

## AGREEMENT

**THIS AGREEMENT, ("Agreement")** is made and entered into on the \_\_\_\_ day of April, 2021, ("**Execution Date**") by and between The Sankofa Vision Group, LLC. ("**Co-Developer**"), and the City of St. Petersburg, Florida, ("**City**") (collectively, "**Parties**").

### WITNESSETH:

**WHEREAS**, the City desires to construct an affordable housing ("Townhomes") and commercial development ("Commercial Building") on 22<sup>nd</sup> St. South, across from the Manhattan Casino (Townhomes and Commercial Building collectively the "Development"); and

**WHEREAS**, the City believes Co-Developer has certain experience that may help increase the chances of success of the Development; and

**WHEREAS**, in contemplation of having a potential future role in the Commercial Building, Co-Developer has agreed to cooperate with the City as described in the Agreement in accordance with the terms and conditions set forth herein.

**NOW THEREFORE**, in consideration of the promises and covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Term.** The term of this Agreement ("Term") shall commence on the Execution Date and shall terminate on January 1, 2023 or upon execution of a Lease, as defined herein, whichever comes later, unless this Agreement is earlier terminated as provided herein.
2. **Duties and Responsibilities.** Co-Developer shall be responsible for the following duties and responsibilities in full and complete accordance with this Agreement:
  - A. Within thirty (30) days after the Execution Date, Co-Developer shall name two permanent representatives to speak for the group, including delivering all communications such as advice and feedback to the City. Co-Developer may change representatives and shall provide written notice to the City within ten (10) days after such change. These representatives shall be the sole point of contact for the City. In addition to other matters, Co-Developer's advice and feedback will include participation in the design process of the Development, including tenant buildout of the Commercial Building, provided, however the City shall have sole approval of the final design (e.g., construction documents).
  - B. Though it is understood that the City shall receive all proceeds from the sales associated with the Townhomes to offset the cost of construction, Co-Developer shall seek additional revenue sources to fund the construction of the Townhomes, including funding to pay down debt incurred by the City for such construction, and shall report such revenue sources to the City. Additionally, Co-Developer shall seek

funding for end-users (i.e., purchasers) of the Townhomes constructed.

- C. Though it is understood that a potential Lease or disposition of the Commercial Building has not been finalized, Co-Developer shall seek additional revenue sources to fund the construction of the Commercial Building, including funding to pay down debt incurred by the City for such construction, and shall report such revenue sources to the City. Additionally, Co-Developer shall seek funding for end-users (i.e., tenants) of the Commercial Building in order for Co-Developer to provide (i) space for local entrepreneurs below market rate, (ii) on-site business development programs, and (iii) services for resident entrepreneurs. Any use for the funds or consideration offered to Co-Developer will be encompassed within a separate and future agreement.
- D. Co-Developer shall assist the City in attracting community participation in appropriate aspects related to the Development.
- E. Co-Developer shall review all financial and public policy considerations of the Development and prepare a benefit statement. This statement shall identify and assign values to community benefits in addition to all fiscal concerns. This statement shall be in the format of a standard commercial development pro forma with narrative to explain non-financial benefits.
- F. Co-Developer shall submit a marketing plan to the City for approval. Once the marketing plan has been approved by the City, Co-Developer shall market the Development, specifically targeting the surrounding community pursuant to such plan. Co-Developer shall obtain written approval from the City to any changes it desires to make to the marketing plan. Co-Developer's marketing efforts shall be independent of the City but shall be subject to applicable Laws (as defined herein), including Laws applicable to the City, as determined by the City in its sole discretion.
- G. Co-Developer will establish an advisory council, with members of such advisory council to include a broad cross-section of the community impacted by the Development. Co-Developer shall work with the advisory council to obtain community feedback involving the Development.

**3. Consideration; No Vested Rights.**

- A. Co-Developer shall perform all duties set forth in this Agreement without compensation or payment from the City. In exchange, the City has agreed that in the event the Development is constructed, and provided that this Agreement is not terminated by the City prior to such completion, the City shall lease the Commercial Building to Co-Developer, subject to the negotiation and execution of a lease agreement ("Lease") that is subject to approval by the St. Petersburg City Council.

- B. Notwithstanding the foregoing, nothing contained in this Agreement shall create or be construed to create any vested rights of any kind, including but not limited to any express or implied contract obligating the City to (i) proceed with the Development or (ii) enter into a future Lease with Co-Developer for the Commercial Building. Each party expressly waives, releases and covenants not to sue the other based on a decision by a party not to move forward with a future Lease for Co-Developer to operate the Commercial Building.

