



**CITY OF FORT LAUDERDALE
COMMUNITY REDEVELOPMENT AGENCY**

May __, 2024

Mr. James Morris
President
Sirrom Commercial, Inc.
11131 NW. 34th Place
Coral Springs, FL 33065

Re: Letter of intent to provide a forgivable loan in an amount not to exceed Six Million and No/100 Dollars (\$6,000,000) to Sirrom Commercial, Inc., a Florida for profit Corporation ("Sirrom" or "Borrower") to be secured by a lien on multiple parcels described in Exhibit A (the "Property") to partially fund hard costs of construction of a mixed use development on the Property (the "Project")

Dear Mr. Morris:

This letter is intended to establish a framework for preparation and execution a Development Agreement under the Development Incentive Program (the "Development Agreement") by and between the Fort Lauderdale Community Redevelopment Agency (the "Lender" or "CRA") and Sirrom. Subject to the terms and conditions set forth herein and in the Development Agreement and other documents, Lender agrees to fund a forgivable loan to Borrower in an amount not to exceed Six Million and No/100 Dollars (\$6,000,000) (the "Forgivable Loan" or "Loan" or "DIP Loan") that will be used to fund hard costs of construction of the 1435 ArtXChange Mixed Use Project on the Property. It is anticipated that the parties shall negotiate and execute a Development Agreement within four(4) months after the date the CRA board approves this award of funding under this Letter of Intent.

COMPLETION DATE: The Project and all amenities shall be completed within twenty four (24) months from the effective date of the Development Agreement, subject to extensions granted by the CRA's Executive Director for delays caused by circumstances beyond the Borrower's control but not due to a lack of funding to complete the Project. Completion Date is defined as the date on which a Certificate of Occupancy has been issued by the City of Fort Lauderdale or other governing authority and an approval letter of the Project has been issued by the Agency or its successor. If the Project is not completed by the sunset date of the CRA, then the CRA obligation to fund any undisbursed funds under the DIP Loans may be terminated.

USES OF PROCEEDS: Sirrom acknowledges that the proceeds of the DIP Loan shall be used to reimburse or fund hard costs of construction of a mixed use development, as described in City Commission Agenda Memorandum #24-0430 as presented to the Board of Commissioners of the Fort Lauderdale Community Redevelopment Agency on May __, 2024 (the “Project”) according to a construction budget approved by the CRA Executive Director, as may be amended by Borrower and its construction lender, so long as such expenses are allowed in accordance with Part III, Chapter 163, Florida Statutes and the Agency Redevelopment Plan. The proposed site plan and illustrations are attached hereto as Exhibit “B”. The CRA proceeds shall not be used for operating and administrative expenses of the Project, general conditions or for soft costs related to construction of the Project. Further, hard costs are defined as costs for work, labor and materials required to construct the buildings and infrastructure improvements to the site.

PHASES OF CONSTRUCTION: Sirrom intends to construct the Project in one phase.

RESERVATION OF COMMERCIAL SPACE: As a condition of the DIP Loan, Borrower shall cause the owner of the Property to provide 2,650 square feet of commercial retail space of the Project to the CRA, or its successors, for a minimum of fifteen years at a rate of \$5.00 per square foot plus common area maintenance expenses, with the understanding that the CRA, or its successors, may sublet all or a portion of the retail space to small businesses as part of its initiative to support and sustain small businesses. The CRA, or its successors, shall have the absolute right to assign its entire leasehold interest to a third party, without recourse. All subtenants must comply with applicable rules and regulations related to rental of the retail space and will receive the same benefits and privileges as other similarly situated tenants. The CRA, or its successor, reserves the right to charge rent in excess of the rate charged by Sirrom and the Borrower, or its successor and/or assigns, shall not be entitled to share in the excess rents or receive any benefits from the excess rents.

CONDITIONS FOR CLOSING: The Lender shall have no obligation to close on the DIP Loan until completion of the following conditions to the satisfaction of the Lender in its sole discretion:

1. Review and acceptance of environmental assessment on the Property;
2. Satisfactory evidence that Borrower has sufficient equity to complete construction of the Project;
3. Receipt and review of a draw schedule, construction schedule and budget, sources and uses, project schedule, survey and schedule of values for the Project;
4. Receipt and review of a construction contract between the Borrower and a qualified and experienced general contractor along with copy of the general contractor’s license;
5. Certificate of Good Standing and corporate authorization of the Borrower and its controlling entities;

