

**FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY
DEVELOPMENT AGREEMENT FOR
STREETSCAPE ENHANCEMENT PROGRAM
(\$100,000 or Less)
(Outside Focus Area)**

THIS AGREEMENT is made and entered into this _____ day of _____, 2023 by and between:

**FORT LAUDERDALE COMMUNITY
REDEVELOPMENT AGENCY**, a Community
Redevelopment Agency created pursuant to Chapter
163, Part III, Florida Statutes, hereinafter referred to as
“Agency”,

and

825 PROGRESSO DRIVE, LLC, a Florida Limited
Liability Company, hereinafter referred to as “Developer”,

This Development Agreement for Streetscape Enhancement Program (the “Agreement”) is entered into by and between the Fort Lauderdale Community Redevelopment Agency, a community redevelopment agency created pursuant to Part III, Chapter 163, Florida Statutes (the “Agency”) and 825 Progresso Drive, LLC, a Florida Limited Liability Company (the “Developer”).

WHEREAS, pursuant to Motion on October 15, 2013, the Agency authorized the creation of the Streetscape Enhancement Program (“Program”); and

WHEREAS, the Program was amended by the Agency on June 7, 2016, providing up to \$500,000 for eligible Project Improvement Cost (defined below); and

WHEREAS, the Developer submitted an application for Program Funding in the amount of \$97,444 for the Project Site identified on Exhibit A; and

WHEREAS, the Owner, 825 Progresso Drive, LLC, a Florida Limited Liability Company, agrees and consents to execute a first mortgage to encumber the Property to secure the obligations under this Agreement and to secure the Note as described herein; and

WHEREAS, the Developer proposes to make improvements to the Project Site to lease to businesses that provide indoor and outdoor uses such as fitness, art, food, beverage, market, music and recreation, and

WHEREAS, to encourage the development within the Area, the Agency will contribute funds to be applied to completion of the Project; and

WHEREAS, the Agency and the Developer are desirous of entering into this Agreement to effectuate the development of the Project; and

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereby agree as follows:

ARTICLE 1

Recitals

1.1 The foregoing recitals are true and correct are hereby incorporated herein.

ARTICLE 2

Definitions

2.1 For the purposes of this Agreement the following initially capitalized terms when used in this Agreement (except as herein and otherwise expressly provided or required by the context) shall have the following meanings:

2.2 Advisory Board. The Northwest Progresso Flagler Heights Redevelopment Advisory Board.

2.3 Act. Part III, Chapter 163, Florida Statutes, and any amendments or revisions thereto.

2.4 Agency. The Fort Lauderdale Community Redevelopment Agency, and its successors or assigns.

2.5 Agency Funds or Funding. The lesser of Ninety-Seven Thousand Four Hundred Forty and 00/100 Dollars (\$97,440.00) or 70% of the Project Improvement Cost.

2.6 Agreement. This Agreement and any exhibits or amendments thereto.

2.7 Area or Community Redevelopment Area. The community redevelopment area, known and referred to as the Northwest-Progresso-Flagler Heights Redevelopment Area, located within the corporate limits of the City and constituting an area in which conditions of blight exist and in which the Agency may carry out community redevelopment projects pursuant to Part III, Chapter 163, Florida Statutes, as amended,

as found and declared by the City Commission in this Resolution No. 95- 86 adopted on June 20, 1995, as amended by Resolution No. 01-121, adopted on July 10, 2001, and established as the area of operation of the Agency by Resolution No. 95- 86 and for which a community redevelopment plan for the Northwest Progresso Flagler Heights Redevelopment Area was approved by the City Commission in Resolution No. 95-170 on November 7, 1995, as amended on May 15, 2001 by Resolution No. 01-86 and as subsequently amended by Resolution 13-137 (“Plan”) and as amended by Resolution 16-52 on March 15, 2016.

2.8 Authorized Representative. For Agency, the Executive Director of the Agency. For Developer, Jay Adam, Manager. The Authorized Representative shall be the person designated and appointed to act on behalf of a party as provided in this Development Agreement. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Authorized Representative to the extent not in conflict with the terms of this Agreement.

2.9 Building Permit. The one or more permit(s), required by the City or any other applicable governmental authority having jurisdiction over the Project, to be issued after the Permits have been obtained, but required before commencement of any construction of the Project, including demolition of any structure located on the Project Site.

2.10 Certificate of Occupancy. Means the certificate of occupancy or certificate of completion issued by the City or other appropriate Governmental Authority for the entire Project to be properly permitted, occupied, opened for business and used as contemplated by this Agreement.

2.11 City. The City of Fort Lauderdale, a Florida municipal Company, and its successors and/or assigns, and any officers, employees and agents thereof.

2.12 Commencement Date. The date on which the Developer issues a notice to proceed to the Contractor to commence construction of the Project, which date shall be identified by the Developer in a notice to Agency.

2.13 Completion Date. The later date on which the construction of the Project has been substantially completed in accordance with this Agreement as evidenced by a letter executed by the Agency Authorized Representative, and a final Certificate of Occupancy or Certificate of Completion, as appropriate.

2.14 Contractor. One or more individuals or firms licensed as a general

contractor by the State of Florida, bonded to the extent required by applicable law, and hired by the Developer to construct any part of or the entire Project, or both.

2.15 Construction Contract. Contract or contracts between the Developer and the Contractor for the construction of all or any part of the Project.

2.16 Construction Period. The period of time beginning on the Commencement Date and ending on the Completion Date, as provided in the Project Schedule.

2.17 Developer. 825 Progresso Drive, LLC, a Florida Limited Liability Company.

2.18 Developer's Architect. Such individuals, partnerships, firms or other persons retained by Developer as architects to prepare the plans and specifications for the Project, and any engineers, planners, designers, consultants, or others retained by the Developer, or any architect retained by the Developer in connection with the preparation thereof.

2.19 Developer Interests. The Developer's interest in the Project Site and all improvements thereon, this Agreement and all related or appurtenant property and rights.

2.20 Effective Date. The date on which this Agreement is executed by both parties to this Agreement.

2.21 Executive Director. The Executive Director of the Agency as designated and appointed by the governing body of the Agency.

2.22 Exhibits. The exhibits attached hereto and made a part of this Agreement.

2.23 Florida Statutes. References to Florida Statutes herein are to Florida Statutes (2018), as same shall be amended from time to time.

2.24 Force Majeure. The following described events that for the purposes of Article 9.3 of this Agreement result in delays in any performance contemplated by and set forth in this Agreement: fire, flood, earthquake, hurricane; unavailability of labor, materials, equipment or fuel; war, declaration of hostilities, terrorist attack, revolt, civil strife, altercation or commotion, strike, labor dispute, or epidemic; archaeological excavation; lack of or failure of transportation facilities; any law, order, proclamation, regulation, or ordinance of any government or any subdivision thereof except the City, or acts of God.

2.25 Including. As used herein, the terms “include,” “including” and similar terms shall be construed as if followed by the words “without limitation.”

2.26 Project Improvement Cost. Costs for the Project that are eligible for reimbursement with Agency Funds as shown on Exhibit “D” up to a maximum of 70% of the total Project Improvement Costs for the Project or Ninety-Seven Thousand Forty Hundred Forty and 00/100 Dollars (\$97,440.00), whichever is less. The Agency shall only fund hard cost for the construction of streetscape improvements that support the approximately 2,500 square foot space at the Project Site. Hard cost means cost for work, labor, and materials used for streetscape improvements. Planned Streetscape improvements are paved/concrete sidewalk, Poured in (sidewalk) planters, root barriers/structural soil underneath sidewalk, lighting/electric, irrigation, parking spaces (curbing and pavers) landscaping, handicap ramps and access. The Project Site that will be leased to businesses that provide indoor and outdoor uses such as fitness, art, food beverage, market, music and recreation. The Developer has represented that the Project Improvement Cost is approximately \$139,320. An updated accounting of the Project Improvement Cost will be provided to the Agency in conjunction with Developer reimbursement request for Agency Funds.

2.27 Loan Closing Date/ Closing Date/ Forgivable Loan Closing Date. The date the Developer and Agency close on the Agency Funding for the forgivable loan as described in Article 6.8, which date shall be no later than as provided in the Project Schedule.

2.28 Permits. Any permits, licenses, certificates or other approvals or consents of the City or any other governmental authority having jurisdiction over the Project or the Project Site required to be issued or granted before issuance of the Building Permit and commencement of construction of the Project, including, without limitation, approvals or consents relating to the site plan, zoning, land use, or environmental regulations.

2.29 Plans and Specifications. Architectural, engineering and construction documents constituting the concept documents, preliminary plans and drawings, schematic design documents, design development documents and construction documents for the Project prepared by the Developer's Architect.

