

RESOLUTION NO. 19-19 (CRA)

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY WAIVING THE MAXIMUM FORGIVABLE LOAN AWARD UNDER THE FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY'S PROPERTY AND BUSINESS INVESTMENT IMPROVEMENT PROGRAM FOR THE PROJECT LOCATED AT 1134 SISTRUNK BOULEVARD, FORT LAUDERDALE, FLORIDA 33311; APPROVING AN ADDITIONAL \$100,000 FOR THE PROJECT; APPROVING THE FIRST AMENDMENT TO THE PROPERTY AND BUSINESS INVESTMENT IMPROVEMENT AGREEMENT; AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE THE FIRST AMENDMENT TO THE PROPERTY AND BUSINESS INVESTMENT IMPROVEMENT AGREEMENT AND ALL OTHER RELATED INSTRUMENTS; AND FURTHER DELEGATING AUTHORITY TO THE EXECUTIVE DIRECTOR TO TAKE CERTAIN ACTIONS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Fort Lauderdale Community Redevelopment Agency ("CRA") Property and Business Investment Improvement Program (PBIP) is intended to make investments in an amount not to exceed \$225,000.00 for each eligible project; and

WHEREAS, 1134, LLC, a Florida limited liability company, was awarded a forgivable loan in the amount of \$225,000.00 under the PBIP program on March 7, 2018 to rehabilitate an existing one-story building for Smitty's Wings Restaurant ("Project"); and

WHEREAS, 1134, LLC has requested an additional \$100,000.00 for necessary and unforeseen changes and increase in project scope above the maximum award amount of the PBIP program; and

WHEREAS, the Project is in progress and will be completed within five months and no additional cost overruns are foreseeable; and

WHEREAS, Smitty's Wings will have a positive economic impact on the community and is in the best interest of the community; and

WHEREAS, the NWPFH CRA Advisory Board approved the funding increase for this Project on September 10, 2019; and

WHEREAS, the Board of Commissioners of the CRA finds that development of the Project will facilitate the creation of a sustainable entertainment and dining district, and facilitate a responsive and proactive business climate, all in accordance with and in furtherance of the Northwest Progresso Flagler Heights Redevelopment Plan and as authorized by and in accordance with the Act.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY:

SECTION 1. That the Recitals set forth above are true and correct and incorporated herein by this reference.

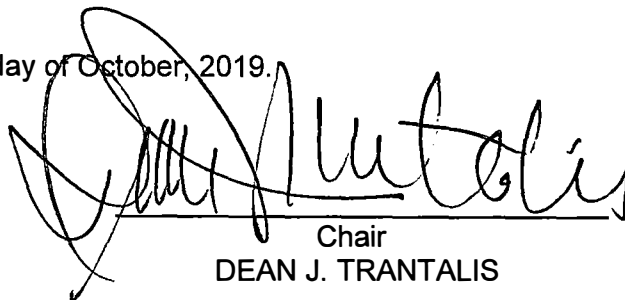
SECTION 2. That the Fort Lauderdale Community Redevelopment Agency hereby waives the maximum award for funding eligible costs under the Property and Business Investment Improvement Program in order to accommodate 1134, LLC's request for additional funding as described in CAM 19-0953.

SECTION 3. That the governing body of the Fort Lauderdale Community Redevelopment Agency hereby approves an additional award of One Hundred Thousand and No/100 Dollars (\$100,000) for the Project, thereby bringing the total forgivable loan amount under the Property and Business Investment Improvement Program to Three Hundred Twenty-Five Thousand and No/100 Dollars (\$325,000) and authorizes execution of the First Amendment to the Property and Business Investment Improvement Agreement, in substantially the form attached hereto. Except for the authority to increase the maximum amount of the forgivable loan, the Executive Director or his designee is delegated authority to negotiate additional terms and conditions, modify the terms, take further actions, make such further determinations in furtherance of the goals and objectives of NPF CRA Plan and to execute the First Amendment to the Property and Business Investment Improvement Agreement and any and all other instruments reasonably necessary or incidental to providing a forgivable loan, including execution of subordination agreements and estoppel certificates without further action of this governing body.

SECTION 4. That the office of the General Counsel shall review and approve as to form all documents prior to their execution by the Executive Director.

SECTION 5. That this Resolution shall be in full force and effect upon final passage.

ADOPTED this the 15th day of October, 2019.


