

## **LIMITED LIABILITY COMPANY AGREEMENT OF REEP-BRENNAN COMMERCE CITY JV LLC**

This Limited Liability Company Agreement of REEP-Brennan Commerce City JV LLC, is made as of the 30<sup>th</sup> day of October, 2018 (the “**Effective Date**”), by and between **BIG COMMERCE CITY LLC**, an Illinois limited liability company (“**Sponsor**” or “**Developer Member**”), and **REEP-IND COMMERCE CITY CO LLC**, a Delaware limited liability company (“**Investor**”). Sponsor and Investor, together with any such additional parties as and when admitted to the Company (as defined below) as members shall be individually a “**Member**” and collectively, the “**Members**”.

### **RECITALS:**

**WHEREAS**, REEP-Brennan Commerce City JV LLC (“**Company**”) has been formed by the Members as a limited liability company under the Delaware Limited Liability Company Act, 6 Del. C. Sec. 18-101, et seq. (as amended from time to time, the “**Act**”) as of October 26, 2018; and

**WHEREAS**, as of the Effective Date, and pursuant to the terms and provisions of that certain Assignment and Assumption of Purchase Agreement of even date herewith, by and between BIG Acquisitions LLC (“**BIG**”), Sponsor’s Related Party, as Assignor, and the Company, as Assignee, BIG has assigned to the Company the entire right, title and interest of the “buyer” in, to and under that certain Contract to Buy and Sell Real Estate (Land), dated as of April 12, 2018, by and between Aigaki Family LLC, as seller, and BIG, as buyer (as the same has been heretofore or may be hereafter amended, supplemented or otherwise modified in accordance with this Agreement, the “**Purchase Agreement**”);

**WHEREAS**, pursuant to the Purchase Agreement, the Company has the right to acquire that certain real property located in Commerce City, State of Colorado more particularly described on Exhibit A attached hereto and incorporated herein by this reference, together with all improvements, fixtures, tangible and intangible personal property, and other property relating thereto as described in and provided by the Purchase Agreement and all ancillary documents executed and delivered in connection therewith (collectively, the “**Property**”); and

**WHEREAS**, the Members wish to set out fully their respective rights, obligations and duties regarding the Company and its assets (including, without limitation, the Property if and when acquired) and liabilities; and

**WHEREAS**, capitalized terms not otherwise defined shall have the respective meanings given such terms in Section 2.1 of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants expressed herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Members, the Members hereby agree as follows:

## **ARTICLE II**

### **DEFINITIONS**

2.1 **Definitions.** The following terms shall have the meanings indicated or referred to below, inclusive of their singular and plural forms except where the context requires otherwise.

**“10.1.3 Closing Date”** shall have the meaning set forth in Section 10.1.3(a).

**“Accelerated Debt”** shall have the meaning set forth in Section 9.2.

**“Acceptance Notice”** shall have the meaning set forth in Section 10.1.1.

**“Accountants”** means the firm of independent certified public accountants engaged from time to time by the Company for purposes of reviewing or auditing the Company’s financial statements or other information furnished by the Administrative Member or the Property Manager with respect to the Property and performing such other duties as are imposed on the “Accountants” by this Agreement. The Accountants shall be PwC or such other accounting firm as may be selected by Managing Member from time to time.

**“Act”** shall have the meaning set forth in the introductory statement.

**“Additional Capital Contribution”** shall have the meaning set forth in Section 3.1.2.

**“Administrative Member”** means the Member who is appointed as the “administrative member” of the Company for purposes of implementing the development plan for the Project and the Operating Plan And Budget and administering the day-to-day affairs of the Company pursuant to such development plan and Operating Plan And Budget. The Administrative Member shall be Sponsor unless removed pursuant to or in accordance with this Agreement.