2.30 Project. Improvements to Project Site located at 825-833 Progresso Drive, Fort Lauderdale, more particularly described in Exhibit “B” which shall improve and enhance the business operations of 825 Progresso Drive, LLC. The Developer shall make improvements to the Project Site to lease approximately 2,500 square feet to businesses that provide indoor and outdoor uses such as fitness, art, food, beverage, market, music and recreation.

2.31 Project Schedule. The schedule for the commencement and completion of construction of the Project, which is attached hereto as Exhibit "C".

2.32 Project Site. The property is located at 825-833 Progresso Drive, Fort Lauderdale, Florida 33304, and more particularly described in Exhibit "A".

2.33 Owner. 825 Progresso Drive, LLC, a Florida Limited Liability Company

2.34 Site and Project Plans. Design plans, drawings, and other descriptions of the Project indicating the size and location of the Developer's proposed improvements to the Project Site which is attached hereto as Exhibit "B", as the same may be amended as approved by Agency subject to development review requirements under the City's Unified Land Development Regulations (ULDR) as applicable.

2.35 ULDR. The City of Fort Lauderdale Unified Land Development Regulations.

2.36 Use of Words and Phrases. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the singular shall include the plural as well as the singular number, and the word "person" shall include Company's and associations, including public bodies, as well as natural persons. "Herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Agreement and not solely to the particular portion thereof in which any such word is used.

ARTICLE 3

Findings

The parties to this Agreement do hereby find and acknowledge the following:

3.1 The City Commission of the City adopted Resolution No. 95-86 on June 2, 1995 finding the existence of blight conditions in the Community Redevelopment Area, as more particularly described in that Resolution, in which the Property is located.

3.2 The Agency for the Area was created by Resolution No. 95-86 adopted by the City Commission of the City on June 20, 1995, pursuant to part III of Chapter 163, Florida Statutes.

3.3 By adoption by the City Commission of Resolution No. 95-170, the Redevelopment Plan was adopted on November 7, 1995, and has been amended.

3.4 By adoption of Resolution No. 95-1084 on November 26, 1995, the Broward County Board of County Commissioners approved the Redevelopment Plan and such plan has been subsequently amended in 2001, 2013, 2016 and 2018.

3.5 The Redevelopment Plan contemplates redevelopment in the Community Redevelopment Area.

3.6 Pursuant to the Redevelopment Plan, it is contemplated that the Agency will provide funding for certain streetscape improvements in the Community Redevelopment Area.

3.7 Developer owns the Property and has submitted plans for review for the construction of the Project on the Property.

3.8 The Project is consistent with and furthers the provisions of the Redevelopment Plan and the Agency desires to encourage redevelopment of the Property for use for the Project and to encourage Developer in its development, design, construction, use, ownership and operation of the Project.

3.9 Certain Street improvements, which will include, but are not limited to, the Developer Streetscape Improvements are required to support the Project and will be necessary for the successful development of the Project.

3.10 The Contractor (to be identified at a later date) will be licensed and uniquely qualified to undertake the Developer Streetscape Improvements.

ARTICLE 4 **Project Site**

4.1 The Developer represents to the Agency that the Project Site is appropriate and available for development of the Project thereon.

4.2 The Developer represents to the Agency that the Project Site does not contain any adverse environmental conditions that will prevent or adversely affect development of the Project thereon or the use of the Project as described in this Development Agreement following the Completion Date.

4.3 The Developer covenants and agrees with the Agency that it and its principal owners shall continue to own the Project Site for a period of no less than five (5) years commencing on the Project Completion Date. During this five-year period, the Developer agrees to submit on the annual anniversary of the Effective Date of the Agreement an affidavit executed by the Developer that the Project has not been sold. The Project shall be used only for non-residential uses, unless approved by the Agency. Further Developer agrees that the building shall not be used for those non-permitted uses as provided in Section 47-12 of the ULDR and shall not be used for the following (i) "adult uses" as such term is defined in Section 47-18.2 of the ULDR; (ii) massage parlors (other than as an ancillary use to a health club or beauty salon or beauty space; or (iii) liquor store; or (iv)

convenience store or convenience kiosk as provided in the ULDR, during a five (5) year term commencing on Project Completion Date and will execute at Closing a restrictive covenant to be recorded in the public records of Broward County evidencing these restrictions.

ARTICLE 5

Obligations of the Parties

5.1 Developer. Developer shall use Commercially Reasonable Efforts to obtain or cause to be obtained all Permits and Approvals, including, without limitation, all permits, consents, replating (if necessary) and subdivision variances, waivers and other approvals necessary under applicable law for the design, development, construction, operation and use of the Project as described in the Plans and Specifications, which shall include, when applicable, the timely filing of necessary applications, with permit fees when required, the prosecution of the application to the same extent as used by the party charged with the effort as such party has devoted to the approvals, timely follow through with such amendments and revisions or additions to the documentation required by the application or other process as shall be customary with like kind projects of economic magnitude in the Broward County area, and the prompt payment of costs and fees associated therewith. Prior to the issuance of the Certificate of Occupancy, Developer shall not abandon construction of the Project, which shall mean the cessation of meaningful construction work on the Project for a period of 120 days or more. For purposes of this Section 5.1, “meaningful construction work on the Project” shall be the standard set forth in the applicable building code for purposes of maintaining any Permits and Approvals. The Developer shall maintain all Permits and Approvals for the Project and agrees to observe all applicable laws and requirements of all applicable Governmental Authorities in connection with the Project.

5.2 Developer Streetscape Improvements. Developer shall design, construct and install the Developer Streetscape Improvements including concrete sidewalks, concrete planters, root barriers, lighting, irrigations, on street parking spaces, curbing and pavers, landscaping, and handicap ramps as described on Exhibit “D” provided herein. The Agency shall be responsible for paying the Reimbursement Amount directly to Developer in one payment no earlier than the Project Completion Date. Developer shall notify the Agency of such completion and send the Agency a request for the Reimbursement Amount along with such documentation as may be reasonably necessary to evidence the actual costs paid by the Developer for the Developer Streetscape Improvements. The CRA agrees to reimburse the Developer up to the Reimbursement Amount subject to the terms and conditions contained herein. In order to be eligible for reimbursement, the Developer shall submit paid invoices for all eligible costs, materials and expenses, proof the Developer paid for such invoices and all other documentation required by the CRA (including release of liens, if applicable) and the CRA shall reimburse the Developer for such costs and expenses within forty five (45) days after receipt of the proper paid invoices and other required documentation referenced herein to the CRA.

5.3 Permits and Approvals. As of the Effective Date, the Plans and Specifications have been submitted to the City and the Broward County by Developer and are under review.

5.4 Developer Ad Valorem Tax Payments. Developer shall be obligated to pay all ad valorem property taxes due upon the Property and the Project as required by Florida law.

5.5 Approval of Agreement.

5.5.1 The Agency hereby represents and warrants to Developer that the execution and delivery hereof have been approved at duly convened meetings of the Agency and the same is binding upon the Agency.

5.5.2 Developer hereby represents and warrants to the Agency that (i) the execution and delivery hereof have been approved by all parties whose approval is required under the terms of the governing documents creating Developer, (ii) this Agreement does not violate any of the terms or conditions of such governing documents and the same is binding upon Developer and enforceable against it in accordance with its terms; (iii) the Persons executing this Agreement on behalf of Developer are duly authorized and empowered to execute the same for and on behalf of the Developer; (iv) Developer is a Florida Limited Liability Company and is duly authorized to transact business in the State of Florida; and (v) this Agreement does not violate the terms of any other agreement to which the Developer is a party.

5.6 Developer shall immediately notify agency in writing of any pending, or to the knowledge of the Developer, threatened actions or proceedings before any court or administrative agency against the Developer, or against any officer, employee, partner or shareholder of the Developer, which question the validity of this Agreement or any Exhibit hereto, or which are likely in any case, or in the aggregate, to materially adversely affect the consummation of the transactions contemplated hereunder or the financial condition of the Developer.

ARTICLE 6
Project Financing

6.1 Developer. Developer shall use its own funds and/or funds obtained from Developer's Lender to develop the Project for the purposes contemplated by this Agreement. Developer shall be free to arrange financing in connection with the Property and the Project as Developer may desire, whether using Developer's Lender or any other source for any such financing. Developer shall promptly notify Agency of any changes to Developer's Lender. Developer shall within 5 days' notice from Developer's Lender, notify the agency of the occurrence of any event of default under any such financing. The Developer shall use commercially reasonable efforts to obtain the agreement of Developer's Lender that in the event of a default by the Developer under the financing of the Project by Developer's Lender that Developer's Lender will notify the Agency of such default and what will be necessary, if anything, for the Agency to cure such default at the election of the

Agency. As to the Streetscape Improvements, Developer and its contractor are obligated to construct and install the Streetscape Improvements by and through a licensed Florida State Underground and Utility and Excavation Contractor or a Broward County Florida Engineering Contractor (the "Utility Contractor") and shall provide proof of same prior to receiving its Reimbursement Amount.