**4. Indemnification.**

- A. Co-Developer shall defend at its expense, pay on behalf of, hold harmless and indemnify the City, its officers, employees, agents, elected and appointed officials and volunteers (collectively, "Indemnified Parties") from and against any and all claims, demands, liens, liabilities, penalties, fines, fees, judgments, losses and damages (collectively, "Claims"), whether or not a lawsuit is filed, including, but not limited to Claims for damage to property or bodily or personal injuries, including death at any time resulting therefrom, sustained by any persons or entities; and costs, expenses and attorneys' and experts' fees at trial and on appeal, which Claims are alleged or claimed to have arisen out of or in connection with, in whole or in part, directly or indirectly:
- (i) The performance of this Agreement (including any amendments thereto) by Co-Developer, its employees, agents, representatives, or subcontractor; or
  - (ii) The failure of Co-Developer, its employees, agents, representatives, or subcontractors to comply and conform with applicable Laws; or
  - (iii) Any negligent act or omission of the Co-Developer, its employees, agents, representatives, or subcontractors; or
  - (iv) Any reckless or intentional wrongful act or omission of the Co-Developer, its employees, agents, representatives, or subcontractors; or
  - (v) Co-Developer's failure to maintain, preserve, retain, produce, or protect records in accordance with this Agreement and applicable Laws (including but not limited to Florida laws regarding public records).
- B. The provisions of this paragraph are independent of, and will not be limited by, any insurance required to be obtained by Co-Developer pursuant to this Agreement or otherwise obtained by Co-Developer, and the provisions of this paragraph survive the expiration or earlier termination of this Agreement with respect to any claims or liability arising in connection with any event occurring prior to such expiration or termination.

5. **Insurance.**

- A. Co-Developer shall carry the following minimum types and amounts of insurance at its own expense:
  - 1) Commercial general liability insurance in an amount of at least One Million Dollars (\$1,000,000) per occurrence, Two Million Dollars (\$2,000,000) aggregate in occurrences form. This policy shall include coverage for bodily injury, property damage, personal and advertising injury, products and completed operations, and contractual liability under this Agreement.
  - 2) Workers' Compensation insurance as required by Florida law and Employers' Liability insurance in an amount of at least \$100,000 each accident, \$100,000 per employee, and \$500,000 for all diseases.
- B. All of Co-Developer's insurance policies, except Workers' Compensation, shall name the Indemnified Parties as additional insureds.
- C. Co-Developer shall provide the City with notice at least three business (3) days prior to any cancellation, reduction or material change in coverage.
- D. Co-Developer shall provide the City with Certificates of Insurance on a standard ACORD form reflecting all required coverage. At the City's request, Co-Developer shall provide copies of current policies with all applicable endorsements.
- E. All insurance required shall be on a primary and noncontributory basis and shall be provided by responsible insurers licensed in the State of Florida and rated at least A- in the then current edition of Best's Insurance Guide.
- F. If the insurance carried by the Co-Developer has broader coverage than required in this Agreement, then that broader coverage, including but not limited to additional insured requirements, shall be the requirement in this Agreement. If the Co-Developer's insurance limits are greater than the minimum limits set forth herein, then the Co-Developer's insurance limits shall be the required limits in this Agreement.
- G. Co-Developer hereby waives all subrogation rights of its insurance carriers in favor of the Indemnified Parties. This provision is intended to waive fully, and for the benefit of the Indemnified Parties, any rights or claims which might give rise to a right of subrogation in favor of any insurance carrier.

6. **Notices.** Unless and to the extent otherwise provided in this Agreement, all notices, demands, requests for approvals and other communications which are required to be given by either party to the other shall be in writing and shall be deemed given and delivered on the date delivered in person, upon the expiration of five (5) days following the date mailed by registered or certified mail, postage prepaid, return receipt requested to the address

provided below, or upon the date delivered by overnight courier (signature required) to the address provided below.

