

DEVELOPMENT INCENTIVE PROGRAM LOAN COMMITMENT

October __, 2017

Mr. Steven D'Apuzzo, Sr.
North West 6th Investments LLC
2755 E. Oakland Park Blvd, #304
Fort Lauderdale, FL 33306

Re: Forgivable Loan Commitment of One Million Four Hundred Thousand and No/100 Dollars (\$1,400,000) to be secured by a second or third mortgage on real property located at 115 West Sistrunk Blvd, and more particularly described in Exhibit A, attached hereto and made a part hereof (the "Property")

Dear Mr. Dapuzzo:

This Development Incentive Program Loan Commitment (the "Commitment") sets forth the terms and conditions to be included in the Development Agreement for the Development Incentive Program (the "Agreement") to be entered into by and between the Fort Lauderdale Community Redevelopment Agency (the "Lender") and North West 6th Investments LLC, a Florida Limited Liability Company (the "Borrower"). Lender agrees to lend up to One Million Four Hundred Thousand Dollars (\$1,400,000) (the "Loan Amount") for an economic development loan that is forgivable in five (5) years (the "Loan Term") after completion of the improvements provided the Borrower opens and operates a food hall for a minimum of five (5) years and provided Borrower, and any approved tenants, satisfy the job creation requirements and such other conditions as set forth below. As more fully described in its application submitted to the Lender, the Borrower intends to renovate an existing 23,000 square foot warehouse and convert it into a food hall or similar type of business as permitted by the Agency which may include a micro-brewery with tap room, coffee roasting facility, event space, classroom and meeting spaces, food, art and craft kiosks and a roof top urban garden (the "Project"). The primary tenant, Khoffner Brewery or another entity with similar managerial skills and experience, shall operate the micro-brewery. Notwithstanding the foregoing, Borrower acknowledges certain uses are prohibited by the Agency and if such businesses are conducted within the Project, it may impact the Borrower's eligibility for funding under the incentive program.

The CRA Board hereby authorizes preparation and execution of an Agreement, subject to the Lender's General Counsel approval, under the authorization and direction of the CRA's Executive Director which agreement shall incorporate the following terms and conditions as provided herein.

COMMENCEMENT DATE: Date on which the Project starts construction of the Project. Commencement shall occur within 365 days after approval of this Commitment, unless otherwise extended by the CRA's Executive Director but the commencement date must occur no later than September 30, 2020.

COMPLETION DATE: Date on which the Project is substantially complete and the Certificate of Occupancy or Certificate of Completion, as the case may be, has been issued by the appropriate governing authority. The Completion Date is estimated to be 180 days from the Commencement Date, subject to extension for events outside of the Borrower's control and any limitations imposed by Part III, Chapter 163, Florida Statutes.

OPERATIONAL: Operational is defined as the date upon which the Project's microbrewery has been opened for business for two months or more.

TAX PAYMENTS: Borrower shall be obligated to pay all ad valorem property taxes due upon the Property and the Project as required by Florida law.

LOAN PAYMENTS: Following completion of the Project and provided conditions for funding have been satisfied, the forgivable loan shall be disbursed at the end of each fiscal year as follows: \$400,000 in year 1, \$500,000 in year 2 and \$500,000 in year 3. All disbursements shall not be funded until the Project is completed, the micro-brewery is open for business and Operational and the requisite non-construction related jobs for each fiscal year have been created and maintained for the applicable fiscal year and such other conditions as set forth in the Agreement, subject to any limitations of Part III, Chapter 163, Florida Statutes.

FUNDING REQUIREMENTS: Supporting documentation, in form and content acceptable to the Lender, must be submitted in order for a funding request to be processed. Supporting documentation shall include (but is not limited to): Satisfactory evidence that the Project is open and operating as a food hall or other approved business; Satisfactory evidence that the micro-brewery is Operational; Evidence of non-construction related jobs created and maintained for the applicable fiscal year; Evidence of the number of Northwest Progress Flagler Redevelopment Area residents hired by the Borrower or approved tenants; Job creation reports; certified copies of the written Leases from the primary Tenant and other tenants; and such other conditions as set forth herein.

FORGIVABLE LOAN: Borrower shall execute; (a) a Promissory Note in the amount of \$1,400,000.00; and (b) a Second (or third) Mortgage in a form acceptable to Lender. The Loan shall carry an interest rate of zero percent (0%) per annum, except in the event of default, and be forgivable five (5) years subsequent to the Completion Date. Payment of the outstanding principal amount of the Loan shall not

be required except for an Event of Default. The principal balance of the Loan shall be forgiven at the end of the Loan Term, provided that there is not an uncured default at the end of the Loan Term and the conditions for funding, including job creation and maintenance, have been satisfied. The Agreement shall provide that an event of default shall not be declared or occur until after Borrower has been given notice and a reasonable opportunity to cure.