6.2 Developer Streetscape Improvements. The Developer shall construct the Developer Streetscape Improvements as provided herein and in accordance with the applicable standards and specifications for such construction as set forth by the Governmental Authorities.

6.3 Taxes and other charges. Developer shall pay and discharge, or cause to be paid and discharged, prior to delinquency all taxes, charges, liabilities or claims of any type at any time assessed against or incurred by the Property or the Project, provided that nothing in this Section 5.3 shall require the payment of any such sum if Developer contests the same in good faith by appropriate proceedings. The Developer shall not allow any taxes to be delinquent so that the Property is subject to the sale of tax certificates according to Florida law. The Developer shall notify the Agency within 5 days of any notice of tax delinquency on the Property or the Project.

6.4 Declaration of Maintenance Obligation. In order to secure the ongoing conditions, covenants and obligations contained herein, and prior to paying the Reimbursement Amount to Developer, Developer shall execute and record a Declaration of Maintenance Obligation.

6.5 Lender's Right to Cure. The Agency shall provide Developer's Lender with a copy of the written notice of default and the opportunity to cure the breach on behalf of the Developer under the same terms and conditions as provided for the Developer, provided the Agency receives in writing the name, title and address of the Developer's Lender representative.

6.6 Agency Funds-Forgivable Loan. Pursuant to the Agency's Program and the calculations submitted by the Developer and in consideration of the Developer developing the Project in accordance with the terms of this Agreement, the Agency agrees to loan to the Developer for the Project the lesser of an amount not to exceed \$97,440.00 or 70% of the total Project Improvement Cost.

6.7 Interest Rate. The interest rate on the Principal amount of the loan shall be zero percent (0%) per annum, except in any event of default as described in Paragraph 14.

6.8 Term of Repayment. Payment on the principal amount of the loan shall not be required so long as the Developer operates its current business on the property, the Developer does not sell, convey or transfer its leasehold interest in the Property, and is maintained as the Project and not in default, for a five (5) year period following the Completion Date. Provided the conditions set forth herein are met, the loan will be forgiven five (5) years after the Project Completion Date. Repayment will become due and payable upon sale, or transfer of the leasehold interest in the Property during the five (5) year period. The maximum legal interest rate shall be applied to the principal amount due and owing

commencing thirty (30) days after the date of an event of default. If no sale, transfer or other event of default occurs during the five (5) year period, the terms of this encumbrance shall be satisfied, and the Developer shall be issued a Satisfaction of Mortgage executed by the Agency.

(a) Closing on Agency Funds. The Closing on Agency Funds for the forgivable loan shall occur on the date provided in the Project Schedule. As a condition to the Closing, Developer shall have entered into a Construction Contract executed by Developer and a Contractor for construction of the Project in accordance with the provisions of this Agreement. The Project Improvement Cost including the construction cost of the Project as shown in the executed Construction Contract.

The total amount of Agency Funds shall be calculated at the time of Closing. In no event will the Agency Funds exceed the lesser of \$97,440 or 70% of the total Project Improvement Cost.

(b) Additional Conditions Precedent to the Agency's Obligation to Pay the Agency Funds. The duty of the Agency to pay the Agency Funds, and Agency's other duties under the terms, covenants, and conditions of this Agreement, are expressly subject to the fulfillment to the satisfaction of, or waiver as provided herein, prior to Closing of any of the Agency Funds of the conditions precedent set forth in this subsection (d). The Developer hereby covenants and agrees to satisfy each of the following obligations on or before the Closing Date, unless waived in writing by the Agency as to each covenant to be performed by the Developer.

The Developer shall have shown:

(1) Evidence that there is sufficient funding and interest held by the Developer in the Project Site to secure the completion of the Project, including a copy of the deed or Lease showing ownership or leasehold interest in Developer and an affidavit of outstanding liens and mortgages on the Project Site.

(2) The site plan approval by the City, if required, and the Agency;
and

(3) The Permits approved by the City or other appropriate governmental authority; and

(4) A Construction Contract with the Contractor for construction of the Project, a copy of which shall have been delivered to and approved by the Agency on or before the Closing Date.

(5) The Developer and Property Owner have executed a restrictive covenant in substantially the form attached as Exhibit "E" to be recorded in the public records of Broward County with the provisions of Article 4.3.

(6) The Developer and Property Owner execute a mortgage and UCC-1 Financing Statement (to be provided), if necessary, in substantially the form

attached as Exhibit "E" securing the Agency Loan in the total amount to be provided by the Agency as provided in this Agreement and Developer executes a note payable to Agency in substantially the form attached as Exhibit "F".

(7) No action or proceeding shall be pending (whether or not on appeal) or shall have been threatened, and no statute, regulation, rule or order of any federal, state or local governmental body shall be in effect or proposed, in each case, which in the good faith judgment of either party adversely affects (or if adopted, would adversely affect) the consummation of the transactions by the Developer contemplated by this Agreement; and

(8) The Developer shall not be in default of this Agreement;

(9) Proof of all applicable insurance; and

(10) Proof of recording of a Notice of Commencement in the public records of Broward County, Florida according to Chapter 713, Florida Statutes; The Agency shall be listed on the Notice of Commencement as a party to receive Notice to Owners;

(c) It is understood and agreed that in the event that any of the conditions precedent provided in subsections (1) through (10) have not been met as provided on or before the Closing Date, then this Agreement may be terminated by Agency and be of no further force and effect.

(d) Security. City shall secure the loan for this Agreement with first mortgage on the Project Site. Developer and Owner does unconditionally and irrevocably hereby grant, convey, transfer, bargain and assign to Agency a continuing first priority security interest in and a lien upon all of the Owner's and Developer's, title and interest in and to the assets of Owner and Developer located, situated and wherever present in the State of Florida, whether now owned or hereafter acquired (collectively "Collateral" or "Property"):

Whether such Collateral shall be presently in existence or whether it shall be acquired or created by Owner or Developer at any time hereafter, to remain in force so long as Developer is, in any manner, obligated to Agency.

Such security interest shall give Agency a continuing lien in, on, and to all said Collateral, and the products thereof, and any replacements, additions, accessions, or substitutions thereof, after-acquired property, and the accounts or proceeds or products arising from the sale or disposition of any Collateral of Owner or Developer, including any returns thereof including, where applicable, the proceeds of insurance covering said Collateral or tort claims in connection with the Collateral or any substitutions, renewals and replacements therefore and all rights to receive any monies, payments or distributions from any person or source whatsoever in respect of the foregoing.

In the event that Developer fully performs all of its duties and obligations to the Agency under this Agreement, Agency, or its successor, shall thereafter and forthwith

execute and deliver to Property Owner a Satisfaction of its first mortgage and Termination of UCC-1 Financing Statement, in a form reasonably satisfactory to the Property Owner.

If the Developer ceases business operations on the Project Site, the Agency, at its election, upon adequate advance notice to the Property Owner, may seek to recover possession of the assets funded by the Agency, provided the Agency will not seek to recover any assets which are permanently affixed to the structure of the building and Agency shall compensate the Property Owner for damage to the building caused by the Agency during recovery of the assets, but not to exceed the amount of the forgivable loan. Upon recovery of possession of the assets, a satisfaction of mortgage will be issued in favor of the Property Owner.

6.9 Closing. The Closing shall occur in the office of the Agency at which time evidence of all requirements shall be submitted and confirmed by the parties in writing. All applicable recording cost and taxes shall be paid by the Agency.

ARTICLE 7 **Project Development**

7.1 Project Schedule. Developer represents that the Project Completion Date shall occur in accordance with the Project Schedule set forth on **Exhibit E**.

ARTICLE 8 **Developer Defaults; Agency Remedies**

8.1 Default by the Developer.

(a) There shall be an “event of default” by the Developer under this Agreement upon the occurrence of any one or more of the following:

(1) The Developer shall fail to perform or comply with any provision of this Agreement and such failure materially and adversely affects the successful and timely development and completion of the Project or materially and adversely affects the rights, duties or responsibilities of the Agency under this Agreement and such failure shall continue for more than sixty (60) days after the Agency shall have given the Developer written notice of such failure (hereinafter sometimes referred to as the “non-monetary default cure period”); provided, however, that if such failure can reasonably be cured within said sixty (60) days of said notice by the Agency, then the event of default under this paragraph shall be suspended if and for so long as the Developer proceeds diligently to cure such default within the said sixty (60) days and diligently continues to proceed with curing such default until so cured.