Chair
DEAN J. TRANTALIS

ATTEST:



CRA Secretary
JEFFREY A. MODARELLI

**FIRST AMENDMENT TO FORT LAUDERDALE COMMUNITY
REDEVELOPMENT AGENCY PROPERTY AND BUSINESS
INVESTMENT IMPROVEMENT PROGRAM AGREEMENT
(\$325,000.00 or Less)
(Inside the Focus Area)**

THIS FIRST AMENDMENT TO FORT LAUDERDALE COMMUNITY
REDEVELOPMENT AGENCY PROPERTY AND BUSINESS INVESTMENT
IMPROVEMENT PROGRAM AGREEMENT is made and entered into this
_____ day of _____, 2019 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

1134 LLC, a Florida Limited Liability Company,
hereinafter referred to as "Developer",

WHEREAS, 1134, LLC secured a Property and Business Investment Improvement Program (PBIIIP) forgivable loan not to exceed \$225,000 and a Commercial Façade Improvement forgivable loan not to exceed \$125,000 for improvements to the property located at 1134 Sistrunk Boulevard, Fort Lauderdale, FL 33311 (the "Property") in accordance with the Property and Business Investment Improvement Program Agreement between the CRA and Developer dated March 7, 2018 (the "Agreement") and the Development Agreement for Façade Improvement Agreement dated March 7, 2018 (the "Façade Agreement"); and

WHEREAS, the Property Business Investment and Improvement Program provides funding for eligible projects in an amount not to exceed \$225,000.00 and whereas, staff request waiver of this limitation by the governing body of the Agency; and

WHEREAS, the Developer has requested additional funding in the amount of \$100,000 to cover unforeseen costs related to the structural integrity of the roof, natural gas tanks, drainage and other improvements on the Property; and

WHEREAS, the Developer desires to rehabilitate the building on the Project Site for use as a dine-in restaurant; and

WHEREAS, on September 10, 2019, the Advisory Board recommended

approval of the funding increase for this Project under the Property and Business Investment Improvement Program; 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 amend the Agreement as follows.

TERMS.

1. The recitals are true and correct and incorporated in the Agreement as amended by this First Amendment.
2. The following sections of the Agreement are modified as follows:

ARTICLE 2 DEFINITIONS

2.5 Agency Funds or Funding. The lesser of Three Hundred Twenty-Five Thousand and No/100 Dollars (\$325,000) or 90% of the Project Improvement Cost.

2.26 Project Improvement Cost. Costs for the Project that are eligible for funding with Agency Funds as shown on Exhibit "D" up to a maximum of 90% of the total Project Improvement Costs for the Project or \$325,000, whichever is less, including the cost of material and labor for building and site improvements contemplated by this Agreement, development permitting cost and architectural and engineering design fees. The Developer has represented that the total Project Improvement Cost is approximately \$541,332.50. The Developer shall provide a final construction budget of the Project Improvement Cost to the Agency prior to any further advances of Agency Funds.

The following definitions are added to Article 2:

2.37 Promissory Note means a promissory note in substantially the form of Exhibit "G" hereto payable to the order of the Agency in the principal amount of Three Hundred Twenty-Five Thousand Dollars (\$325,000).

2.38 Property & Business Improvement Forgivable Loan means the funds provided by the Agency pursuant to this Agreement to fund eligible costs and expenses associated with substantial renovations, including interior and exterior improvements, restoration, rehabilitation and permanently attached fixtures/systems and hard and soft construction costs not to exceed Three Hundred Twenty-Five Thousand Dollars (\$325,000), which will be secured by a first priority mortgage, security interest, pledge, lien or other encumbrances and includes all modifications, renewals, extensions and replacements thereof and future advances thereunder.

All other definitions in Article 2 remain unchanged.

ARTICLE 6
PROJECT FINANCING

Section 6.2 (a) is deleted and replaced with the following:

6.2 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 and the Façade Agreement, the Agency agrees to loan to the Developer for the Project the lesser of an amount not to exceed \$325,000 or 90% of the total Project Improvement Cost.

Section 6.4 (a) is deleted and replaced with the following.

6.4 (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 and soft cost relating to construction consisting of permitting cost and architectural and engineering fees shall be used in the formula outlined herein to determine the amount of the loan. 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 \$325,000 or 90% of the total Project Improvement Cost.

All other sections of Article 6 remain unchanged and are hereby ratified and confirmed by the Agency and Developer.

ARTICLE 9
DISBURSEMENTS

Sections 9.1 and 9.2 are deleted and replaced with the following.