SUBORDINATION:

All the terms and provisions of the Agreement shall be subordinate to the First (and second) Mortgage Lender and the rights granted to First (and second) Mortgage Lender in connection with the loan secured by the First (and second) Mortgage, including, without limitation to all renewals, modifications and extensions of said loan, except for the regulatory agreement. Any subsequent agreements required by Borrower or First (and second) Mortgage Lender as a condition of closing, and all terms and conditions contained therein, shall be at the discretion of the CRA's Executive Director without any further approval. The Lender's Executive Director shall have the discretion to subordinate the Regulatory Agreement.

JOB CREATION:

Upon the Completion Date and in order to receive funding for each fiscal year, Borrower shall create a total of Fifty (50) non-construction related Full Time Equivalent (FTE) jobs with at least twenty (20%) of the employees residing in the Northwest-Progress-Flagler Heights Community Redevelopment Area for job positions related to the administration, leasing, maintenance and operations of the Project. The Job Creation Requirement is calculated based on the sum of: (i) Full Time Equivalent (FTE) Job Hours for 50 employees, multiplied by (ii) 40 hours per week, multiplied by (iii) 52 weeks per calendar year. The total Full Time Equivalent Job Hours for 50 employees must be maintained for a minimum of two (2) years from the date of each job is created as reflected on the Jobs Report. The Borrower shall also use commercially reasonable efforts to encourage the Project's tenants to provide FTE job opportunities for residents residing in the Community Redevelopment Area at any time during such employment.

JOBS REPORT:

Borrower shall provide to the Agency an annual written report of the non-construction related Full Time Equivalent Job Hours for the immediately previous fiscal year no later than ninety (90) days after end of the fiscal year for a period not to exceed the life of the CRA. Each Jobs Report shall be certified by a third party Certified Public Accountant licensed to practice in the State of Florida chosen by the

Borrower in order to verify the complete and accurate nature of this requirement.

LOCAL CONTRACTING:

Borrower will 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. Best Effort as used herein is defined as "a state of mind consisting in (1) honesty in belief or purpose, (2) faithfulness to one's duty of obligation, (3) observance of reasonable commercial standards, of fair dealing in a given trade or business, and (4) absence of intent to defraud or to seek unconscionable advantage". Failure to notify shall not be deemed an event of default.

LOAN DEFAULT:

The occurrence of any one or more of the following and the continuance thereof uncured or uncorrected for a period of 90 days following proper notice. 1) Borrower defaults in the performance to construct the Project under the terms and conditioned contained herein, 2) an order, judgment or decree is entered by any court of competent jurisdiction adjudicating the Borrower; bankrupt or insolvent, 3) any misrepresentation made by Borrower in any material respect and which adversely affects the rights, duties and obligations of the Agency, 4) foreclosure against the Project, 5) failure to create and maintain the requisite jobs and 5) failure to operate and maintain the Project for five (5) years from the completion date. During the time the Loan Default is deemed uncured, the CRA, pursuant to the terms and conditions of the Lender, may exercise the right to require repayment of the unpaid principal balance of the Loan at the time of the Loan Default. Borrower and Lender shall have the right to cure any Loan Default within 90 days from written notice.

MAINTENANCE/REPAIRS:

During the construction and upon completion of the Project, the Borrower shall at its own expense keep the Project and Property in good and clean order and condition. All construction will be done in accordance with the description of the Project as stated in Borrower's application and in accordance with necessary approvals and the permitted set of plans and specifications. The Borrower is required to comply with the Unified Land Development Regulations and will obtain necessary governmental approvals prior to commencement of construction. Once the Project is complete, Borrower at its own expense shall properly maintain and repair the Property, as necessary and as may be required by the code of ordinances.

INSURANCE:

The Borrower and the general contractor for the Project, as

applicable, shall purchase and maintain at its own expense, insurance, in forms and from companies reasonably satisfactory to the Agency and Lender.

RIGHT TO AUDIT:

Agency shall have the right to audit the Project, including any tenants, as may be reasonably required, and Borrower and the approved tenants shall provide Agency with necessary information to conduct such audit. In order to include Full Time Equivalent Jobs created by tenants, leases from such tenants shall include the right of the Lender to audit such tenant's books and records to verify employment and such other terms and conditions as reasonably requested by Lender.

