



**CITY OF FORT LAUDERDALE  
COMMUNITY REDEVELOPMENT AGENCY**

March\_\_2023

Ms. Hilary Reid  
President  
New Hope Development Corporation  
2200 N. Commerce Parkway  
Suite 200  
Weston, Florida 33326

Re: Letter of intent to provide a forgivable loan in an amount not to exceed Two Million and No/100 Dollars (\$2,000,000) to New Hope Development Corporation, a Florida for profit corporation ("New Hope" or "Borrower") to be secured by real property described in Exhibit A (the "Property") to partially fund hard costs of constructing a four (4) story building consisting of thirty (30) apartment units (the "Project")

Dear Ms. Reid:

This letter is intended to establish a framework for negotiating and executing a Development Agreement under the Development Incentive Program (the "Development Agreement") by and between the Fort Lauderdale Community Redevelopment Agency (the "Lender" or "CRA" or "Agency") and Borrower. Subject to the terms and conditions set forth herein, in the Development Agreement and other documents, Lender agrees to fund a forgivable loan to Borrower in an amount not to exceed Two Million and No/100 Dollars (\$2,000,000) (the "Loan" or "DIP Loan") for the Project.

**COMPLETION DATE:** The Project and all amenities shall be completed within twenty four (24) months from the date of award by the governing body of the CRA, 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 the City. If the Project is not completed by the sunset date (November 7, 2025) of the CRA, then the CRA obligation to fund any undisbursed funds under the DIP Loan may be terminated. It is anticipated that the parties shall negotiate and execute a Development Agreement within four (4) months after the CRA board approves this award of funding.

**USES OF PROCEEDS:** Borrower acknowledges that the proceeds of the DIP Loan shall be used to reimburse or partially fund hard costs for the Project according to a construction budget approved by the CRA Executive Director, as may be amended, so long as the CRA's share of such construction costs are allowed in accordance with Part III, Chapter 163, Florida Statutes. 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 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 building. No CRA funds shall be used to make improvements within a right of way or on publicly owned property.

**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 funds, combined with the DIP Loan, to complete construction of the Project;
3. Receipt and review of a draw schedule, construction schedule and budget, sources and uses, project schedule 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;
6. Builder's Risk Insurance 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 Lender Title 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 and providing Florida Form 9 endorsements and other customary endorsements, subject to those special exceptions approved by the CRA;
8. All development approvals by the appropriate governing authority have been issued for the Project;
9. 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, Development Agreement, Negative Pledge Agreement and such other agreements and instruments required by the CRA in the exercise of its reasonable discretion;
10. Receipt and review of all owners who hold a direct or beneficial interest in the Property or Borrower along with copies of the organizational documents;
11. Execution and delivery of a Mortgage and Restrictive Covenant from the owner of the Property;
12. An acceptable Appraisal of the Property;
13. Survey of the Property according to state and local standards;
14. Such other documents, instruments, studies, analysis and evaluations as required by the CRA in the exercise of its reasonable discretion.

## **LOAN PAYMENTS AND TERM:**

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

Apartment units within the Project shall be affordable to and leased to households with incomes not to exceed 120% of the Broward County Area Median income (AMI) as adjusted for household size as established each year by the U.S. Department of Housing and Urban Development ("Target Population") for a minimum of five (5) years as set forth in a restrictive covenant.



Affordable is defined as not paying more than 30% of gross monthly income toward rent. Any default on the affordable rent requirements shall have a potential maximum annual penalty of \$50,000. The penalty shall be computed by multiplying the maximum penalty by the percentage of units that are non compliant. Borrower shall file such annual reports in form and content required by the Agency ("Affordable Housing Requirement").

**COVENANT TO FUND:** The Lender shall budget and appropriate legally available funds sufficient to fully fund the DIP Loans beginning with fiscal year 2022/2023, as follow, subject to the approval of the CRA's General Counsel and City Auditor, as follows:

Fiscal Year- 2022/2023 - \$1,000,000

Fiscal Year- 2023/2024 - \$1,000,000

**DIP LOAN PAYMENTS:** The Borrower covenants and agrees with the CRA that it and its principal owners shall lease, manage, operate and maintain the Project for a period of no less than five (5) years commencing on the Project Completion Date. The DIP shall be due in full upon a violation of this term and condition. 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 Borrower that the Project has not been sold or any interest in the Borrower has been transferred or conveyed. Further, Borrower 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) tattoo parlors; or (iii) massage parlors (other than as an ancillary use to a health club or beauty salon or beauty space; or (iv) liquor store or bar; 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.