(2) Developer fails to complete the Project by the date shown

in the Project Schedule, unless extended by the Agency.

(b) Upon the occurrence of an event described in Article 14.1(a) hereof, , the Agency may, at any time thereafter if such event of default has not been cured, seek any and all remedies available at law or at its election bring an action in a court of competent jurisdiction for specific performance by the Developer, or other injunctive relief including repayment of funds contributed by Agency, to the fullest extent permitted by law, or give a written notice of termination of this Agreement to the Developer, and on the date specified in such notice, this Agreement shall terminate and all rights of the Developer hereunder shall cease and Agency shall be released from any and all obligations, unless before such date all other events of default by the Developer hereunder occurring or existing at the time shall have been cured, however, that this Agreement may not be terminated by the Agency unless and until the project lender has notified the Agency of their election not to cure said defaults. Agency must be provided the name, title and address of project lender by Developer as a condition of this obligation not to terminate.

(c) In the event that the Developer's Authorized Representative fails to perform or comply with his rights and duties under the provisions of this Agreement and such failure results in a notice of default, the Developer, may substitute the Authorized Representative.

8.2 Default by the Agency; Remedies.

(a) There shall be an "event of default" by the Agency under this Agreement upon the occurrence of the following: Provided all conditions precedent have been satisfied or waived, the Agency shall fail to timely pay the amounts of the Agency Funds to the Developer set forth in this Agreement, or if any representation and warranty of the Agency hereunder fails to be true and correct, and such failure adversely affects the Developer or the Project and such failure shall continue for a period of forty-five (45) days after the Developer shall have given the Agency written notice of such failure; provided, however, that if such failure can reasonably be cured within said forty-five (45) days, then the event of default under this Article shall be suspended if and for so long as the Agency proceeds diligently to cure such default within the said forty-five (45) days and diligently continues to proceed with curing such default until so cured.

(b) Upon the occurrence of an event described in Article 14.2(a), , the Developer may, at any time thereafter, at its election either institute an action for specific performance of the Agency's obligations hereunder, or other injunctive relief, to the fullest extent permitted by law, or give a written notice of termination of this Agreement to the Agency, and on the date specified in such notice, which shall be not less than forty-five (45) days, this Agreement shall terminate and all rights of the Agency hereunder shall

cease and the Developer shall be released from any and all obligations hereunder, unless before such date sums payable to the Developer under this Agreement shall have been paid and all other defaults by the Agency hereunder existing at that time shall have been remedied, including, without limitation, such damages or suits for damages to which the Developer may be entitled as a result of any breach or event of default by the Agency. Notwithstanding, in any action, suit, cause of action or litigation for damages, the Agency liability shall not exceed \$50,000.00 which shall include reasonable attorney's fees and costs. Notwithstanding, the Developer shall not be entitled to recover consequential, speculative, or punitive damages.

8.3 Non-Action on Failure to Observe Provisions of this Agreement. The failure of the Agency or the Developer to insist upon strict performance of any term, covenant, condition or provision of this Agreement shall not be deemed a waiver of any right or remedy that the Agency or the Developer may have, and shall not be deemed a waiver of a subsequent default or nonperformance of such time, covenant, condition or provision.

8.4 Event of Default. Subject to Force Majeure, the occurrence of any one or more of the following and the continuance thereof uncured or uncorrected for the period of time hereinafter provided shall constitute an Event of Default hereunder:

8.4.1 The Developer defaults in the performance of any obligation including, without limitation, the obligation to create and retain jobs, imposed upon it under this Agreement or the Developer fails to complete any item required to be completed by it as provided herein, including constructing the Project substantially in accordance with the final Plans & Specifications or constructing Developer Streetscape Improvements, and the Developer does not cure such default within thirty (30) days after delivery of notice of such default from the Agency; or

8.4.2 Any statement, representation or warranty made by the Developer herein or in any writing now or hereafter furnished in connection herewith shall be false in any material respect when made and which materially and adversely affects the rights, duties or obligations of the Agency hereunder; or

8.4.3 (i) an order, judgment or decree is entered by any court of competent jurisdiction adjudicating the Developer bankrupt or insolvent, approving a petition seeking a reorganization or appointing a receiver, trustee or liquidator of the Developer or of all or a substantial part of its assets, or (ii) there is otherwise commenced as to the Developer or any of its assets any proceeding under any bankruptcy, reorganization, arrangement, insolvency, readjustment, receivership or similar law, and if such order, judgment, decree or proceeding continues without being dismissed after any stay thereof expires.

8.5 Remedies. Upon the occurrence and during the continuance of any Event of Default by Developer hereunder, the Agency shall have the following rights (a) to terminate this Agreement, upon which termination Developer agrees upon request by the Agency it shall assign and transfer to the Agency, free of any liens or other obligations or conditions, all plans, specifications and contracts for the Developer Streetscape Improvements, if any,

(b) to stop any disbursements of funds by the Agency hereunder, including the Reimbursement Amount (c) to recover all funds paid by the Agency under this Agreement or (d) to pursue other rights or remedies which are or may be available to Agency at law or in equity to enforce any of the terms of this Agreement. Notwithstanding, nothing herein shall be deemed a pledge or the right to place a lien on the Agency's tax increment revenue. This Agreement shall not be construed as a grant or consent to encumber the Redevelopment Trust Fund of the Agency or to grant a right of specific performance as an equitable remedy. Further, payments under this Agreement are subordinate and inferior to existing and future debt service payments of the Agency and operating and administrative costs of the Agency.

ARTICLE 9

General Provisions

9.1 Non-liability of Agency and City Officials. No member, official or employee of the Agency or the City or the Agency Staff of any employee of the City shall be personally liable to the Developer or to any Person with whom the Developer shall have entered into any contract, or to any other person in the event of any default or breach by the Agency, or for any amount which may become due to the Developer or any other person under this Agreement.

9.2 Approval. Whenever this Agreement requires the Agency or the Developer to approve any contract, document, plan, specification, drawing or other matter, such approval shall not be unreasonably withheld, delayed or conditioned. The Developer and the Agency shall perform all obligations imposed upon them under this Agreement in a reasonable and timely fashion.

9.3 Force Majeure. Neither the Developer nor the Agency shall be deemed in default hereunder where such a default is based on a delay in performance as a result of war, insurrection, terrorist activity, strikes, lockouts, riots, floods, earthquakes, fires, casualty, acts of God, acts of public enemy, epidemic, quarantine restrictions or freight embargo, or excessive delays in the permitting process not caused by Developer; provided, however, that the extension of time granted for any delay caused by any of the foregoing shall not exceed the actual period of such delay and a reasonable time to resume after such delay. The party invoking this Section 9.3 shall deliver notice to the other party as provided in Section 9.4 setting forth the event of Force Majeure and the anticipated delay resulting from such event of Force Majeure. Upon expiration of the event of Force Majeure, either party may notify the other that the event has expired and that the extension of time granted as a result of such delay has ended.

9.4 Notices. All notices to be given hereunder shall be in writing and (a) personally delivered, (b) sent by registered or certified mail, return receipt requested, or (c) delivered by a courier service utilizing return receipts. Such notices shall be deemed given and received for all purposes under this Agreement (i) three (3) business days after the date same are deposited in the United States Mail if sent by registered or certified mail, or (ii) the date actually received if sent by personal delivery or courier service, or (iii) the date of transmission of a facsimile, with telephonic or machine confirmation of receipt:

DEVELOPER: 825 Progresso Drive, LLC
919 SE 6 Court
Fort Lauderdale, FL 33301
Attn.: Jay Adams, Member Managed

AGENCY: Fort Lauderdale Community Redevelopment Agency
100 North Andrews Avenue, 7th Floor
Fort Lauderdale, FL 33301
Attention: Executive Director

With a copy to: City Attorney's Office
City of Fort Lauderdale
100 North Andrews Avenue, 7th Floor
Fort Lauderdale, FL 33301

Any change to an address shall be given in the same manner as a notice under this Section 9.4.

9.5. Time. Time is of the essence in the performance by any party of its obligations hereunder.

9.6 Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties and supersedes all prior negotiations and agreements between them with respect to all or any of the matters contained herein.

9.7 Amendment. This Agreement may be amended by the Parties hereto only upon the execution of a written amendment or modification signed by the Parties.

9.8 Waivers. All waivers, amendments or modifications of this Agreement must be in writing and signed by both parties. Any failures or delays by any party in asserting any of its rights and remedies as to any default shall not constitute a waiver of any other default or of any such rights or remedies. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties hereto are cumulative, and the exercise by any party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or other default by any other party.

