

THIRD AMENDMENT TO AND ASSIGNMENT OF GENERAL DEVELOPMENT
AGREEMENT

THIS THIRD AMENDMENT TO AND ASSIGNMENT OF GENERAL DEVELOPMENT AGREEMENT (this "Third Amendment") is entered into this the 13th day of ~~January~~ February 2009, by and between The Town of Chapel Hill, a municipal corporation organized and existing under the laws of North Carolina (hereinafter referred to as "Town"); Ram Development Company, a Florida corporation (hereinafter referred to as the "Ram") and 140 West Franklin LLC, a North Carolina limited liability company (hereinafter referred to as "140 West Franklin").

WITNESSETH:

WHEREAS, the Town and the Ram entered into that certain General Development Agreement dated February 12, 2007, as amended pursuant to that certain First Amendment to General Development Agreement dated April 3, 2007, and as further amended by that certain Second Amendment to General Development Agreement dated September 6, 2007 (collectively, the "Development Agreement") regarding the proposed development of a parking garage, public space and mixed-use retail and residential building on property owned by the Town, commonly known as Town Public Parking Lot 5;

WHEREAS, capitalized terms used in this Third Amendment not expressly defined herein shall have the meaning ascribed to such terms in the Development Agreement;

WHEREAS, Ram desires to assign its rights under the Development Agreement to 140 West Franklin;

WHEREAS, the Town and 140 West Franklin desire to amend the terms and provisions of the Ground Lease attached as **Exhibit D** to the Development Agreement as more particularly set forth herein.

NOW, THEREFORE, in consideration of their mutual promises, covenants and agreements contained in this Third Amendment, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

- A. Ram hereby assigns, transfers, and conveys to 140 West Franklin all of Ram's right, title and interest in and to the Development Agreement, and 140 West Franklin hereby assumes all of Ram's duties and obligations under the Development Agreement arising after the date hereof.
- B. Ram hereby represents and warrants to 140 West Franklin that: (i) Ram has the full and lawful authority to execute this Third Amendment; and (ii) the Ram has not made any previous assignments of its interest in the Development Agreement.

- C. In consideration for Ram's agreement to remain primarily liable for Developer's obligations under the Development Agreement, notwithstanding the assignment contained in this Third Amendment, the Town hereby acknowledges and consents to Ram's assignment of its interest in the Development Agreement to 140 West Franklin. Ram hereby agrees and acknowledges that it remains primarily liable for Developer's obligations under the Development Agreement.
- D. The Ground Lease attached as Exhibit D to the Development Agreement is hereby deleted in its entirety and the Ground Lease attached hereto as Exhibit D and incorporated herein shall be inserted in lieu thereof.
- E. Except as amended hereby all the terms and provisions of the Development Agreement are hereby reaffirmed and remain in full force and effect. In the event that there is a conflict between the terms and provisions of the Development Agreement and the terms and provisions of this Third Amendment the terms and provisions of this Third Amendment shall control.

IN WITNESS WHEREOF, the parties have executed this Third Amendment as of the date and year first set forth above.

TOWN OF CHAPEL HILL

[TOWN SEAL]

ATTEST

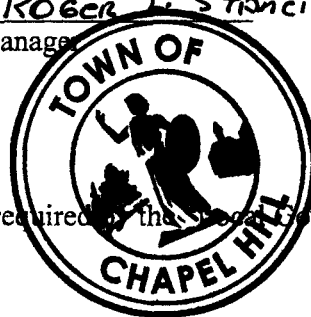
Town Clerk

[Signature]
January 13, 2009

By:

Name: *ROGER L. STANCIL*

Title: Town Manager



This instrument has been pre-audited in the manner required by the North Carolina Government Budget and Fiscal Control Act."

Name: *[Signature]* 1/13/09 KENNETH C. PENNOYER

Title: Finance Officer

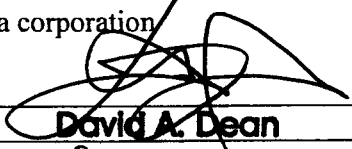
Approved as to Form and Authorization

Ralph D. Karpinos, Town Attorney

[Signatures continue on following page]

IN WITNESS WHEREOF, the parties have executed this Third Amendment as of the date and year first set forth above.

RAM DEVELOPMENT COMPANY,
a Florida corporation

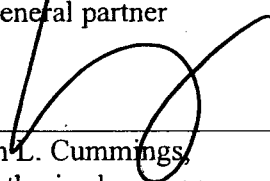
By: 
Name: David A. Dean
Title: Vice President

140 WEST FRANKLIN LLC,
a North Carolina limited liability company

By: Ram Realty II NR, LLC, a Delaware limited liability company, its sole member

By: Ram Realty Partners II, LP, a Delaware limited partnership, its sole member

By: Ram Realty Associates II, LLC, a Delaware limited liability company, its authorized general partner

By: 
Keith L. Cummings,
its authorized manager

The undersigned, being Guarantor under that certain Guaranty Agreement dated February 12, 2007 ("Guaranty"), which was delivered in connection with the Development Agreement, hereby consents to this Third Amendment and all amendments prior thereto, and acknowledges his continuing liability under the Guaranty, notwithstanding the assignment contained herein.

KEITH L. ("CASEY") CUMMINGS

