

**AGREEMENT REGARDING COMMUNITY CENTER**

This AGREEMENT REGARDING COMMUNITY CENTER (“**Agreement**”) is made as of this \_\_\_\_\_ day of \_\_\_\_\_, 2017 by and between **THE GRAHAM COMPANIES**, a Florida corporation (“**Graham**”) in favor of **THE TOWN OF MIAMI LAKES**, a Florida municipal corporation (“**Town**”).

**RECITALS:**

- A. Graham is the owner of fee simple title to that certain real property located in The Town of Miami Lakes, Miami-Dade County, Florida described in **Exhibit “A”** attached hereto and by this reference made a part hereof (“**Community Center Site**”).
- B. Graham and/or entities affiliated with Graham, (“**Graham Affiliates**”) intend to develop and operate age restricted "Senior Housing" (“**Senior Housing Development**”) on the real property (“**Senior Housing Property**”) adjacent to the Community Center Site described in **Exhibit “B”** attached hereto and by this reference made a part hereof (“**Senior Housing Property**”).
- C. In addition to the Senior Housing Development, Graham or Graham Affiliates intend to enter into a long-term ground lease of certain property adjacent to Community Center Site for the development of a Skilled Nursing Facility and an Assisted Living Facility (or other similar senior oriented facilities) (“**Senior Facilities**”) on the real property (“**Ground Lease Property**”) described in **Exhibit “C”** attached hereto and by this reference made a part hereof.
- D. To address potential impacts related to the Senior Housing Development, Graham desires to (i) build an approximately 6000 square foot shell building (“**Community Center Building**”) on the Community Center Site for the Town to be used as a community center and designed for the principal enjoyment of the senior community in the Town (“**Senior Community Center**”) and Town residents, and (ii) donate and convey the Community Center Site and the Community Center Building to the Town for the interior completion, ownership, use, and operation by the Town.
- E. To address potential impacts related to the Senior Housing Development, the Town desires (i) to accept the donation of the Community Center Site and the Community Center Building, (ii) to complete the interior of the Community Center Building, and (iii) to open and operate the Senior Community Center as a community center for the principal enjoyment of the senior community in the Town and its residents.
- F. To permit development of Senior Housing on the Senior Housing Property, pursuant to Section \_\_\_\_\_ of the Code of the Town (“**Town Code**”), Graham has applied to amend the Official Zoning Map of the Town to change the designation of the Senior Housing Property from \_\_\_\_\_, \_\_\_\_\_ District, to \_\_\_\_\_, \_\_\_\_\_ District (“**Zoning Change**”).

- G. If the Zoning Change is granted by appropriate Ordinance of the Town with all appeal periods having expired without appeal, or if an appeal is filed, then upon a final judicial determination approving the Zoning Change, as applicable (hereinafter referred to as the “**Ordinance Condition**”), Graham voluntarily covenants and agrees to build the Community Center Building on the Community Center Site and to donate and convey the Community Center Site and the Community Center Building to the Town for the interior completion, ownership, use, and operation by the Town, subject to, and in accordance with, the provisions of this Agreement.

**NOW, THEREFORE**, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Graham hereby voluntarily covenants and agrees as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference as if set forth at length.

2. Upon satisfaction of the Ordinance Condition and the Town Conditions (as hereinafter defined), Graham agrees to (i) design and build the Community Center Building generally in accordance with the specifications (“**Specifications**”) set forth in in **Exhibit “D”** attached hereto and by this reference made a part hereof, and (ii) donate and convey the Community Center Building and the Community Center Site to the Town upon completion of the Community Center Building. The Community Center Building and the Community Center Site will be conveyed and donated to the Town prior to receipt of a certificate of occupancy for the Senior Housing Development, subject to delays caused by Force Majeure. The term “Force Majeure” as used herein shall include acts of God, strikes or other labor disputes, lockouts or other industrial disturbances, terrorism, wars, blockades, riots, acts of armed forces, epidemics, inability to obtain materials, acts of public authorities, governmental restriction, governmental delay, governmental regulation, governmental control, and fire or other casualty.