9.9 Assignment/Transfer. During the term of this Agreement, any assignments, conveyances or transfers (all of the foregoing, an "Assignment") of interest in this Agreement, the Project or Property to any Person or entity, must comply with the following:

9.9.1 Consent required. Agency written consent to an assignment shall be required, and in determining whether to grant such consent, Agency shall consider the following factors:

(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 Developer;

(iii) the proposed assignee has prior related business experience for operating property with uses similar to the Project or as existing at the time of proposed Assignment; and

(iv) the reputation of the proposed assignee.

Upon weighing the above factors, Agency 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 Agency has consented in writing to such Assignment and there shall have been delivered to Agency a true copy of the instrument 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 of this Agreement on Developer's part to be performed, including those for matters that arose or became due prior to the effective date of the Assignment. After the aforesaid instruments have been delivered to Agency and Agency has consented to such Assignments, then from and after the effective date of Assignment, the assigning party shall be released of all obligations under this Agency for matters arising after the effective date of the Assignment, but shall remain liable to the Agency for all obligations under this Agreement relating to matters that arose or became due prior to the effective date of the Assignment.

9.10 Indemnification. Developer agrees to protect, defend, indemnify and hold harmless the Agency, and their officers, employees and agents, from and against any and all lawsuits, penalties, claims, damages, settlements, judgments, decrees, costs, charges and other expenses or liabilities of every kind, sort or description including, but not limited to, attorneys' fees at both the trial and appellate levels, in connection with or arising, directly or indirectly, out of or resulting from this Agreement or the Developer's acts or omissions in performing its obligations under this Agreement. Without limiting the foregoing, any and all such claims, relating to personal injury, death, damage to property, defects in material or workmanship, actual or alleged infringement or any patent, trademark, copyright or of any other tangible or intangible personal or property right, or any actual or alleged violation of any applicable statute, ordinance administrative order, rule or regulation or decree of any court, are included in the indemnity. The Developer further agrees to investigate, handle, respond to, provide defense for, and defend any such claims, at its sole expense and agrees to bear all other costs and expenses related thereto, even if the claim(s) is groundless, false or fraudulent. However, the Agency retains the right to select counsel of its own choosing. This provision shall survive expiration or termination of this Agreement and shall not be limited by any insurance required hereunder.

9.11 Severability. The invalidity, illegality or unenforceability of any one or more of the provisions of this Agreement shall not affect any other provision of this Agreement, but

this Agreement will be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

9.12 Contingent Fee. The Developer represents and warrants that it has not employed or retained any Person to solicit or secure this Agreement and that it has not paid or agreed or promised to pay any Person any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the execution of this Agreement, including any broker fee or commission.

9.13 Independent Contractor. In the performance of this Agreement, the Developer will be acting in the capacity of an independent contractor and not as an agent, employee, and partner of the Agency. The Developer and its employees and agents shall be solely responsible for the means, methods, techniques, sequences and procedures utilized by the Developer in the performance of its obligations under this Agreement.

9.14 Timing of Approvals. Each party hereto shall have a period of not more than twenty (20) business days from the date of submission to such party of any item under this Agreement to take any action or give its approval or denial and the failure to take any such action or give such approval or denial within such period of time shall be deemed approval, provided that no approval by the Agency shall be governed hereby.

9.15 Not A General Obligation.

(a) Neither this Agreement nor the obligations imposed upon the Agency hereunder shall be or constitute an indebtedness or general obligation of the Agency or other Governmental Authority within the meaning of any constitutional, statutory or charter provisions requiring the Agency or other Governmental Authority to levy ad valorem taxes nor a lien upon any properties or funds of the Agency or other Governmental Authority. The Developer agrees that the obligation of the Agency to make any payments by the Agency to the Developer pursuant to this Agreement shall be subordinate to the obligations of the Agency to pay debt service on any bonds to be issued by the Agency up to the principal amount of the first issuance of such bonds.

(b) Nothing contained herein shall be deemed, construed or applied to cause any Governmental Authority, specifically including the Agency, to waive its right to exercise its governmental power and authority or to consider any request causing the exercise of its governmental powers in any manner other than that which is customary for the exercise of such governmental powers.

9.16 Parties to Agreement. This is an agreement solely between the Agency and the Developer. The execution and delivery hereof shall not be deemed to confer any rights or privileges on any Person not a party hereto other than the successors or assigns of the Agency and the Developer.

9.17 Venue; Applicable Law. All legal actions arising out of or connected with this Agreement must be instituted in the Circuit Court of Broward County, Florida, or the United States District Court for the Southern District of Florida. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement.

9.18 Insurance. During the term of this Agreement, the Developer shall obtain and maintain casualty insurance on the Project in an amount equal to the cost of replacing the Project (subject to a commercially-reasonable deductible) in the event of a damage or destruction of the Project, including builder's risk insurance during construction. Subject to the prior rights of Developer's Lender, Developer shall use the proceeds of such insurance to rebuild or repair the Project to substantially the same condition as before such damage or destruction. The Developer shall also obtain and maintain liability insurance in such an amount as is customary for a project of the size and scope of the Project. Certificate(s) of insurance evidencing such insurance to the reasonable satisfaction of the Agency shall be provided to the Agency by the Developer.

9.19 Termination. In the event of a termination of this Agreement as provided herein prior to its expiration, the party terminating the Agreement shall provide notice to that effect to the other party and upon receipt of such notice and the expiration of any cure period provided herein this Agreement shall then be of no force and effect, neither party will be liable to the other for any payments or other obligations other than any payments or obligations earned or incurred as of such date of termination.

9.20 Term. This Agreement shall take effect upon the Effective Date and, if not earlier terminated as provided herein, shall expire on the date of the payment of the Reimbursement Amount to the Developer by the Agency.

9.21 Records/Right to Audit. Agency shall have the right to audit the books, records, and accounts of Developer that are related to the Developer Streetscape Improvements as defined in Section 2.9 as more fully set forth in Exhibits D of this Agreement. Developer shall keep, and such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement in accordance with generally accepted accounting practices and standards. All books, records, and accounts of Developer shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Developer shall make same available at no cost to Agency in written form.

Developer shall preserve and make available, at reasonable times for examination and audit by Agency in Broward County, Florida, all financial records, supporting documents, statistical records, and any other documents pertinent to the Developer Streetscape Improvements as defined in Section 2.9 as more fully set forth in Exhibits D of this Agreement for the required retention period of the Florida public records law, Chapter 119, Florida Statutes, as may be amended from time to time, if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit, litigation or other action has been initiated and has not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings, litigation or other action. If the Florida public records law is determined by Agency to be applicable, Developer shall comply with all requirements thereof. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for Agency's disallowance and recovery of any payment upon such entry.

9.22 Public Records. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Chapter 119, Florida Statutes, as same may be amended from time to time and any resultant award of attorney's fees for non-compliance with that law. The Developer and all contractors or subcontractors (the "Contractor") engaging in services in connection with construction, operation and/or maintenance of the Project shall:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the Agency in order to perform the services rendered.

(b) Upon request from Agency's custodian of public records, provide Agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes (2016), as may be amended or revised, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law and as to Developer for the duration of this Agreement and as to Contractor's for the duration of the contract term and following completion of said contract if Contractor does not transfer the records to Agency.

(d) Upon completion of said construction, operation or maintenance of the Project, transfer, at no cost, to Agency all public records in possession of Developer or Contractor or keep and maintain public records required by Agency to perform the service. If Contractor transfers all public records to Agency upon completion of the construction, operation or maintenance of the Project, Developer and Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Developer or Contractor keeps and maintains public records upon completion of construction, operation or maintenance of the Project, Developer and Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Agency, upon request from Agency's custodian of public records, in a format that is compatible with the information technology systems of Agency.

If Developer or Contractor has questions regarding the application of Chapter 119, Florida Statutes, to Developer or Contractor's duty to provide public records relating to its contract, contact the Agency's custodian of public records by telephone at 954-828-5002 or by e-mail at PRRCONTRACT@FORTLAUDERDALE.GOV or by mail at 100 North Andrews Avenue, Fort Lauderdale, FL 33301 Attention: Custodian of Public Records.

9.23 Local Preference. The Developer shall use its best efforts to work with the Agency to notify local business firms, minority owned firms, women-owned firms or labor surplus area firms of the opportunity to submit bids for work on the Project. Bids will be

selected based upon competitiveness of the bid and the qualifications and capacity of the bidder. As used in this Agreement, the terms “small business” means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and “minority and women’s business enterprise” means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, “minority group members” are African-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Developer may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

SIGNATURE PAGES FOLLOW

IN WITNESS WHEREOF, the parties hereto have set their hands effective as of the date set forth in the introductory paragraph.