LOCAL BORROWER:

Loan Documents shall require the controlling member of the Borrower, Steven D'Apuzzo Sr., to maintain ownership of the Property during the Loan Term and failure to do so shall constitute a default and may trigger a repayment of the entire Loan Amount at the discretion of the Agency board, except that a transfers upon death of the controlling member or as part of estate planning shall not be deemed an event of default Notwithstanding, during the term of the Loan, Borrower shall insure that the Project shall be managed by capable, competent and experienced personnel. This provision shall not apply to a change in ownership as the result of the First Mortgagee foreclosing on the First Mortgage.

BROKER:

Borrower certifies that there were no brokers engaged as a result of this Loan and indemnifies the Lender against any claims in connection with the Loan.

SUBORDINATION

The obligations imposed upon the Lender under this Letter of Intent or the Agreement shall not constitute an indebtedness or general obligation of the Lender or other governmental authority within the meaning of any constitutional, statutory or charter provisions requiring the Lender or other governmental authority to levy ad valorem taxes nor a lien upon any properties or funds of the Lender or other governmental authority. Borrower agrees that the obligation of the Lender to make any payments by the Lender to Borrower pursuant to the Agreement is subject to appropriation by the Lender and shall be subordinate to overhead, operating and administrative costs of the Lender and the obligations of the Lender to pay debt service on debt of the Lender. The parties agree the Agreement is not intended to create debt of the Lender nor does this Letter of Intent or the Agreement constitute an unconditional obligation to pay the loan funds.

TERMINATION:

Provided Borrower is given notice and a reasonable opportunity to cure, Lender may terminate the Commitment if any of the following events shall occur:

- i. If any of the terms and conditions of the Commitment cannot be complied with;
- ii. If the Borrower:
 - a. Applies for or consent to the appointment of a receiver, trustee, or liquidator for it or them or for any of its or their property;
 - b. Admit in writing an inability to pay its, his, or their debts as they mature;
 - c. Make a general assignment for the benefit of creditors;
 - d. Be adjudicated bankrupt or insolvent;
 - e. Files a voluntary petition or an answer seeking reorganization or an arrangement with creditors or take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution, or liquidation law or statute, or file an answer admitting the material allegations of a petition filed against it or them in any proceeding under any such law; or
 - f. If condemnation proceedings are commenced against the Property or any part thereof.
 - g. If the Lender and Borrower are unable to agree to the terms of the Development Agreement.

CONDITIONS TO FUND:

The following conditions and documentation must be provided by Borrower to Lender prior to Loan funding for the initial funding as contemplated herein:

1. The receipt by Lender of evidence that (a) Borrower is in existence under the Laws of the State of Florida (b) Borrower is qualified to do business and operate the Project under the laws of the State of Florida and (c) Borrower has full power to execute and deliver the loan documents contemplated hereby and to engage in and consummate the transaction contemplated by the Commitment;
2. Construction Contract with the construction budget or schedule of values;
3. Evidence that Borrower has purchased the Property;
4. Updated Sources & Uses Budget;
5. Satisfactory evidence of sufficient funding to complete renovations of the Project;
6. Borrower's investment of equity into the project in an amount not less than \$1,400,000.00;

7. Evidence of a minimum capital investment of \$5,000,000.00 in the Project;
8. Regulatory Agreement executed by Borrower as contemplated herein;
9. Copy of the Appraisal;;
10. Plans & Specifications for the Project;
11. Title Insurance Policy;
12. Survey to be updated no less than 120 days prior to closing;
13. Building Permits;
14. Evidence of Municipal Development Approvals necessary to build the Project;
15. Insurance Policy satisfactory to Lender and First Mortgage Lender;;
16. Articles of Organization for the Borrower;
17. Mortgage;
18. Note;
19. Development Agreement;
20. Certified copy of the Lease Agreement with Khoffner Brewery, and all other approved tenants;
21. Job Creation Reports (which shall include evidence that Full Time Equivalent Job Hours have been created and maintained for the applicable fiscal year); and
22. Such other documents, instruments, opinions, and assurances as Lender, or Lender's counsel, may reasonably request;

Subsequent Funding for each Fiscal Year:

The following conditions and documentation must be provided by Borrower to Lender prior to subsequent funding for each fiscal year as contemplated herein:

1. Jobs Creation Reports;
2. Satisfactory evidence that Full Time Equivalent Job Hours have been created and maintained for the applicable fiscal year;
3. Certified Copies of Leases;
4. Satisfactory Evidence that the Food Hall is open and operating as a going business concern;
5. Evidence of Insurance;
6. Satisfactory Evidence of maintenance of the Property;
7. Proof of payment of real property taxes on the Property; and
8. Such other reasonable requirements of the Agency.