**CITY:**

City of St. Petersburg, Florida  
Attn: Rob Gerdes

P. O. Box 2842  
St. Petersburg, FL 33731  
Phone: 727-892-5400

**CO-DEVELOPER:**

The Sankofa Vision Group, LLC  
Attn: Gypsy C. Gallardo, CEO, The 2020  
Plan, Inc., Managing Member  
955 20<sup>th</sup> Street South  
St. Petersburg, FL 33712  
Phone: 727-459-7663

7. **Severability.** Should any paragraph or portion of any paragraph of this Agreement be rendered void, invalid or unenforceable by any court of law for any reason, such determination shall not render void, invalid or unenforceable any other paragraph or portion of this Agreement.
8. **Due Authority.** Each party to this Agreement that is not an individual represents and warrants to the other party that (i) it is a duly organized, qualified and existing entity authorized to do business under the laws of the State of Florida, and (ii) all appropriate authority exists so as to duly authorize the person executing this Agreement to so execute the same and fully bind the party on whose behalf he or she is executing.
9. **Assignment.** Co-Developer shall make no assignment of any of its rights, duties, or obligations under this Agreement without the City's prior written consent, which consent may be withheld by the City in its sole and absolute discretion.
10. **Termination.** The City may terminate this Agreement in the event of failure by Co-Developer to observe or perform any term or condition of this Agreement if such failure shall continue for thirty (30) days after notice thereof from the City to Co-Developer.
11. **Governing Law and Venue.** This Agreement shall be interpreted and construed in accordance with the laws of the State of Florida and shall inure to and be binding upon the Parties, their successors and assigns. Venue for any action brought in state court shall be in Pinellas County, St. Petersburg Division. Venue for any action brought in federal court shall be in the Middle District of Florida, Tampa Division, unless a division shall be created in St. Petersburg or Pinellas County, in which case the action shall be brought in that division. The Parties consent to the personal jurisdiction of the aforementioned courts and irrevocably waive any objections to said jurisdiction.
12. **Final Authority.** The City shall have final authority, in its sole and absolute discretion, regarding all aspects of Development including, but not limited to, the City's use of any advice and/or feedback from Co-Developer regarding the Development.
13. **Entire Agreement.** Except for the Lease or other separate and future agreement, this Agreement constitutes the entire agreement between the Parties and supersedes all prior

and contemporaneous agreements, whether oral or written, between them. This Agreement may be altered or amended only in writing executed by the Parties.

14. **Compliance with Laws.** Co-Developer shall comply at all times with all federal, state, and local statutes, rules, regulations and ordinances, the federal and state constitutions, and the orders and decrees of lawful authorities having jurisdiction over the matter at issue (collectively, "Laws"), including but not limited to Florida laws regarding public records. Co-Developer hereby makes all certifications required under Florida Statute section 287.135. Co-Developer shall also comply with all applicable City policies and procedures.
15. **Third Party Beneficiary.** Notwithstanding anything to the contrary contained in this Agreement, persons or entities not a party to this Agreement may not claim any benefit hereunder or as third-party beneficiaries hereto.
16. **No Liens.** Co-Developer shall not suffer any liens to be filed against any City property by reason of any work, labor, services or materials performed at or furnished to City property, to Co-Developer, or to anyone using City property through or under Co-Developer. Nothing contained in this Agreement shall be construed as a consent on the part of the City to subject City property or any part thereof to any lien or liability under any Laws.
17. **No Construction Against Preparer of Agreement.** This Agreement has been prepared by the City and reviewed by the Co-Developer and its professional advisors. The City, Co-Developer and Co-Developer's professional advisors believe that this Agreement expresses their agreement and that it should not be interpreted in favor of either the City or the Co-Developer or against the City or the Co-Developer merely because of their efforts in preparing it.
18. **Use of Name.** Subject to the requirements of applicable Laws, including but not limited to Florida Laws regarding public records, neither party shall use the other party's name in conjunction with any endorsement, assurance, marketing, or advertisement, without the written consent of the named party.
19. **City Consent and Action.**
  - A. For purposes of this Agreement, any required written permission, consent, acceptance, approval, or agreement by the City means the approval of the Mayor or his authorized designee, unless otherwise set forth in this Agreement or unless otherwise required to be exercised by City Council pursuant to the City Charter or applicable Laws.
  - B. For purposes of this Agreement, any right of the City to take any action permitted, allowed, or required by this Agreement may be exercised by the Mayor or his authorized designee, unless otherwise set forth in this Agreement or unless otherwise required to be exercised by City Council pursuant to the City Charter or applicable Laws.