AGENCY:

WITNESSES:

FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY, a body corporate and politic of the State of Florida created pursuant to Part III, Chapter 163

[Witness print or type name]

By: _____
Greg Chavarria
Executive Director

ATTEST:

APPROVED AS TO FORM:
D'Wayne M. Spence, Interim General
Counsel

David R. Soloman, CRA Secretary

Lynn Solomon, Assistant General Counsel

DEVELOPER:

WITNESSES:

825 PROGRESSO DRIVE, LLC, a Florida
Limited Liability Company

By: Jay Adams, Member Manager

[Witness print or type name]

[Witness print or type name]

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of ___
physical presence or ___ online notarization this _____, 2023, by Jay Adams,
Member Manager of the 825 Progresso Drive, LLC, a Florida Limited Liability Company, on
behalf of the Corporation. He is personally known to me or has produced
_____ as identification.

(SEAL)

Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed,
Printed or Stamped

My Commission Expires:

Commission Number

EXHIBIT "A"
Legal Description

PARCEL 1:

That portion of the Easterly irregularly shaped parcel of land in Block 256 of the Township of PROGRESSO, according to the plat thereof as recorded in Plat Book [2, Page 18](#), of the Public Records of Dade County, Florida, described as follows:

BEGINNING at the Southwesterly corner of Lot 9, of Block 256, of PROGRESSO; thence running in an Easterly direction along the Southerly boundary line of said Lot 9, of Block 256, of PROGRESSO, for a distance of 20' and thence running in a Southeasterly direction traversing said irregularly shaped parcel of land to the boundary line of said irregularly shaped parcel of land lying along the County Rock Road at a point 105' from the point of Intersection of the Country Road and that certain alley lying West of the said irregularly shaped parcel of land running from the County Road to Avenue "D" as shown on said Plat of PROGRESSO, thence running in a Southwesterly direction along the boundary of said irregularly shaped parcel of land a distance of 105' along the County Road to the intersection of said County Road and the aforementioned alley; thence in a Northerly direction along the Westerly boundary line of said irregularly shaped parcel of land to the Southwest corner of said Lot 9 of Block 256 of PROGRESSO, being the place of beginning. Said land situated, lying and being in Broward County, Florida.

PARCEL 2:

Lot 9, Block 256, of the Townsite of Progresso, according to the plat thereof as recorded in Plat Book [2, Page 18](#), of the Public Records of Dade County, Florida. Said land is situated, lying and being in Broward County, Florida.

TOGETHER WITH:

All of that part Block Two Hundred and Fifty-six (256) lying South of Lot Nine (9) and East of alley, Townsite of PROGRESSO, according to the plat thereof as recorded in Plat Book [2, Page 18](#), of the Public Records of DADE County, Florida, except the following:

That portion of the easterly irregularly shaped parcel land in Block 256, of the Townsite of Progresso, according to the plat thereof, recorded in Plat Book, 2, Page 18, of the Public Records of Dade County, Florida, described as follows, to wit:

Beginning at the southwest corner of Lot 9 of Block 256 of said Progresso and thence run in an easterly direction along southerly boundary line of said Lot 9, of Block 256 of Progresso, for a distance of 20 feet, thence run in a Southeasterly direction, traversing said irregularly shaped parcel of land lying along the County Rock Road at a point 105 feet from the point of the intersection of the County Rock Road that certain alley lying West of said irregularly shaped parcel of land running from the County Road to Avenue

"D", as shown on said plat of Progresso; thence run in a Southwesterly direction along the boundary a distance of 105 feet along the County Road to the intersection of said County Road and the aforementioned alley; thence in a Northerly direction along the Westerly boundary line of said irregularly shaped parcel of land to the Southwest corner of said Lot 9 of Block 256, of Progresso, being the place of beginning. Said lands situated, lying and being in Broward County, Florida.

Parcel ID 4942 34 06 2470 and 4942 34 06 2340

EXHIBIT "B"

PROPOSED PROJECT PLANS

Plans and Specifications

(On File with the City of Fort Lauderdale – Permit #BLD-PBA-2106002
Issued 6/29/2021)

EXHIBIT "C"
PROJECT SCHEDULE

Effective Date of Agreement	Full execution of the Agreement
Developer Obtains all government approvals and permits	Within Sixty (60) days from the Effective Date of the Agreement
Commencement Date	Within One Hundred Twenty (120) days of the Effective Date
Completion Date: Building permit has been inspected and passed by Building Official and building received Certificate of Occupancy	Within Nine (9) Months after Commencement Date
*Closing Date	Date on which all conditions precedent in section 6.8 of this Agreement are satisfied

EXHIBIT "D"

BUDGET – PROJECTED AGENCY FUNDING

Streetscape Improvements

Item	Cost
200 Foot x 7.5 Foot Paved or Concrete Sidewalk	\$21,000.00
8 Poured in Place Concrete Planters in Sidewalk	\$11,500.00
Root Barriers/Structural Soil under Sidewalk	\$6,800.00
Lighting/Electric	\$18,500.00
Irrigation	\$5,500.00
Parking spaces, Curbing and Pavers	\$24,000.00
Landscaping	\$23,000.00
Handicap Ramps and Access	\$5,800.00
Contractor Profit and Overhead	23,220.00
TOTAL PROJECT COST	\$139,220.00
Developer Contribution	\$41,780.00
Funding Requested from CRA (70% or \$94,500, whichever is less)	<u>\$97,440.00</u>

Itemized project costs to be supplemented upon receipt.

Maximum CRA Funding \$97,440.00

EXHIBIT "E"

RESTRICTIVE COVENANT

PREPARED BY AND RETURN TO:

Lynn Solomon
City Attorney's Office
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

DECLARATION OF RESTRICTIVE COVENANTS

THIS INDENTURE is made this _____ day of _____, 2022.

WHEREAS, in furtherance of the Plan (defined herein), and pursuant to duly convened public meetings, a certain Fort Lauderdale Community Redevelopment Agency Property and Streetscape Enhancement Program Agreement dated _____, 2023, (the "Agreement") was executed by and between Fort Lauderdale Community Redevelopment Agency, a community redevelopment agency created pursuant to Chapter 163, Part III, Florida Statutes ("Agency") and the 825 Progresso Drive LLC, a Florida limited Liability Company ("Developer"), such Agreement being on file with the City Clerk of the City of Fort Lauderdale, Florida, 100 North Andrews Avenue, Fort Lauderdale, Florida, and such Agreement being in connection with improvements to the Property described in Exhibit "A" owned by Developer; and

WHEREAS, pursuant to the terms of the Agreement, Agency and Developer anticipated that the Property would be subject to a Declaration of Restrictive Covenants, the primary purpose of such Declaration of Restrictive Covenants being to ensure development and operation of the Property in accordance with the Plan which affects this Property and other properties in the vicinity; and

WHEREAS, pursuant to City Commission Resolution No. 95-86, adopted June 20, 1995, and by Resolution No. 01-121, adopted on July 10, 2001, the City of Fort Lauderdale established an area of economic restoration ("CRA Area") for which a Community Redevelopment Plan pursuant to Section 163.360, Florida Statutes was approved by the City Commission by Resolution No. 95-170 on November 7, 1995, as amended on May 15, 2001 by Resolution No. 01-86, and as subsequently amended (the "Plan"); and

WHEREAS, the Property is located within the CRA Area which has conditions of slum and blight as those conditions are defined in the Constitution of the State of Florida, Section 163.01, Florida Statutes, Chapter 163, Part III, Florida Statutes and other

applicable provisions of law and ordinances and Resolutions of the City of Fort Lauderdale and Agency implementing the Community Redevelopment Act; and

WHEREAS, in order to effectuate the terms and conditions contained in the Agreement, and the goals and objectives of the Community Redevelopment Plan, as amended, it is necessary and proper to create this Declaration of Restrictive Covenants; and

NOW, THEREFORE, Developer hereby declares that the Property shall be, held, conveyed, encumbered, leased, rented, used, occupied and improved, subject to the following limitations, restrictions, conditions and covenants, all of which shall run with the land and are declared to be in furtherance of the Agreement and the Plan, as amended, and that such limitations, restrictions, conditions and covenants are also established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and every part thereof and to establish a development compatible with the properties under the Plan, and, in accordance therewith, Developer does hereby create and establish the following Declaration of Restrictive Covenants:

1. Construction and Intent. This Declaration shall be construed and interpreted in conjunction with the terms set forth in the Agreement, as same may be amended from time to time, provided, however, that it is the intent of the Developer that only those sections of the Agreement specifically referenced below shall be construed as covenants running with the property.