3. The Community Center Building and the Senior Center Site will be donated and conveyed using the form of that certain Special Warranty Deed (“**Deed**”) attached hereto as **Exhibit “D”** and by this reference made a part hereof. The Community Center Site and the Community Center Building will be donated and conveyed for use as a community center for the Town designed for the principal enjoyment of the senior community in the Town and its residents. To the extent permitted under applicable law, the Senior Community Center must be used principally for the enjoyment of the Town's senior resident population (55 and older). As set forth in the Deed, in the event that the Senior Community Center and the Senior Community Site are not open and operating primarily to serve the Town's senior resident population within eighteen (18) months after the conveyance and donation of the Community Center Building and the Community Center Site to the Town, provided that either (i) the Senior Housing Development is then open and operating on the Senior Housing Property, or (ii) the Senior Facilities are then open and operating on the Ground Lease Property, title to the Senior Community Center and the Community Center Site shall revert to Graham. In addition, after opening of the Senior Community Center, in the event that the Senior Community Center is not open and operating continuously to primarily serve the Town's senior resident population (subject to Force Majeure and with closure as necessary for maintenance, repair and similar items), provided that either (i) the Senior Housing Development is then open and operating on the Senior Housing Property, or (ii) the Senior Facilities are then open and operating on the

Ground Lease Property, title to the Senior Community Center and the Community Center Site shall revert to Graham. Notwithstanding the foregoing, in the event that the Senior Community Center is open and operating eighteen (18) months after the conveyance and donation of the Community Center Building and the Community Center Site to the Town as a senior community center primarily serving the senior resident population of the Town or thereafter, and neither (i) the Senior Housing Development is then open and operating on the Senior Housing Property (subject to Force Majeure and with closure as necessary for maintenance, repair and similar items), nor (ii) the Senior Facilities are then open and operating on the Ground Lease Property (subject to Force Majeure and with closure as necessary for maintenance, repair and similar items), the Town shall then have the right to use the Community Center Site and the Senior Community Center for other municipal purposes. In addition to the Ordinance Condition, the obligation of Graham to construct the Community Center Building and to donate and convey the Community Center Building and the Community Center Site to the Town are subject to satisfaction of the following conditions precedent ("**Town Conditions**"): (i) the issuance of all necessary governmental permits and approvals, and (ii) on or before \_\_\_\_\_, all applicable approvals have been obtained by the Town to permit the Town to accept, own, complete, and operate the Community Center and the Community Center Site, including funding approval ("**Town Ownership Approvals**").

4. In the event (i) that the Town Ownership Approvals have not been obtained on or before \_\_\_\_\_, or (i) the Town governmental approvals and permits required to commence construction of the Community Center Building are not obtained within \_\_ months after application by Graham, Graham shall have the right to terminate this Agreement whereupon this Agreement shall no longer be of any further force or effect. Graham agrees to apply for Town governmental approvals for the Community Center Building within \_\_\_\_ ( ) months after receipt of a building permit for the Senior Housing Development.

5. The Community Center Site and the Community Center Building shall be donated and conveyed to the Town on an "as is" basis, except as follows: (i) Graham shall convey fee simple title to the Community Center Site and to the Community Center Building free and clear of liens, including mortgages, (ii) the Community Center Site and the Community Center Building will be conveyed and dedicated in general compliance with the Specifications. Graham will not warrant the construction of the Community Center Building or the improvements on the Community Center Site, although Graham will assign all assignable warranties and guarantees obtained in connection with the development of the Community Center Site and the construction of the Community Center Building, without representation or warranty. The Town will have the right to inspect the Community Center Site and the Community Center Building prior to conveyance and dedication to determine that the building is generally in accordance with the Specifications and whether it will accept title to the Community Center Site and the Community Center Building. In addition to the requirement that the Community Center Site not be used for any purpose other than a community center primarily to serve the Town's senior resident population, a restrictive covenant will be placed on the Community Center Site that the Community Center Site cannot be used as an Assisted Living Facility or a Skilled Nursing Facility.

6. The obligations of Graham set forth herein shall be the personal obligations of Graham and shall not encumber any property of Graham, including the Senior Housing Property and the Ground Lease Property.

7. MISCELLANEOUS TO BE ADDED

**IN WITNESS WHEREOF**, Graham has executed and delivered this Agreement as of the date first above written, to be effective upon the Ordinance Condition being met.

Witnesses:

**GRAHAM:**

**THE GRAHAM COMPANIES**, a  
Florida corporation

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Luis O. Martinez, Sr. Executive  
Vice President

\_\_\_\_\_  
Print Name: \_\_\_\_\_