**LOAN DISBURSEMENTS:** The Borrower and Lender shall develop a schedule for disbursement of the DIP Loan proceeds. Such disbursement schedule shall be incorporated in a Construction Loan Agreement and Funding Agreement, if necessary. Both parties anticipate the DIP Loan shall be available to fund construction draws. If so, then the CRA shall fund construction draws pari passu with the Borrower's construction lender and only for hard costs.**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, subject only to the right, title and interest of a mortgage in favor of a construction lender. Borrower shall execute a negative pledge agreement in which it agrees not to further encumber the Property. Any approvals or subsequent agreements required by Borrower 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.

**ENVIRONMENTAL REMEDIATION:** Borrower shall bear the cost and is responsible for investigating and removal of any and all environmental remediation, transport and disposal of any hazardous substances on the Property.

**LOCAL CONTRACTING:** Borrower will use its best efforts to work with the CRA 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, with the goal of achieving a minimum 30% participation in the scope of work for minorities and women.

**LOAN DEFAULT:** The occurrence of any one or more of the following Loan Defaults shall be incorporated in the Development Agreement 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 no notice shall be required of Lender:

- 1) A final order, judgment or decree is entered by any court of competent jurisdiction adjudicating the Borrower bankrupt or insolvent; or
- 2) Any misrepresentation made by Borrower in any material respect and which adversely affects the rights, duties and obligations of the CRA; or
- 3) Foreclosure proceedings have commenced against the Project; or
- 4) A default under the First Mortgage; or
- 5) Borrower fails to operate and maintain the Project a minimum of five (5) years from the Project Completion Date or conveys or transfers its interest in the Property or fails to honor the terms and conditions of the Affordable Housing Requirement;.
- 6) Failure to pay the real property taxes and insurance on the Project;
- 7) Such other 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 and access to conduct such audit.

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

**BROKER:** Borrower certifies that there were no brokers engaged as a result of this DIP Loan and indemnifies the Lender against any claims, losses, fees or expenses in connection with the 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 consents to the appointment of a receiver, trustee, or liquidator for it or for any of its property;
- b. Admits in writing an inability to pay its debts as they mature;
- c. Makes a general assignment for the benefit of creditors;
- d. is 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. Borrower seeks to sell or transfer its interest in the Project prior to execution of the Development Agreement.

**ASSIGNMENT:** During the term of the DIP Loan, Borrower/developer/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 consent 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 has 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, and (vi) the form

of the documents evidencing the assignment and the assumption, and (vii) 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, Land America Development Corporation, 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 and enter into a binding agreement 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, 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 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 set forth below.

WITNESSES:

**AGENCY**

\_\_\_\_\_

[Print Name]

\_\_\_\_\_

[Print Name]

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

By: \_\_\_\_\_  
Greg Chavarria, Executive Director

Date: \_\_\_\_\_

ATTEST:

CRA General Counsel:  
D'Wayne M. Spence, Interim General Counsel

\_\_\_\_\_  
David R. Soloman, CRA Secretary

\_\_\_\_\_  
Lynn Solomon, Assistant General Counsel

AGREED TO AND ACCEPTED this \_\_\_\_\_ of \_\_\_\_\_ 2023.

**New Hope Development Corporation,**  
a Florida profit corporation

\_\_\_\_\_  
Hilary Reid, President



EXHIBIT A  
(LEGAL DESCRIPTIONS )

LOTS 1,2,AND 3, BLOCK 4, TUSKEGEE PARK, 1<sup>ST</sup> ADDITION, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 9, PAGE 65 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, LESS THE RIGHT-OF-WAY OF N.W. 6<sup>TH</sup> STREET.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida and containing 12,115 square feet or 0.2781 acres, more or less.



EXHIBIT B  
SITE PLAN ILLUSTRATIONS