2. Restrictions On Use; Declaration of Restrictive Covenants. The Developer covenants and agrees with the Agency that the Project Site shall be continuously used, as retail space for fitness, art, food, beverage, market, music and recreation uses as permitted and authorized under the ULDR except as prohibited herein, on the Property for which Agency funding was provided for a period of five (5) years commencing on the date the improvements are complete ("Project Completion Date"). The Developer further agrees that the building shall not be used for those non-permitted uses as provided in the Unified Land Development Regulations ("ULDR") and shall not be used for the following: (i) adult uses as such term is defined in Section 47-18.2 of the ULDR; or (ii) massage parlors (other than as an ancillary use to a health club or beauty salon or beauty space); or (iii) liquor store; or (iv) convenience store or convenience kiosk as provided in the ULDR, during a five (5) year term commencing on Project Completion Date.

SIGNATURE PAGE TO FOLLOW

WITNESSES:

DEVELOPER:

825 Progresso Drive, LLC, a Florida Limited Liability Company

[Witness print or type name]

By: _____
Jay Adams, Member Manager

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of ____ physical presence or ____ online notarization this _____, 2023, by Jay Adams, Member Manager of the 825 Progresso Drive, LLC, a Florida Limited Liability Company, on behalf of the company. He is personally known to me or has produced _____ as identification.

(SEAL)

Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed,
Printed or Stamped

My Commission Expires:

Commission Number

EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL 1:

That portion of the Easterly irregularly shaped parcel of land in Block 256 of the Township of PROGRESSO, according to the plat thereof as recorded in Plat Book [2, Page 18](#), of the Public Records of Dade County, Florida, described as follows:

BEGINNING at the Southwesterly corner of Lot 9, of Block 256, of PROGRESSO; thence running in an Easterly direction along the Southerly boundary line of said Lot 9, of Block 256, of PROGRESSO, for a distance of 20' and thence running in a Southeasterly direction traversing said irregularly shaped parcel of land to the boundary line of said irregularly shaped parcel of land lying along the County Rock Road at a point 105' from the point of Intersection of the Country Road and that certain alley lying West of the said irregularly shaped parcel of land running from the County Road to Avenue "D" as shown on said Plat of PROGRESSO, thence running in a Southwesterly direction along the boundary of said irregularly shaped parcel of land a distance of 105' along the County Road to the intersection of said County Road and the aforementioned alley; thence in a Northerly direction along the Westerly boundary line of said irregularly shaped parcel of land to the Southwest corner of said Lot 9 of Block 256 of PROGRESSO, being the place of beginning. Said land situated, lying and being in Broward County, Florida.

PARCEL 2:

Lot 9, Block 256, of the Townsite of Progresso, according to the plat thereof as recorded in Plat Book [2, Page 18](#), of the Public Records of Dade County, Florida. Said land is situated, lying and being in Broward County, Florida.

TOGETHER WITH:

All of that part Block Two Hundred and Fifty-six (256) lying South of Lot Nine (9) and East of alley, Townsite of PROGRESSO, according to the plat thereof as recorded in Plat Book [2, Page 18](#), of the Public Records of DADE County, Florida, except the following:

That portion of the easterly irregularly shaped parcel land in Block 256, of the Townsite of Progresso, according to the plat thereof, recorded in Plat Book, 2, Page 18, of the Public Records of Dade County, Florida, described as follows, to wit:

Beginning at the southwest corner of Lot 9 of Block 256 of said Progresso and thence run in an easterly direction along southerly boundary line of said Lot 9, of Block 256 of Progresso, for a distance of 20 feet, thence run in a Southeasterly direction, traversing said irregularly shaped parcel of land lying along the County Rock Road at a point 105 feet from the point of the intersection of the County Rock Road that certain alley lying West of said irregularly shaped parcel of land running from the County Road to Avenue "D", as shown on said plat of Progresso; thence run in a Southwesterly direction along the boundary a distance of 105 feet along the County Road to the intersection of said County Road and the aforementioned alley; thence in a Northerly direction along the Westerly boundary line of said irregularly shaped parcel of land to the Southwest corner of said Lot 9 of Block 256, of Progresso, being the place of beginning. Said lands situated, lying and being in Broward County, Florida.

Parcel ID 4942 34 06 2470 and 4942 34 06 2340

EXHIBIT "F"
MORTGAGE

Prepared by:
Lynn Solomon
City Attorney Office
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301

THIS FIRST MORTGAGE IS OF EQUAL DIGNITY AND PARITY WITH THAT CERTAIN MORTGAGE DATED _____, 2023 BY 825 PROGRESSO DRIVE, LLC, IN FAVOR OF THE FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY WHICH SECURES THAT CERTAIN NOTE IN THE PRINCIPAL AMOUNT OF \$ _____. BOTH MORTGAGES SHALL BE DEEMED A FIRST MORTGAGE AND THE LIEN OF ONE MORTGAGE MAY NOT FORECLOSE THE LIEN OF THE OTHER MORTGAGE.

MORTGAGE

THIS MORTGAGE, entered into this ___ day of _____, 2023, between 825 Progresso Drive, LLC, a Florida Limited Liability Company, whose address is 919 SE 6 Court, Fort Lauderdale, FL 33301, hereinafter called the "Mortgagor", and the Fort Lauderdale Community Redevelopment Agency, a Community Redevelopment Agency created pursuant to Chapter 163, Part III, Florida Statutes, with an address of 100 North Andrews Avenue, Fort Lauderdale, Florida 33301, hereinafter called the "Mortgagee"

WITNESSETH: That to secure the payment of an indebtedness in the principal amount of Ninety Seven Thousand Four Hundred Forty and 00/100 Dollars (\$97,440.00) with interest if any, thereon, which shall be payable in accordance with a certain Promissory Note (s), hereinafter called "Note", bearing even date herewith or dated thereafter and all other indebtedness which the Mortgagor is obligated to pay to the Mortgagee pursuant to the provisions of the Note(s) and this Mortgage, the Mortgagor hereby grants, convey, encumbers and mortgages to the Mortgagee the real property situated in Broward County, Florida, described as follows:

PARCEL 1:

That portion of the Easterly irregularly shaped parcel of land in Block 256 of the Township of PROGRESSO, according to the plat thereof as recorded in Plat Book [2, Page 18](#), of the Public Records of Dade County, Florida, described as follows: BEGINNING at the Southwesterly corner of Lot 9, of Block 256, of PROGRESSO; thence running in an Easterly direction along the Southerly boundary line of said Lot 9, of Block 256, of PROGRESSO, for a distance of 20' and thence running in a Southeasterly direction traversing said irregularly shaped parcel of land to the boundary line of said irregularly shaped parcel of land lying along the County Rock Road at a point 105' from the point of Intersection of the

Country Road and that certain alley lying West of the said irregularly shaped parcel of land running from the County Road to Avenue "D" as shown on said Plat of PROGRESSO, thence running in a Southwesterly direction along the boundary of said irregularly shaped parcel of land a distance of 105' along the County Road to the intersection of said County Road and the aforementioned alley; thence in a Northerly direction along the Westerly boundary line of said irregularly shaped parcel of land to the Southwest corner of said Lot 9 of Block 256 of PROGRESSO, being the place of beginning. Said land situated, lying and being in Broward County, Florida.

PARCEL 2:

Lot 9, Block 256, of the Townsite of Progresso, according to the plat thereof as recorded in Plat Book [2, Page 18](#), of the Public Records of Dade County, Florida. Said land is situated, lying and being in Broward County, Florida.

TOGETHER WITH:

All of that part Block Two Hundred and Fifty-six (256) lying South of Lot Nine (9) and East of alley, Townsite of PROGRESSO, according to the plat thereof as recorded in Plat Book [2, Page 18](#), of the Public Records of DADE County, Florida, except the following:

That portion of the easterly irregularly shaped parcel land in Block 256, of the Townsite of Progresso, according to the plat thereof, recorded in Plat Book, 2, Page 18, of the Public Records of Dade County, Florida, described as follows, to wit:

Beginning at the southwest corner of Lot 9 of Block 256 of said Progresso and thence run in an easterly direction along southerly boundary line of said Lot 9, of Block 256 of Progresso, for a distance of 20 feet, thence run in a Southeasterly direction, traversing said irregularly shaped parcel of land lying along the County Rock Road at a point 105 feet from the point of the intersection of the County Rock Road that certain alley lying West of said irregularly shaped parcel of land running from the County Road to Avenue "D", as shown on said plat of Progresso; thence run in a Southwesterly direction along the boundary a distance of 105 feet along the County Road to the intersection of said County Road and the aforementioned alley; thence in a Northerly direction along the Westerly boundary line of said irregularly shaped parcel of land to the Southwest corner of said Lot 9 of Block 256, of Progresso, being the place of beginning. Said lands situated, lying and being in Broward County, Florida.

