

**FIFTH AMENDMENT TO
LAND DISPOSITION AND DEVELOPMENT AGREEMENT
[Poppleton Redevelopment Project]**

THIS FIFTH AMENDMENT TO LAND DISPOSITION AND DEVELOPMENT AGREEMENT (this “**Fifth Amendment**”), is made this ____ day of July, 2022, by and among the MAYOR AND CITY COUNCIL OF BALTIMORE, a body corporate and politic and a political subdivision of the State of Maryland (the “**City**”), acting by and through the Department of Housing and Community Development (the “**Department**”); and POPPLETON DEVELOPMENT I, LLC, a Maryland limited liability company and PSH 1B, LLC, a Delaware limited liability company formerly known as Park Square Homes 1B, LLC (collectively, the “**Developer**”). The “**Effective Date**” is the date this Fifth Amendment is approved by the Baltimore City Board of Estimates.

RECITALS

- A. The Developer and the City entered into a Land Disposition and Development Agreement on September 27, 2006 (“**2006 LDDA**”) for a multi-phase residential and commercial development (the “**Poppleton Project**”);
- B. The Developer and the City entered into a First Amendment to Land Disposition and Development Agreement on April 3, 2013 (the “**First Amendment**”), a Second Amendment to Land Disposition Development Agreement on October 8, 2014 (the “**Second Amendment**”), a Third Amendment to Land Disposition Agreement on July 15, 2015 (the “**Third Amendment**”), and a Fourth Amendment to Land Disposition Agreement on June 29, 2016 (the “**Fourth Amendment**”);
- C. The Developer has completed Phase 1A of the Poppleton Project;
- D. The City and the Developer wish to amend the terms and conditions applicable to the phasing, design development, Closing and construction of the remaining Properties and to otherwise amend the LDDA as set forth herein, and
- E. This Fifth Amendment, together with the 2006 LDDA, as amended by the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment shall, together, hereinafter be referred to as the “**Agreement.**”
- F. The parties will continue regular and non-binding discussions with regards to priorities and commercially reasonable approaches to Future Phases, homeownership opportunities, greenspace, and such other matters as appropriate, in all cases as mutually agreeable. Such discussions will not adversely affect the Developer’s rights with respect to Phase 1B – Block 172 (as defined below).

NOW, THEREFORE, for and in consideration of the premises and the mutual obligations of the parties hereto, and other good and valuable consideration, the receipt of which is hereby acknowledged, the City and the Developer, for themselves, their successors and assigns, hereby covenant and agree as follows:

1. **PHASES.** Notwithstanding Schedule A to the Agreement to the contrary, Phase 1B shall consist of the Properties within Block 172 and the Properties within Block 155 identified in Schedule A attached to this Fifth Amendment (“**Phase 1B – Block 172**” and “**Phase 1B – Sarah Ann**”, respectively). For the avoidance of doubt, Phase 1B will not consist of any Properties in Block 202, and such Properties will be part of Future Phases.

2. **ASSIGNMENT OF BLOCK 1B – SARAH ANN.** Simultaneously with the execution of this Amendment, the Developer will assign all of its rights and obligations under the Agreement in Phase 1B – Sarah Ann to Black Women Build – Baltimore, Inc. (the “**Sarah Ann Homes Developer**”). The Phase 1B – Sarah Ann properties will each be sold to the Sarah Ann Homes Developer for the Purchase Price of \$1.00 one dollar (\$1.00) each, as outlined in Schedule B of the LDDA, and the Reimbursement Amount outlined in Schedule B of the LDDA will not be required for the Phase 1B – Sarah Ann properties. Following the assignment of the Developer’s rights and obligations in Phase 1B – Sarah Ann, any default, breach or other violation of the Agreement by the Sarah Ann Homes Developer with respect to Phase 1B – Sarah Ann shall not affect the rights of Developer or any other successor, assignee or transferee of Developer in any other Properties, including Phase 1B-Block 172. The Properties in Phase 1B – Sarah Ann will be counted as “for sale” housing units for purposes of tracking and satisfying any goals for the Developer set forth in the Agreement as though Developer was the developer of such phase.

3. **REMOVAL OF 319 AND 321 N. CARROLLTON AVENUE.** The Developer and the City have agreed to remove the Properties located at 319 and 321 N. Carrollton Avenue from the list of properties in Schedule A to the First Amendment that are to be conveyed to the Developer as part of the Poppleton Project, subject to City’s payment to the Developer of the sum of \$260,000 in consideration of such removal and the due diligence, predevelopment and other costs incurred by the Developer in connection with such Properties. Such payment shall be made within ten (10) business days after obtaining approval of this Fifth Amendment from the Board of Estimates approval, and upon payment of such sum, Schedule A to the First Amendment shall be amended to delete those Properties.