6. Builder's Risk Insurance and Payment and Performance Bond (to the extent required by the Borrower's construction lender) listing the CRA as an additional obligee and such other insurances as are customary and standard for a Project of this scope and size;
7. Title Insurance Commitment and policy insuring the interest of the CRA in the Property in the amount of the DIP Loan, deleting all schedule B-I requirements and all standard exceptions, subject to those special exceptions approved by the Executive Director;
8. Simultaneous closing with the construction lender which shall include a guaranty of payment and completion by James Morris and any other individual, if required by the construction lender;
9. All development approvals from the appropriate governing authority have been issued for the Project;
10. Execution of the CRA documents for the DIP Loan, including without limitation, the Promissory Note, Second Mortgage, Assignment of Leases, Rents and Profits, Assignment of Development Approvals, Environmental Indemnity Agreement, Construction Loan Agreement, Regulatory Agreement, Security Agreement, UCC-1 Financing Statement, Funding Agreement, if necessary, Development Agreement, Commercial Lease, Negative Pledge Agreement and such other agreements and instruments required by the CRA in the exercise of its reasonable discretion;
11. Receipt and review of all owners who hold a direct or beneficial interest in the Property or Borrower and its controlling entities along with copies of the organizational documents;
12. Such other documents, instruments, studies, analysis and evaluation as required by the CRA in the exercise of its reasonable discretion.

LOAN PAYMENTS AND TERM: Repayment of the Forgivable Loan shall not be required except in the event of default as defined in the Development Agreement. The Forgivable Loan shall not be subject to a charge of interest except in the event of default. Upon such an occurrence, interest shall accrue at the maximum rate permitted by law.

The Forgivable Loan shall be discharged upon satisfaction of the following conditions:

The Borrower shall provide affordable units (as described below) to the target population as set forth in the CAM and shall sign a Restrictive Covenant in form and substance acceptable to the Agency which shall be in effect for a minimum of fifteen (15) years.

One hundred percent (100%) of the units shall be set aside and affordable for families and individuals whose income does not exceed 120% of the Area Median Income, as adjusted for family size, for Broward County, Florida as published by the Housing and Urban Development ("HUD") and Florida Housing Finance Corporation ("FHFC") for a

minimum of 15 years, with 4 units set aside and affordable for families and individual whose income does not exceed 100% of the Area Median Income and 4 units set aside and affordable for families and individuals whose income does not exceed 80% of the Area Median Income (the “Affordable Housing Requirement”).

COVENANT TO FUND: The Lender shall budget and appropriate legally available funds sufficient to fully fund the DIP Loan by Fiscal Year 2023/2024, as follows, subject to the approval as to form and substance by the CRA’s General Counsel and City Auditor. Such obligations to annually appropriate and disburse the DIP Loans are subordinate to overhead and administrative costs related to operating and managing the CRA and senior CRA debt and previously approved CRA projects.

LOAN DISBURSEMENTS: The Borrower and Lender, in consultation with the construction lender, shall develop a schedule for disbursement of the DIP Loan proceeds as constrained by the CRA annual budget appropriation and construction schedule for completion of the Project. Such disbursement schedule shall be incorporated in a Construction Loan Agreement and Funding Agreement, if necessary. Both parties anticipate a portion of the DIP Loan may be available to fund construction draws. If so, then, after the Borrower’s cash equity contribution required by the Lender has been exhausted, the CRA shall fund construction draws pari passu with the construction lender and only for hard costs. To the extent CRA funds are available after construction has commenced and the construction lender has to advance construction funds on behalf of the CRA, then CRA funds may be used to reimburse the construction lender for hard costs only and only to extent that the CRA would have funded such cost had the proceeds been available. The construction lender may make additional or future advances under the construction loan so long as the principal balance of the Forgivable Loan and the principal balance of the construction/permanent loan does not exceed a loan to value ratio of 100% as determined by a current MAI appraisal based on the as completed Project.

DEVELOPMENT FEE: Subject to reconciliation with any conflicts with the requirements of the construction lender, Borrower, or its affiliates or other related third parties, agree to receive its Development Fee for this Project in stages. Ten Percent (10%) of the fee shall be paid at closing on the construction loan, sixty five percent (65%) during construction (prorata over the total number of construction draws) and the balance shall be paid upon issuance of a Certificate of Occupancy for the entire Project. The CRA reserves the right to change the timing of payments upon review of the construction lender draw schedule and other relevant factors. Notwithstanding, the DIP Loan are not a source of payment for the Development Fee.

CLOSING COSTS: Borrower shall bear all closing and transactional fees, expenses and costs, including without limitation, documentary stamp taxes, intangible taxes, title insurance premium and search fees, recording fees, in connection with closing on the DIP Loan.

SECOND MORTGAGE AND SUBORDINATION: The DIP Loan shall be secured by a second mortgage, assignment of leases, rents, profits and proceeds on the Property, and security interest in the personal property of the Project in favor of the CRA, subordinate to the lien of the First Mortgage of the construction/permanent lender. The Borrower agrees that the First Mortgage shall include a provision requiring the First Mortgagee to give notice of default and an opportunity to cure in favor of the CRA. Borrower shall execute a negative pledge agreement in which it agrees not to further encumber the Property including the CRA Property. Any approvals of subsequent agreements required by Borrower or the First Mortgage lender as a condition of closing the DIP loan, shall be granted at the discretion of the CRA's Executive Director without any further approval of the governing body of the CRA, subject to approval of the CRA General Counsel.