**“Agreement”** shall mean this Limited Liability Company Agreement of REEP-Brennan Commerce City JV LLC.

**“Approved Related Party Agreement”** shall have the meaning set forth in Section 6.6.4(a).

**“Bankruptcy”** means, with reference to any Member or the Company:

- (a) the entry of an order of relief (or similar court order) against such Person which authorizes a case brought under Chapter 7, 11 or 13 of Title 11 of the United States Code (or successors to such Chapters and Title) to proceed;
- (b) the commencement of a federal, state or foreign bankruptcy, insolvency, reorganization, arrangement or liquidation proceeding by such Person;

Member shall select a firm of independent certified public accountants to be engaged from time to time as Accountants for the Company.

6.4 Authority of Managing Member. Subject to the other provisions of this ARTICLE VI and all other provisions of this Agreement expressly calling for the written approval or consent of the Members, or otherwise expressly limiting the authority or powers of the Managing Member, the Managing Member shall have the decision-making authority and power necessary for the day-to-day administration and operation of the business and affairs of the Company.

6.4.1 Employees. All Persons engaged by the Managing Member in connection with its services hereunder shall be either Managing Member's employees or its agents or independent contractors and shall not be employees of the Company.

6.4.2 Compensation of Managing Member. Except as otherwise expressly set forth herein, the Managing Member shall not be entitled to any compensation or reimbursement for its services hereunder without the express written approval of the Members. Any such approval must expressly acknowledge that such compensation or reimbursement is to be paid to the Managing Member.

6.5 Authority of Administrative Member. The Administrative Member shall have authority to conduct the day-to-day operations of the Company in accordance with the applicable Operating Plan And Budget and each approved Development Budget, the Major Decisions approved by the Members and any other instructions, guidelines or policies of the Managing Member.

6.5.1 Without limiting Managing Member's approval and other rights set forth in this Agreement, the Administrative Member's duties shall include, without limitation:

- (a) any duties assigned to it under this Agreement;
- (b) overseeing, supervising, coordinating and processing the operations and the development of the Project, including without limitation, as applicable, the entitlement, development, construction of improvements, leasing, and management on a day-to-day basis of any and all of the assets which comprise the Property, all in accordance with the then applicable Operating Plan And Budget and the applicable Development Budget, as applicable, overseeing and coordinating with the Property Manager and Developer, as applicable, and all governmental agencies and other relevant Third Parties, and preparing all communications with the Property Manager, Developer, governmental agencies, and other relevant Third Parties. All proposed correspondence relating to any such entitlement, development and management matters which requires the approval of the Managing Member pursuant to this Agreement, shall be sent to the Managing Member for its approval, and copies of all final correspondence, notices and like matters shall also be sent to the Managing Member;
- (c) causing the Property Manager to perform its obligations under the Management Agreement and Developer to perform its obligations under each

DMA, including, without limitation, the timely performance of such obligations within the schedules required for such performance and the payment and satisfaction in full of any Overruns or, if the Property Manager or Developer, as the case may be, fails to perform such obligations and only so long as Property Manager or Developer, as the case may be, is a Related Party of Sponsor, performing or causing such services to be performed, at no additional cost, for the Company's benefit;

(d) subject to the availability of funds therefor, taking all proper and necessary actions reasonably required to cause the Company and all Third Parties at all times to perform and comply with the provisions (including, without limitation, any provisions requiring the expenditure of funds by the Company) of any loan commitment, agreement, mortgage, lease, or other contract, instrument or agreement to which the Company is a party or which affects the Property or the development or operation thereof;

(e) subject to the availability of funds therefor, paying (or causing the Property Manager to pay) in a timely manner all non-disputed operating expenses of the Company in accordance with the terms of the then applicable Operating Plan And Budget or as otherwise provided herein and approved by the Managing Member;

(f) to the extent available, and subject to the availability of the funds therefor, paying all non-disputed taxes, assessments, charges and fees payable in connection with the ownership, use and occupancy of the Property or the development and construction of the Project, as applicable;

(g) delivering to the Managing Member promptly upon the receipt or sending thereof, copies of all notices, reports and communications between the Company and any tenant, governmental agencies, neighboring property owners and/or lessors, community groups and other relevant Third Parties, including, any notices of liens, fines or penalties, and delivering to the Managing Member promptly upon the receipt or sending thereof, copies of any notices, reports, and communications from any tenant under any lease or any lender under any Company Financing or any holder of a mortgage affecting all or any portion of the Property or any of such other Third Parties, which relates to any existing or pending default thereunder or to any financial or operational information required by such Person;