4. **CLOSING.** Section 1.9(c) of the Agreement is hereby deleted in its entirety and replaced with the following:

“(c) Developer may schedule the Closing on Phase 1B – Block 172 to occur no earlier than ten (10) business days of the City obtaining Board of Estimates approval of this Fifth Amendment; provided that Developer (i) delivers evidence to the City that it has entered into a limited liability company agreement with Arctaris Opportunity Zone Fund or its designated affiliate, or any other comparable or better fund or investment source, (ii) submits a funding commitment letter from said fund or investment source or a summary acknowledged by said fund or investment

source describing the equity contributions as set forth in the limited liability company agreement, and (iii) pays or is credited the full purchase price required to acquire Phase 1B-Block 172 in the Agreement.” For avoidance of doubt, the satisfaction of clauses (i), (i), and (iii) above shall be Developer’s only requirements to acquire Phase 1(B) – Block 172, notwithstanding any contrary provision in the Agreement, including Section 1.7 of same. Furthermore, Developer may assert a defect to title at any time before or within one hundred twenty (120) days after acquisition of Phase 1B-Block 172 and the City will have the same obligation to prosecute removal or dismissal as set forth in Section 1.3 of the Agreement.

5. **PRELIMINARY PLAN SUBMISSION.** Section 3.3 of the Agreement is hereby amended to reflect that the Developer shall submit Preliminary Plans for Phase 1B – Block 172 to the Department for its approval within six (6) months of the later of the Effective Date of this Fifth Amendment or Board of Estimates approval of this Fifth Amendment. Such approval shall be provided in accordance with the terms of Section 3.4 of the Agreement.

6. **EVIDENCE OF FINANCING SUBMISSION.** Developer shall submit evidence to the City that the Developer has closed on all equity capital and/or mortgage financing or other capitalization adequate for the construction of Phase 1B – Block 172 (the “**Phase 1B – Block 172 Financial Closing**”) within twenty-two (22) months of the later of the Effective Date of this Fifth Amendment or Board of Estimates approval of this Fifth Amendment. The City shall grant an extension of 60 days to this provision, not to be unreasonably withheld or delayed, upon Developer providing evidence reasonably satisfactory to the City that the Developer has the equity capital and/or commitments for the mortgage financing or other capitalization adequate for the construction of Phase 1B – Block 172.

7. **COMPLETION OF CONSTRUCTION.** Section 3.13 of the Agreement is hereby amended to reflect that Construction Completion Date for Phase 1B – Block 172 will be sixteen (16) months from the Phase 1B – Block 172 Financial Closing, provided Developer may extend the Construction Completion Date for Phase 1B – Block 172 by twelve (12) months if on the Construction Completion Date for Phase 1B – Block 172, the construction of the Improvements on the Properties in Phase 1B – Block 172 is either (i) at least fifty percent (50%) complete, or (ii) if less than fifty percent (50%) complete, Developer’s architect confirms that the Improvements are capable of being completed within twelve (12) months after such Construction Completion Date, in either case as evidenced by a certification from Developer’s architect.

8. **AMENDMENT TO AGREEMENT.**

Section 1.9(g) of the Agreement is hereby deleted in its entirety and replaced with the following:

(g) Notwithstanding anything to the contrary in this Agreement, the failure of Developer to meet the requirements for Phase 1B - Block 172 within the time periods set forth in Sections 5, 6, or 7 of the Fifth Amendment to the Agreement

(the “**Phase 1B Performance Requirements**”) shall give the City the right to terminate this Agreement with respect to Qualified Future Projects (hereinafter defined) by giving written notice to Developer of such termination, but subject in all respects to the default and termination provisions set forth in the Agreement; and further provided that no default or effort to effect a termination shall be prosecuted by the City if any Property conveyed to or to be developed by or with HABC, or any Property conveyed to or to be developed by or with any unaffiliated homebuilder is progressing in accordance with their respective required timelines pursuant to a written agreement between the Developer and the applicable party and/or the City. In such circumstances, the provisions of Article VII shall not apply; provided that, if Developer provides the Department with written notice on or before the respective dates for performance of any of the Phase 1B Performance Requirements that there will be a delay in the performance of such Phase 1B Performance Requirement and such notice includes the following: (i) a reasonably detailed explanation concerning the reason or reasons for such delay, (ii) a reasonably detailed statement describing the actions being taken by Developer or others to address such delay, (iii) a proposed date for completion of such Phase 1B Performance Requirement which date is reasonable taking into consideration the reason or reasons requiring the delay, and (iv) written evidence that Developer’s Lender or Lenders have agreed to such proposed date for performance of such Phase 1B Performance Requirement (or that such agreement is not required under the operative financing documents), then, if all other conditions related to Phase 1B-Block 172 have been met, such Phase 1B Performance Requirement shall be extended to the date on which the reasons described in (i) above are corrected or solved and such Phase 1B Performance Requirement is met. Such Phase 1B Performance Requirement shall not be extended for a period longer than sixty (60) days from the date that performance of the Section 5, 6, or 7 Phase 1B Performance Requirement is to occur, unless a longer extension period is mutually agreed to by Developer and the City in their sole discretion. The term “Qualified Future Project” means any Future Project that is not at the time the proposed action is being taken included in a term sheet or final agreement governing development as a joint venture or as a third party project, in either case with unaffiliated third parties.