20. **Captions.** Captions are for convenience only and shall not control or affect the meaning or construction of any of the provisions of this Agreement.
21. **Books and Records.** Co-Developer shall prepare in accordance with generally accepted accounting practice and shall keep, at the address for delivery of notices set forth in this Agreement, accurate books of account. All books and records with respect to this Agreement must be kept by Co-Developer and must be open to examination or audit by the City during the Term of this Agreement and for the retention periods set forth in the most recent General Records Schedule GS1-SL for State and Local Government Agencies. Nothing herein may be construed to allow destruction of records that may be required to be retained longer by the statutes of the State of Florida.
22. **Survival.** All obligations and rights of any party arising during or attributable to the period prior to expiration or earlier termination of this Agreement, including but not limited to those obligations and rights related to indemnification, shall survive such expiration or earlier termination.
23. **No Waiver.** No provision of this Agreement will be deemed waived by either party unless expressly waived in writing signed by the waiving party. No waiver shall be implied by delay or any other act or omission of either party. No waiver by either party of any provision of this Agreement shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision, and the City's consent respecting any action by Co-Developer shall not constitute a waiver of the requirement for obtaining the City's consent respecting any subsequent action.
24. **Permits and Licenses.** Co-Developer shall be responsible for obtaining any and all necessary permits, licenses, certifications and approvals which may be required by any government agency in connection with Co-Developer's performance of this Agreement. Upon request of the City, the Co-Developer shall provide the City with written evidence of such permits, licenses, certifications and approvals.
25. **Execution of Agreement.** This Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts collectively constitute a single original agreement. Additionally, each party is authorized to sign this Agreement electronically using any method authorized by applicable law or City policy, including any of the following: (i) a typed name on an electronic document; (ii) an image of a physical sig-nature sent via email, fax, or other electronic transmission method; (iii) clicking a button to indicate agreement or acceptance in an electronic signature system; or (iv) a handwrit-ten signature that is digitally captured on a touch device such as a tablet or smartphone.
26. **Subcontract.** The hiring or use of outside services or subcontractors in connection with the performance of Co-Developer's obligations under this Agreement shall be permitted without the prior written approval of the City. Co-Developer shall promptly pay all subcontractors and suppliers.

27. **Relationship of Parties.** Nothing contained herein shall be deemed or construed by the Parties, or by any third party, as creating the relationship of principal and agent or of partnership or of joint venture between the Parties, it being understood and agreed that nothing contained herein, nor any acts of the Parties, shall be deemed to create any relationship between the Parties other than the relationship of independent contractors and principals of their own accounts. Co-Developer shall not have any authority to act on the City's behalf or make any representations on the City's behalf except as expressly authorized under this Agreement. Co-Developer is not a developer, as defined by applicable Laws, for the Development by virtue of this Agreement.
28. **City Data.** All data, documents and other City property shall remain the exclusive property of the City. Co-Developer agrees that such City property shall be used solely for the purpose of performing the duties and responsibilities. Co-Developer shall be responsible for the safekeeping of such property and, if the City so requests, Co-Developer shall sign and deliver a written, itemized receipt therefore. Upon conclusion of the duties and responsibilities, all such property shall be returned to the City.
29. **Non-discrimination:** Co-Developer shall not discriminate against anyone on the basis of race, color, religion, gender, national origin, marital status, age, disability, sexual orientation, genetic information or other protected category.
30. **Warranty.** Co-Developer warrants that the duties and responsibilities required by this Agreement shall be performed by Co-Developer with reasonable care in a diligent, professional and competent manner.
31. **Public Records.**
- A. Co-Developer shall (i) keep and maintain public records (as defined in Florida's Public Records law) required by the City to perform the services pursuant to this Agreement; (ii) upon request from the City Clerk's Office, provide the City (at no cost to the City) with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided under Florida's Public Records law or other applicable Laws; (iii) ensure that public records in Contractor's possession that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by applicable Laws for the Term of this Agreement and after the expiration or earlier termination of this Agreement; and (iv) after the expiration or earlier termination of this Agreement, at the City's request, either transfer, at no cost, to the City all public records in Contractor's possession within ten (10) days following the City's request and/or keep and maintain any public records required by the City to perform the services pursuant to this Agreement. If Co-Developer transfers all public records to the City upon the expiration or earlier termination of this Agreement, Co-Developer shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Co-Developer keeps and maintains public records upon the expiration or earlier termination of this Agreement, Co-Developer shall meet all applicable



requirements for retaining public records in accordance with this Agreement and all applicable Laws. At the City's request, Co-Developer shall provide all electronically stored public records to the City in a format approved by the City.

