishment purveying similar services other than those that are for therapeutic purposes not prurient in nature.
14. A telephone call center (which shall not preclude a telephone store, cellular and otherwise, or telephone services ancillary to the Hospital Services provided in the Hospital Parcel).
15. A gambling establishment including a casino, bingo parlor, betting parlor or electronic gaming machines (but lottery tickets may be sold and government sponsored lottery and similar gaming devices may be operated incidental to a non-gambling primary business).
16. Any facility primarily used for assembling, manufacturing, industrial, refining, smelting, or waste management, including biomedical waste (except for bio-medical waste that is generated ancillary to the Hospital Services provided in the Hospital Parcel).
17. Any fire sale, liquidation sale, bankruptcy or similar sale.
18. Storage, display or sale of explosives or fireworks.
19. Check cashing, payday advance services or payday loans as a principal use, but excluding any bank, credit union, financial services center or automated teller machine.
20. Any business primarily used as a storage warehouse operation other than self-storage facilities.
21. Any uses prohibited by applicable Laws.

# EXHIBIT D

## Easement Plan

*[In addition to other Easement Areas that be identified to be included on the Easement Plan, the following are contemplated to be shown on the Easement Plan: (i) the Hospital Parking Area within the Project Garage; (ii) the Shared Facilities that are listed in Section 2.2; (iii) the Hospital SWM Facility; (iv) the integrated connection between the Hospital Above-Grade Garage and the Project Garage described in Section 3.8(d); and (v) the Frontage Area described in Section 4.2(d).]*

# EXHIBIT E

## CDD Conditions

The respective obligations of the Hospital Owner and the Mixed-Use Parcel Owner to timely satisfy the CDD Conditions are as follows:

(i) each of Hospital Owner and Mixed-Use Parcel Owner is solely responsible for complying with the following CDD Conditions as and to the extent the same relate to its respective Parcel: 1-5, 7, 10(a) and 10(b), 11, 12(a), 12(c), 12(d), 12(e), 12(f), 13(c), 14, 16, 17, 35, 45, 46, 59-65, 68, 71, 72, 76-78, 81, 82, 94, 95 (as it may relate to future development not anticipated in the initial infrastructure build out), 97, 98, 99, 101, 108-119, 120(c), 120(d), 121, 122(b), 122(c), 122(d), 123, 127, and 129. With respect to CDD Condition 11, neither Party may effectuate a transfer of allowable building square footage from the other Party's Parcel, unless agreed to by mutual consent. With respect to CDD Condition 99, Mixed-Use Parcel Owner will be responsible for processing submission of the overall Neighborhood Development LEED certification, and Hospital Owner will be responsible for designing the Hospital Facilities within the building requirements (but not necessarily the Green Infrastructure & Building Credits 3 & 4, indoor and outdoor water reduction, Credit 17, Light Pollution and Pilot Credits 1.3 and 1.5) set forth in the Parties' mutually agreed upon LEED ND scorecard. Notwithstanding the foregoing, the Mixed-Use Parcel Owner shall be solely responsible for complying with all of the foregoing CDD Conditions as the same relate to the Public Infrastructure Improvements, the Offsite CDD Infrastructure, and/or the Private Infrastructure with Public Access, each as defined in the Development Agreement, and Inova shall be solely responsible for complying with all of the foregoing CDD Conditions as the same relate to private roads and parks on the Hospital Parcel.

(ii) Hospital Owner is solely responsible for complying with CDD Conditions 10(d), 20, 57, 70, 79 (as it relates to Block Q), 80, 93 (only to the extent of the Inova contribution to the I-395 ramp improvement), 95 (only with respect to analysis prepared for the Hospital Parcel and excepting all construction obligations anticipated in the initial infrastructure build out), 102, 120(b), and 122(a).

(iii) Mixed-Use Parcel Owner is solely responsible for complying with CDD Conditions 6, 8, 9, 10(c), 12(b), 13(a) and 13(b), 15, 18, 19, 21-34, 36-42, 43, 44, 47-56, 58, 66-67, 69, 73-75, 79 (except as it relates to Block Q), 83-92, 93 (except with respect to the Inova contribution to the I-395 ramp improvement), 95 (including all construction obligations anticipated in the initial infrastructure build out but excepting analysis prepared for the Hospital Parcel), 96, 100, 103-107, 120, 122 (except to the Hospital Campus, which will submit its own public art plan per condition 122(a)), 124-126, 128, and 130. With respect to CDD Condition 120, the Mixed-Use Parcel Owner will take the lead in preparing the coordinated sign program, and the Parties will cooperate in good faith to submit a mutually agreeable program in satisfaction of such condition.