The Commitment and Agreement shall be made and construed in accordance with the laws of the State of Florida.

The provisions of the Commitment cannot be waived or modified unless such waiver or modification is in writing and signed by Lender and Borrower.

The Commitment shall not be assignable to any person or entity without Lender's prior written consent.

Lender and Borrower agree to act in good faith to use best efforts to formalize the Agreement within a timely manner.

This Commitment hereby supersedes and cancels all of Lender's prior commitments and agreements, oral or written, to and with Borrower or any affiliate of Borrower, with respect to the subject matter hereof.

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

[Signatures of following page]

WITNESSES:

**Fort Lauderdale Community Redevelopment
Agency**

Print Name

Print Name

ATTEST:

Jeffrey A. Modarelli, CRA Secretary

By _____
John P. "Jack" Seiler, Chairman

By _____
Lee R. Feldman, Executive Director

APPROVED AS TO FORM:
Cynthia A. Everett, CRA General Counsel

Lynn Solomon, Assistant General Counsel

AGREED TO AND ACCEPTED this ____ of October, 2017.

**North West 6th Investments, LLC,
a Florida limited liability company**

By: _____
Steven D'Apuzzo, Sr.
Managing Member

Prepared by:

Stephen V. Hoffman, Esq.
Hackleman, Olive & Judd, P.A.
2426 East Las Olas Boulevard
Fort Lauderdale, FL 33301
954-334-2250
Matter No.: 16-11982

Exhibit "A"

Return to:

Landis & Mallinger, P.L.
980 N. Federal Highway, Suite 302
Boca Raton, FL 33432

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this 28th day of March, 2017 between Flagler Property of Broward County LLC, a Florida limited liability company whose post office address is 8443 N. Lake Forest Drive, Dayle, FL 33328, grantor, and North West 6th Investments, LLC, a Florida limited liability company whose post office address is 2755 East Oakland Park Blvd., Ste. 304, Fort Lauderdale, FL 33306, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS (\$10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Broward County, Florida to-wit:

Lots C, D, E and F, of RICKARDS SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 25, Page 3, of the Public Records of Broward County, Florida.

Less and except that part of Parcels D, E and F of RICKARDS SUBDIVISION, according to the Plat thereof, as recorded in Plat Book 25, Page 3, of the Public Records of Broward County, Florida, described as follows:

Begin at the Southwest corner of Parcel D, thence Easterly, along the South line of said Parcels D, E and F to the Southeast corner of said Parcel F; Thence Northerly along the East line thereof an arc distance of 14.06 feet to a point; thence Westerly along a line 35 feet North of and parallel to the South boundary of the North 1/2 of Section 3, Township 50 South, Range 42 East, 219.12 feet to the tangent point of a circular arc having a radius of 10 feet and being concave to the Northeast; thence Westerly to Northerly along said arc 15.71 feet through a central angle of 90°00' to the end of said arc; thence Southerly and tangent to said arc, also being on the West line of said Parcel D, 22.73 feet to the Point of Beginning.

Parcel Identification Number: 504203-10-0020

AKA: 115 NW 6 Street, Fort Lauderdale, FL 33311


Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

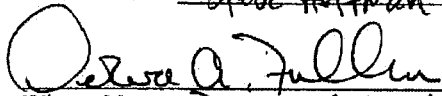
To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2016**.

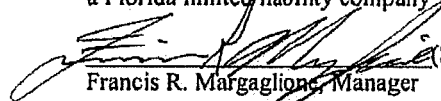
In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:


Witness Name: Steve Hoffman


Witness Name: Debora A. Fuller

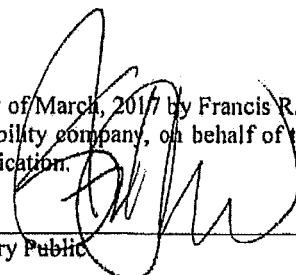
Flagler Property of Broward County LLC,
a Florida limited liability company


Francis R. Margaglione, Manager (Seal)

State of Florida
County of Broward

The foregoing instrument was acknowledged before me this 27 day of March, 2017 by Francis R. Margaglione as Manager of Flagler Property of Broward County LLC, a Florida limited liability company, on behalf of the company who ☐ are personally known or ☐ have produced a driver's license as identification.

[Notary Seal]



Notary Public

Printed Name: _____

My Commission Expires: _____