**B. IF CO-DEVELOPER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO CO-DEVELOPER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CITY CLERK'S OFFICE (THE CUSTODIAN OF PUBLIC RECORDS) AT (727) 893-7448, CITY.CLERK@STPETE.ORG, OR 175 FIFTH ST. N., ST. PETERSBURG FL 33701.**

C. Nothing contained herein may be construed to affect or limit Co-Developer's obligations including but not limited to Co-Developer's obligations to comply with all other applicable Laws and to maintain books and records pursuant to this Agreement.

**32. Confidentiality.**

A. Each party ("**Receiving Party**") shall not disclose, publish, or disseminate the Confidential Information, as defined below, of the other party ("**Disclosing Party**") to anyone other than those of such Receiving Party's employees and subcontractors with a need to know, except as may be required by legal process or applicable Laws (including but not limited to Chapter 119, Florida Statutes, and the court decisions construing the same). Each party agrees to accept the other party's Confidential Information for the sole purpose of carrying out such Receiving Party's authorized activities under this Agreement. Each party agrees not to make copies of the other party's Confidential Information except to the extent permitted pursuant to this Agreement. Each party agrees not to use the confidential Information of the other party for its own or any third party's benefit without the prior written approval of an authorized representative of the Disclosing Party in each instance. In the event a Receiving Party is required to disclose the Disclosing Party's Confidential Information in accordance with applicable Laws or by an order of a court or governmental agency, the Receiving Party shall give written notice to the Disclosing Party to enable the Disclosing Party to make a reasonable effort to obtain a protective order or other confidential treatment for the Confidential Information. Such notice shall be provided prior to disclosure unless otherwise required by court order or applicable Laws. Co-Developer acknowledges that, in the event of a public records request, the City may be limited in the amount of notice that it may be able to provide Co-Developer prior to disclosure of records and agrees that the City Attorney shall have the sole and absolute discretion to determine when public records must be released in order to comply with Chapter 119, Florida Statutes, and the court decisions construing same. By designating information as Confidential Information, Co-Developer agrees to indemnify and hold harmless the Indemnified Parties for any award to a plaintiff for damages,

costs and reasonable attorney's fees incurred by the City by reason of any legal action challenging Co-Developer's claim. Co-Developer shall require as a condition of any subcontract that the subcontractor expressly acknowledges and agrees to be bound by the same confidentiality requirements by which Co-Developer is bound under this Agreement. For purposes of this paragraph, notice may be given by facsimile provided that notice is also sent by overnight courier the same day (or the next day on which overnight courier service is available.)

- B. **"Confidential Information"** means confidential and proprietary information of either party that is disclosed to the other party which, in the case of written information, is marked "confidential" or "proprietary" and which, in the case of information disclosed orally or stored electronically, is identified at the time of disclosure as confidential and proprietary and summarized and confirmed in writing as such by the Disclosing Party within thirty (30) days of the disclosure. Confidential Information shall not include information that (i) as of the Execution Date or after the Execution Date becomes generally available to the public through no fault or breach of the Receiving Party; (ii) the Receiving Party can demonstrate to have had rightfully in its possession prior to disclosure by the Disclosing Party; (iii) is independently developed by the Receiving Party without the use of any Confidential Information; or (iv) the Receiving Party rightfully obtains from a third party who has the right to transfer or disclose it.

33. **No Guarantee of Future Relationship.** At all times during and after the Term of this Agreement, the City may in its sole option determine whether, and in what manner, to undertake the Development and shall not be bound by any recommendation or opinion of Co-Developer, nor under any obligation to continue any relationship with Co-Developer.

*[Signature Page to follow]*

IN WITNESS WHEREOF the Parties have caused this Agreement to be executed by their duly authorized representatives on the day and date first above written.

**THE SANKOFA VISION GROUP, LLC.**

By: Gypsy C. Gallardo

Print: Gypsy Gallardo

Title: Managing Member

**CITY OF ST. PETERSBURG, FLORIDA**

By: Kanika Tomalin

Print: Kanika Tomalin

Title: City Administrator/Dep Mayor

Attest: Patricia A. Beliveau, Acting Clerk  
(for) Chan Srinivasa, City Clerk



Approved as to Content and Form:

Bradley Tennant  
City Attorney (Designee) Bradley Tennant  
00559562