9. **ADDITIONAL AGREEMENTS.**

(a) The Developer must continue to negotiate in good faith with the Housing Authority of Baltimore City (“**HABC**”) over the terms and conditions for the identification of certain Properties within the Poppleton Project and the assignment of Developer’s rights and obligations under the Agreement with respect to such Properties to HABC to support the planned expansion of the nearby Poe Homes. Following the assignment of the Developer’s rights and obligations in any Properties to HABC or its affiliates, any default by HABC or such affiliate with respect to such Properties shall not affect the rights of Developer or any other successor, assignee or transferee of Developer in any other Properties. Each Property developed with or sold to HABC

shall be considered an additional phase of development that satisfies any timeline related to such Property that is imposed on Developer under the Agreement.

(b) As reimbursement in full for the third party due diligence costs incurred by Developer as described in Section 1.2(c) of the Agreement, the City will give Developer a credit in the amount of \$209,976.00. This credit will be applied to Developer's cost of acquiring the Phase 1B – Block 172 Properties at the Closing. If a balance of the credit remains after the acquisition of the Phase 1B – Block 172 Properties, then such balance shall be applied to Future Phases at their respective closings.

10. **RIGHTS OF LENDER TO CURE.** Upon a default by Developer under the Agreement and prior to pursuing any remedy available to the City, the City shall, deliver written notice of such default to any party who has provided the Developer with predevelopment or development financing or capital with respect to any Phase or subphase, including any equity investor of Developer, of whom the City has received prior written notice (each, a “**Capital Provider**”). Such notice of a default shall specify the nature of the default then in existence and shall permit the Capital Provider that is impacted by any such default to cure the default within thirty (30) days after receipt of the notice of the default or such additional reasonable period of time as may be necessary under the circumstances, and the City shall accept such payment and/or performance by the Capital Provider with the same force and effect as if cured by the Developer such that the Agreement will remain in full force and effect. For avoidance of doubt, a single purpose entity to be formed by Arctaris Capital Partners, LLC, or its affiliate shall be a Capital Provider, and (i) notices to Arctaris will be provided in the same manner as required under the Agreement to: 1330 Boylston Street, Suite 600, Boston, Massachusetts 02467, and (ii) the admission of Arctaris as a direct or indirect member in PSH1B, LLC and any subsequent transfer of membership interests therein, or the removal or withdrawal of La Cite LLC or its affiliates from ownership in PSH1B, LLC shall not be a default under the Agreement, and (iii) the default of a phase of the Project other than Phase 1B-Lot 172 shall have no effect on Phase 1B-Lot 172, and any remedies available to the City shall only affect the defaulting owner of the applicable phase.

11. **FIFTH AMENDMENT.** This Fifth Amendment has been executed with the same formality as the 2006 LDDA.

12. **COUNTERPARTS.** This Fifth Amendment may be executed in one or more counterparts, which, taken together, shall constitute a single document.

13. **RECITALS.** The Recitals to this Fifth Amendment are included herein and made a part hereof.

14. **RATIFICATION.** Except as expressly modified and supplemented by this Fifth Amendment, the terms and provisions of the 2006 LDDA, the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment are hereby ratified and affirmed in their entirety.

15. **CONFLICT OF PROVISIONS.** In the event of any conflict between the provisions of this Fifth Amendment and the 2006 LDDA, the First Amendment, the Second Amendment, the Third Amendment, and the Fourth Amendment, then the provisions of this Fifth Amendment shall be controlling. Except as expressly amended by this Fifth Amendment, the Agreement shall remain in full force and effect in accordance with its terms.

SIGNATURES ON THE FOLLOWING PAGE

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by the Commissioner of the Department of Housing and Community Development, and its seal to be hereunto duly affixed and attested by its Custodian of the City Seal, and the Developer has caused this Agreement to be duly executed and attested by its Members, on the day and year first above written.