Addresses: 825 & 833 Progresso Drive, Fort Lauderdale, Florida 33334

Together with the building and improvements situated upon said property; as security for the payment of the Note(s) and all future advances made by Mortgagee to Mortgagor in accordance with the Fort Lauderdale Community Redevelopment Agency Streetscape Enhancement Program Agreement dated _____, 2023 entered into by Mortgagor and Mortgagee (the "Agreement").

The said Mortgagor does covenant with the said Mortgagee that the said Mortgagor is indefeasibly seized of said land in fee simple and has the full power and

lawful right to mortgage and encumber the same, that the said land is free from all encumbrances except as set forth below, and that the said Mortgagor except as above noted does fully warrant the title to said land and will warrant and defend the same against the lawful claims of all persons whomsoever.

And the said Mortgagor does further agree as follows:

1. To make promptly all payments required by the above-described Note and this Mortgage as such payments become due.
2. To pay promptly when due all taxes, assessments, liens, and encumbrances on said property.
3. To keep the improvements now existing or hereafter erected on the mortgaged property insured as required in the Agreement and as may be required from time to time by the Mortgagee against loss by fire and other hazards, casualties, and contingencies in such amounts and for such periods as may be required by Mortgagee, and will pay promptly, when due, any premiums on such insurance for payment of which provision has not been made hereinbefore. All insurance shall be carried in companies approved by Mortgagee and the policies and renewals thereof shall be held by Mortgagee and have attached thereto loss payable clauses in favor of in a form acceptable to the Mortgagee. In event of loss, Mortgagor shall give immediate notice by mail to Mortgagee, and Mortgagee may make proof of loss if not made promptly by Mortgagor, and each insurance company concerned is hereby authorized and directed to make payment for such loss directly to Mortgagee instead of to Mortgagor and Mortgagee jointly, and the insurance proceeds, or any part thereof, may be applied by Mortgagee at its option either to the reduction of the indebtedness hereby secured or to the restoration or repair of the property damaged. In event of foreclosure of this Mortgage or other transfer of title to the mortgaged property in extinguishment of the indebtedness secured hereby, all right, title and interest of the Mortgagor in and to any insurance policies then in force shall pass to the purchaser or grantee.
4. To permit, commit, or suffer no waste or impairment of the mortgaged property.
5. To pay all expenses reasonably incurred by the Mortgagee because of failure of the Mortgagor to comply with the obligations in the Agreement, the Note(s) or this Mortgage, including reasonable attorneys' fees.
6. If the buildings are not kept insured as provided, or if the Mortgagor defaults in any of the other covenants, stipulations or agreements contained herein or in the Agreement, the Mortgagee, without waiting or affecting the option to foreclose, may pay any and all such payments or obligations, may insure the buildings, or may otherwise perform any of

the covenants or agreements on behalf of the Mortgagor, and any and all such sums or expenses paid or incurred, with interest thereon from the date of payment at the rate of interest prescribed in the Note secured by this Mortgage, shall also be secured by this Mortgage.

7. This mortgage lien shall extend to and include all rents and profits of the mortgaged property. In the event of foreclosure the court is authorized to appoint a receiver of the mortgaged property and to apply such rents or profits to the indebtedness hereby secured, regardless of the solvency of the Mortgagor or the adequacy of the security.

8. If any provision of this Mortgage is breached, then the unpaid principal balance, together with accrued interest, shall immediately become due and payable at the option of the Mortgagee, and the Mortgagee may foreclose this Mortgage in accordance with procedures established by law, and have the property sold to satisfy or apply on the indebtedness hereby secured.

9. The agreements and promises of the Note(s) secured hereby and of this Mortgage and the Agreement are intended to be covenants running with the land or of any interest therein, to be binding on the respective promisors, their heirs, legal representatives and assigns, and to inure to the benefit of the respective promises, their heirs, legal representatives and assigns.

10. The lien hereby created shall cease and become null and void upon complete performance of all the covenants, stipulations and agreements contained in this Mortgage, the Note(s) which it secures, and the Agreement.

11. The Mortgagee and Mortgagor have entered into the Agreement pursuant to which the indebtedness evidenced by the Note(s) is being incurred by the Mortgagor. The Mortgagor covenants and agrees that any breach of the terms of such Agreement, as same may be amended from time to time, by the Mortgagor shall constitute a breach and default under this Mortgage entitling the Mortgagee herein to declare the entire unpaid principal sum secured hereby, together with interest then accrued, immediately due and payable and to enforce collection thereof by foreclosure or otherwise.

12. Privilege is reserved to prepay this note and mortgage, in whole or in part, at any time without notice and without penalty.

13. Mortgagee shall give written notice to Mortgagor of any event of default under this Mortgage or the Note and Mortgagor shall have thirty days in which to cure said default. All notice shall be given in the manner provided in the Agreement.

SIGNATURE PAGE TO FOLLOW

IN WITNESS WHEREOF, this Mortgage has been duly signed and sealed by the Mortgagor on or as of the day and year first above written.

WITNESSES:

[Witness-print or type name]

[Witness-print or type name]

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of ___ physical presence or ___ online this _____, 2023, Jay Adams, Member Manager of 825 Progresso Drive, LLC, a Florida Limited Liability Company, on behalf of the Company. He is personally known to me or has produced _____ as identification.

(SEAL)

MORTGAGOR:

825 Progresso Drive, LLC, a Florida
Limited Liability Company

Jay Adams, Member Manager

Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed,
Printed or Stamped

My Commission Expires:

Commission Number

EXHIBIT "G"

NOTE

THIS INSTRUMENT PREPARED BY:

Lynn Solomon
City Attorney's Office
City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, Florida 33301

\$97,440.00

Fort Lauderdale, Florida

_____, 2023

PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned 825 Progresso Drive, LLC, a Florida Limited Liability Company (the "Maker") promises to pay to the order of the FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY, a Community Redevelopment Agency created pursuant to Chapter 163, Part III, Florida Statutes (the "Agency") or its successors in interest, the principal amount of Ninety-Seven Thousand Four Hundred Forty and 00/100 Dollars (\$97,440.00) or so much as shall be advanced under this Note.

- I. TERM: The term of this loan is five (5) years from the Project Completion Date as contemplated in the Fort Lauderdale Community Redevelopment Agency Streetscape Enhancement Program Agreement between Maker and Agency dated _____, 2023 (the "Agreement") such Agreement being on file with the City Clerk of the City of Fort Lauderdale, Florida, 100 North Andrews Avenue, Fort Lauderdale, Florida.
- II. INTEREST RATE: The interest rate on the principal amount of the loan shall be zero percent (0%) per annum, except in any event of default under this Note, the Mortgage (as hereinafter defined) or the Agreement in which case the maximum legal interest rate shall be applied to the principal amount due and owing commencing thirty (30) days after the date of an event of default.
- III. PAYMENT: Payment on the principal amount of the loan shall not be required so long as the property is not sold or transferred for a five (5) year period following the Project Completion Date and the Property continues to be used for the Project as contemplated by the Agreement for a five (5) year period following the Project Completion Date and the Developer is not in default of any provision of the Agreement. After 5 years from the Project Completion Date, the principal balance

due shall be reduced to zero provided Maker has complied with all the terms of the Agreement and is not in default. Payment of the entire principal amount, plus the maximum interest rate allowable by applicable law is due immediately: (1) upon the sale, transfer or refinance of the property legally described in the Mortgage within five (5) years from the Project Completion Date; or (2) should there be any uncured event of default as described in this Note, the Mortgage, or the Agreement within five (5) years from the Completion Date.

Payment of the principal amount and all interest on this Note shall be made in lawful money of the United States paid at:

Fort Lauderdale Community Redevelopment Agency
100 North Andrews Avenue
Fort Lauderdale, FL 33301

or such other place as shall be designated by the holder of this Note in writing.

- IV. SECURITY: This Note is secured by a Mortgage on real estate by Maker in favor of Agency dated _____, 2023 duly filed in the public records of Broward County, Florida (the "Mortgage"). The Agency agrees to look solely to the real estate described in the Mortgage as security for this Note in part or in full, at any time to satisfy the debt established by this Note.
- V. WAIVER: The Maker of this Note further agrees to waive demand, notice of non-payment and protest, and to the extent authorized by law, any and all exemption rights which otherwise would apply to the debt evidenced by this Note. In the event suit shall be brought for the collection hereof, or the same has to be collected upon demand of an attorney, the Maker agrees to pay all costs of such collection, including reasonable attorney's fees and court costs at the trial and appellate levels. Failure of the Agency to exercise any of its rights hereunder shall not constitute a waiver of the right of Agency to exercise the same.
- VI. GOVERNING LAW: This note is to be construed and enforced according to the laws of the State of Florida.

Maker:
825 Progresso Drive, LLC, a Florida Limited Liability Company

By: _____
Print Name: Jay Adams
Title: Member Manager