LOCAL CONTRACTING: Borrower will use its best efforts to work with the Lender to notify local business firms, minority owned firms, women-owned firms or labor surplus area firms of the opportunity to submit bids for construction work on the Project, with the goal of achieving a minimum 30% participation for minorities. Further, Borrower shall use its best efforts to hire local business firms, minority owned firms, women owned firms for the operation and management of the residential and commercial uses within the Project and shall provide annual reports, in form, substance and content, acceptable to the CRA and its successors and/or assigns. The CRA reserves the right to record a Regulatory Agreement on the Property as a covenant running with the land.

LOAN DEFAULT: The occurrence of any one or more of the following Loan Defaults and the continuance thereof uncured or uncorrected for a period of 30 days, or longer period of time as may be necessary so long as Borrower is diligently pursuing cure, following proper notice, except for monetary defaults which shall have a grace period of 15 days and Lender shall not be required to give notice:

- 1) Borrower fails to maintain managerial control and decision-making authority over the Project until the DIP Loan is satisfied; or
- 2) A final order, judgment or decree is entered by any court of competent jurisdiction adjudicating the Borrower bankrupt or insolvent; or
- 3) Any misrepresentation made by Borrower in any material respect and which adversely affects the rights, duties and obligations of the CRA; or

- 4) Foreclosure proceedings have commenced against the Project; or
- 5) A default under the First Mortgage and subsequent failure to cure within applicable cure periods; or
- 6) Failure to make payments under the Forgivable Loan as they become due or pay the real property taxes and insurance on the Project; or
- 7) Such other commercially reasonable defaults as incorporated in the Development Agreement and other CRA loan documents.

MAINTENANCE/REPAIRS: Upon completion of the Project, Borrower, its successors and/or assigns, shall have a continuing obligation to maintain the Project in good repair and provide adequate insurance coverages at its expenses, all as set forth in the Development Agreement. All construction will be done in accordance with necessary approvals and the permitted and approved set of plans and specifications by the appropriate governing authority.

INSURANCE: The Borrower and/or the general contractor for the Project, as applicable, shall purchase and maintain at its own expense insurance, as may be required by the Lender and shall include the Lender as an “Additional Insured”.

RIGHT TO AUDIT: Lender shall have the right to audit, at its expense, the books and records relating to the Project as may be reasonably required, and Borrower shall provide CRA with necessary information to conduct such audit.

CROSS DEFAULT: The Development Agreement, and the Second Mortgage will be cross defaulted with the construction loan and First Mortgage.

BROKER: Borrower certifies that there were no brokers engaged as a result of the DIP Loan and indemnifies the Lender against any claims, losses, fees or expenses in connection with these DIP Loan.

TERMINATION: Prior to execution of the Development Agreement, Lender or Borrower may terminate this letter of intent if any of the following events shall occur: If the Borrower:

- a. Applies for or consent to the appointment of a receiver, trustee, or liquidator for it or for any of its property;
- b. Admit in writing an inability to pay its, debts as they mature;
- c. Make a general assignment for the benefit of creditors;

- d. Be adjudicated bankrupt or insolvent;
- e. Files a voluntary petition or an answer seeking reorganization or an arrangement with creditors or take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution, or liquidation law or statute, or file an answer admitting the material allegations of a petition filed against it or them in any proceeding under any such law; or
- f. If condemnation proceedings are commenced against the Project or any part thereof;
- g. If the Lender and Borrower are unable to agree to the terms of the Development Agreement; or
- h. Failure by Borrower to close on the CRA Property; or
- i. Borrower fails to secure the necessary equity and construction loan on or before _____.

ASSIGNMENT: During the term of the DIP Loans, Borrower, developer and owner of the Property shall not sell, assign, convey or transfer (all of the foregoing referred to as an "Assignment") its interest in the Project or Property to any person, or a controlling interest in Borrower or such entities which hold the right, title and interest in the Property or developer of the Project, without the express written consent of the CRA which shall not be unreasonably withheld. CRA shall either approve such Assignment or specify in reasonable detail the basis for its disapproval within thirty (30) days after request for such approval. Such Assignment shall not be valid until the CRA has consented in writing to such Assignment and there shall have been delivered to CRA a true copy of the proposed instruments effecting such Assignment, and an original counterpart of an agreement in which each such assignee assumes and agrees to perform all the terms, covenants and conditions under the DIP Loan on Borrower's, or such applicable entity's, part to be performed, including those matters that arose or became due prior to the effective date of the Assignment, and proof that the assignee has been approved as the successor under all third party agreements affecting the Project and Property. After the aforesaid instruments have been delivered to CRA and CRA has consented in writing to such Assignments, then from and after the effective date of Assignment, the assigning party shall be released of all obligations under the DIP Loan for matters arising after the effective date of the Assignment but shall remain liable to the CRA for all obligations under the DIP Loan relating to matters that arose or became due prior to the effective date of the Assignment. The factors upon which