(h) depositing (or causing the Property Manager to deposit) all receipts from operations of the Property to such separate accounts established and controlled by the Managing Member in the name of the Company, which receipts shall not be commingled with any other funds or accounts of the Administrative Member;

(i) if the Administrative Member subcontracts with Third Parties or any Related Party pursuant to an Approved Related Party Agreement for the performance of any of the services to be performed by the Administrative

Member, supervising and overseeing the performance of the services performed by such Third Parties or Related Party;

(j) delivering to the Managing Member any documents reasonably requested by the Managing Member relating to the construction of improvements at, or any other development of, the Property (including, without limitation, the Project), and all other items related thereto;

(k) delivering to the Managing Member copies of any notices, reports and communications between the Company and/or Administrative Member and the Property Manager and/or Developer, including, without limitation, copies of any monthly reports generated by the Property Manager and/or Developer; and

(l) not less frequently than once every calendar month, meeting with Investor and its representatives (at the Property, via telephone or, from time to time at the reasonable request of Investor, at Investor's office in San Francisco, California) to summarize the status of the management and operation of the Property, the development and/or construction of the Project and all items related thereto.

Administrative Member is hereby granted and shall have the authority to execute and deliver for and on behalf of the Company agreements and contracts contemplated by, and providing for expenditures that are within, an approved Development Budget and/or the then applicable Operating Plan And Budget; provided that, Administrative Member will be permitted (and have the authority) to execute and deliver for and on behalf of the Company leases or any amendments, modifications or termination of any leases only if and to the extent that such lease or amendment, modification or termination of a lease (and the execution and delivery thereof by Administrative Member) is approved in writing by the Managing Member. Notwithstanding anything to the contrary herein, (x) the Administrative Member shall obtain the Managing Member's prior written consent to any contract, subcontract or agreement having an aggregate contract value, and/or requiring the expenditure of funds by the Company in an amount, equal to or greater than Twenty-Five Thousand and 00/100 Dollars (\$25,000.00), and (y) irrespective of whether or not a project has been provided for within the then Operating Plan And Budget after Substantial Completion of a Phase, the Administrative Member shall obtain the Managing Member's prior written consent prior to commencing any construction activity at the Property having an aggregate cost, and/or requiring the expenditure of funds by the Company in an amount, equal to or greater than One Hundred Thousand and 00/100 Dollars (\$100,000.00).

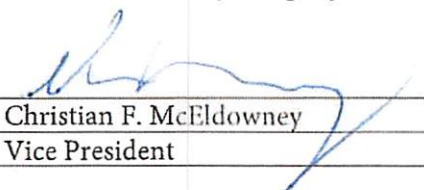
6.5.2 Employees. All Persons engaged by the Administrative Member in connection with its services hereunder shall be either Administrative Member's employees or its agents or independent contractors and shall not be employees of the Company.

6.5.3 Compensation of Administrative Member. Except as otherwise expressly provided in the DMA, Management Agreement or any other Approved Related Party Agreement, Administrative Member shall not be entitled to any compensation or reimbursement for its services hereunder without the express written approval of Managing Member. Any such approval must expressly acknowledge that such compensation or reimbursement is to be paid to the Administrative Member.

IN WITNESS WHEREOF, each of the Members has executed this Agreement as of the date first written above.

**Investor:**

**REEP-IND COMMERCE CITY CO LLC,**  
a Delaware limited liability company

By:   
Name: Christian F. McEldowney  
Title: Vice President

*[Signatures Continue on Following Page]*

**Sponsor:**

**BIG COMMERCE CITY LLC,**  
an Illinois limited liability company

A handwritten signature in black ink, appearing to read "Michael W. Brennan", written over a horizontal line.

By: \_\_\_\_\_  
Name: Michael W. Brennan  
Title: Manager