ATTEST: MAYOR AND CITY COUNCIL OF BALTIMORE

By: _____ (SEAL)
Alice Kennedy, Commissioner
Department of Housing and Community
Development

ATTEST: POPPLETON DEVELOPMENT I, LLC

By: _____ (SEAL)
Daniel Bythewood, Sr., Managing Member

PSH 1B, LLC

By: _____ (SEAL)
Daniel Bythewood, Jr., Managing Member

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

Ronald B. Sheff, Special Counsel

Date

THIS IS TO CERTIFY, that the Commissioner of the Department of Housing and Community Development has approved all the terms and conditions contained in the foregoing Agreement between POPPLETON DEVELOPMENT I, LLC, PSH 1B, LLC, and the MAYOR AND CITY COUNCIL OF BALTIMORE and recommends that the foregoing Agreement be approved by the Board of Estimates.

DEPARTMENT OF HOUSING AND
COMMUNITY DEVELOPMENT

By: _____
Alice Kennedy, Commissioner

BOARD OF ESTIMATES

Clerk

Attorney Certification

This Fifth Amendment to Land Disposition and Development Agreement has been prepared under the supervision of the undersigned, an attorney admitted to practice before the Court of Appeals of Maryland.

Ronald B. Sheff

SCHEDULE A

DESCRIPTION OF PHASE 1B PROPERTIES

“Phase 1B – Block 172”, as such term is used in the Agreement, shall mean and refer to the following Properties:

PHASE	BLOCK LOT	ADDRESS	DEVELOPMENT OUTCOME
Phase 1B - Block 0172	0172 148a	Descriptive Address	New Construction
Phase 1B - Block 0172	0172 131	222 N Amity St	New Construction
Phase 1B - Block 0172	0172 130	224 N Amity St	New Construction
Phase 1B - Block 0172	0172 129	226 N Amity St	New Construction
Phase 1B - Block 0172	0172 128	228 N Amity St	New Construction
Phase 1B - Block 0172	0172 127	230 N Amity St	New Construction
Phase 1B - Block 0172	0172 126	232 N Amity St	New Construction
Phase 1B - Block 0172	0172 125	234 N Amity St	New Construction
Phase 1B - Block 0172	0172 124	236 N Amity St	New Construction
Phase 1B - Block 0172	0172 123	238 N Amity St	New Construction
Phase 1B - Block 0172	0172 122	240 N Amity St	New Construction
Phase 1B - Block 0172	0172 121	242 N Amity St	New Construction
Phase 1B - Block 0172	0172 120	244 N Amity St	New Construction
Phase 1B - Block 0172	0172 119	246 N Amity St	New Construction
Phase 1B - Block 0172	0172 061	929 W Saratoga St	New Construction
Phase 1B - Block 0172	0172 060	931 W Saratoga St	New Construction
Phase 1B - Block 0172	0172 059	933 W Saratoga St	New Construction
Phase 1B - Block 0172	0172 058	935 W Saratoga St	New Construction
Phase 1B - Block 0172	0172 057	937 W Saratoga St	New Construction
Phase 1B - Block 0172	0172 056	939 W Saratoga St	New Construction
Phase 1B - Block 0172	0172 055	941 W Saratoga St	New Construction
Phase 1B - Block 0172	0172 036	227 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 037	229 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 038	231 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 039	233 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 040	235 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 041	237 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 042	239 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 043	241 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 044	243 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 045	245 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 046	247 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 047	249 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 048	251 N Schroeder St	New Construction

Phase 1B - Block 0172	0172 049	253 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 050	255 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 051	257 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 052	259 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 053	261 N Schroeder St	New Construction
Phase 1B - Block 0172	0172 054	263 N Schroeder St	New Construction

“Phase 1B – Sarah Ann”, as such term is used in the Agreement, shall mean and refer to the following Properties:

PHASE	BLOCK LOT	ADDRESS	DEVELOPMENT OUTCOME
Phase 1B - Block 0155	0155 085	1102 Sarah Ann St	Rehabilitation
Phase 1B - Block 0155	0155 084	1104 Sarah Ann St	Rehabilitation
Phase 1B - Block 0155	0155 083	1106 Sarah Ann St	Rehabilitation
Phase 1B - Block 0155	0155 082	1108 Sarah Ann St	Rehabilitation
Phase 1B - Block 0155	0155 081	1110 Sarah Ann St	Rehabilitation
Phase 1B - Block 0155	0155 080	1112 Sarah Ann St	Rehabilitation
Phase 1B - Block 0155	0155 079	1114 Sarah Ann St	Rehabilitation
Phase 1B - Block 0155	0155 078	1116 Sarah Ann St	Rehabilitation
Phase 1B - Block 0155	0155 077	1118 Sarah Ann St	Rehabilitation
Phase 1B - Block 0155	0155 076	1120 Sarah Ann St	Rehabilitation
Phase 1B – Block 0155	0155 075	1122 Sarah Ann St	Rehabilitation
Phase 1B – Block 0155	0155 074	1124 Sarah Ann St	Rehabilitation