CRA may base its decision on whether to grant consent to an Assignment will be limited to whether (i) the proposed assignee and/or any of the direct or indirect principals of such proposed assignee (as may be set forth in a certification to the Agency by a certified public accountant) meets standards of creditworthiness and have sufficient financial resources to acquire, operate, manage and maintain the Project, (ii) the proposed assignee has the reasonable ability to perform the obligations of the Borrower under the DIP Loan or other parties related to the Project; (iii) the proposed assignee has prior business experience related to operating property with uses similar to the Project, (iv) the reputation of the proposed assignee, (v) the form of the documents evidencing the assignment and the assumption, and (vi) other reasonable factors. Borrower agrees to disclose the principals with controlling interest in the Borrower, owner of the land and building and the developer of the Project and to provide such documents requested by the CRA in a timely manner. Notwithstanding this process for Assignment, James Morris shall retain managerial and decision making control over the Project during the term of the DIP Loan.

PUBLIC RECORDS. Unless a specific statutory exemption exists, all documents, instruments, surveys, reports, etc. received by the CRA are subject to review by the public.

The Letter of Intent shall be made and construed in accordance with the laws of the State of Florida.

The individuals executing this Letter of Intent are authorized to execute this letter on behalf of the respective entities.

The provisions of the Letter of Intent cannot be modified unless such modification is in writing and signed by Lender and Borrower.

This Letter of Intent has been issued for the sole and exclusive benefit of the Borrower and no third party shall have any rights hereunder without the express written consent of the Lender. Further, the Borrower shall not assign its rights under this Letter of Intent without the written consent of the Lender which may be withheld in its sole discretion.

Lender and Borrower agree to act in good faith to formalize the Development Agreement within a timely manner. However, nothing in this letter of intent shall be deemed an obligation of the Lender or Borrower to execute a Development Agreement.

This Letter of Intent may be executed in one or more counterparts, each of which shall constitute an original and together shall constitute one agreement.

SIGNATURES ON FOLLOWING PAGE

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first written above.

AGENCY
FORT LAUDERDALE COMMUNITY
REDEVELOPMENT AGENCY, a
Community Redevelopment Agency
created pursuant to Chapter 163, Part
III, Florida Statutes

By _____
Susan Grant,
Acting Executive Director

ATTEST:

Approved as to form and correctness:
Thomas J. Ansbro, General Counsel

David R. Soloman, CRA Secretary

Lynn Solomon, Assistant General Counsel

AGREED TO AND ACCEPTED this _____ of May 2024.

SIRROM COMMERCIAL, INC., a
Florida for profit corporation

James Morris, President

EXHIBIT "A"
(LEGAL DESCRIPTIONS OR SUMMARY)

PARCEL 1:

Lots 3, 4 and 5, less road right of way, Block 3, of Lincoln Park Corrected Plat, according to the plat thereof, as recorded in Plat Book 5, Page 2, of the Public Records of Broward County, Florida.

Aka: 1429-1433 NW 6th Street, Fort Lauderdale, Florida 33311

PARCEL ID 5042-04-11-0530

PARCEL 2:

Lots 6, 7, 9, 10, 11 and 12, less road right of way, Block 3, of Lincoln Park Corrected Plat, according to the plat thereof, as recorded in Plat Book 5, Page 2, of the Public Records of Broward County, Florida.

Aka: 1435 NW 6th Street, Fort Lauderdale, Florida 33311

PARCEL ID 5042-04-11-0570

PARCEL 3:

Lots 1 and 2, less road right of way, Block 3, of Lincoln Park Corrected Plat, according to the plat thereof, as recorded in Plat Book 5, Page 2, of the Public Records of Broward County, Florida.

Aka: 1423 NW 6th Street, Fort Lauderdale, Florida 33311

PARCEL ID 5042-04-11-0540

EXHIBIT "B"
SITE PLAN ILLUSTRATIONS

1429-1435 Sistrunk Blvd. Mixed Use Development

1429 - 1435 NW 6TH ST, FORT LAUDERDALE, FL 33311

DECEMBER 19, 2023



3D RENDERING OF SOUTHWEST CORNER
NOT TO SCALE

Design Form

1429-1435 Sistrunk Blvd. Mixed Use Development

1429 - 1435 NW 6TH ST, FORT LAUDERDALE, FL 33311

DECEMBER 19, 2023



3D RENDERING OF SOUTHEAST CORNER
NOT TO SCALE

Design2Form