9.1 Procedures for Invoicing and Payment. During the development of the Project, Agency shall make disbursements for eligible expenses associated with the Project as set forth herein. Disbursement under the Façade Agreement shall be subject to the conditions for advancement as set forth herein.

9.2 Conditions Precedent to Initial Advance, Subsequent Advance and Final Advance.

As conditions precedent to the Initial Advance and funding of the Agency Funds, Agency shall have received and approved the following:

(a) The Developer shall provide evidence to Agency that it has sufficient funding to cover the remaining cost of the Project improvements after giving credit for the Agency Funds under this Agreement and the Façade Agreement and the Revised Note, Mortgage, Restrictive Covenant and other documents as requested by the Agency have been executed by Developer and delivered to Agency ("Closing"). Both parties acknowledge that the Agency has disbursed a total of \$154,990.50 under the Property and Business Investment Improvement Program towards eligible Project costs.

(b) Developer shall deliver to Agency Developer's proposed cash flow, draw schedule, construction budget, schedule of values and construction schedule for the Project Improvement Costs, and Agency shall be satisfied, in its sole discretion, that the Project may be completed in accordance with the construction schedule and for costs not exceeding those set forth in the construction budget.

(c) Developer shall deliver to Agency three (3) prints of an original survey of the Property and improvements thereon dated not more than sixty (60) days prior to the date of this Agreement.

(d) Developer shall deliver to Agency one (1) true and correct copy of all existing Plans (including the site plan), together with evidence satisfactory to Agency that all applicable governmental authorities, Developer, its architect, engineer, general contractor, and other contractors have approved the same. Final plans and specifications, with any required revisions, signed and sealed by all engineers and bearing evidence of the approval of the appropriate governmental authorities shall be submitted prior to any further disbursements. The Project shall be constructed substantially in accordance with said final plans and specifications to be submitted to Agency for approval, subject to value engineering which shall be approved by Developer's architect, engineer and all governmental authorities prior to any further disbursements.

(e) Developer shall have delivered to Agency (a) a list containing the names and addresses of all existing material contractors, architects, engineers, and other suppliers of services and materials for the Project, their respective contract amounts, and a copy of their contracts; (b) duly executed, acknowledged and delivered originals from the general contractor, architect, engineer, and other subcontractors, or suppliers of services or materials required by Agency, whether or not engaged by the general contractor for all labor, materials and equipment to complete the project improvements thereon, of (i) consents or other agreements satisfactory to Agency from the general contractor, architect and engineer, and (ii) agreements satisfactory to Agency subordinating all rights, liens, claims and charges they may have or acquire against Developer or the Property to the rights, liens and security interests of Agency; and (c) all other documentation as the Agency may reasonably require. If Developer enters into any contract with any contractor, including, without limitation, the general contractor, such contract shall set a "guaranteed maximum price" limit on the total amount to be paid by the Developer to the general contractor as provided in the contract. The Agency shall have received and approved an acceptable guaranteed maximum price contract as to the Project. The construction contract will provide that any general contractor fee shall be

subordinate to the Agency rights. The general contractor will, prior to Closing, provide all contracts with major subcontractor(s). Developer shall also deliver to Agency a copy of the general contractor's license which must be valid and current.

(f) Developer shall deliver to Agency a cost breakdown satisfactory to Agency in Agency's reasonable discretion including detailed sources and use budget for construction of the Project, including items for contingencies.

(g) The Developer shall provide satisfactory evidence to the Lender that it has spent \$42,355.00 for eligible Project Cost according to the approved budget.

(h) Developer shall execute for recording a Notice of Commencement (or an amended Notice of Commencement) complying with Chapter 713, Florida Statutes listing the Agency as a party to receive notice to owner. The Notice of Commencement shall be recorded subsequent to the recording of the Mortgage and the mortgages under the two (2) programs and shall be posted by Developer on the construction site in compliance with Chapter 713, Florida Statutes. In addition, Developer shall execute and deliver an Affidavit of Posting, certifying that the Notice of Commencement has been posted at the Project site.

(i) Agency shall have received true and correct copies of all permits (including, without limitation, the building permit and all other permits) required to be issued for construction of the Project improvements, together with all other consents, licenses, permits and approvals required to be issued for the construction of the Project Improvements, all in assignable form (to the extent appropriate) and in full force and effect. Developer shall, provide proof, satisfactory to Agency, that it has obtained all applicable licenses, permits (including the final, unconditional building permit), authorizations, consents, zoning and land use, concurrency, site plan, or other approvals from each governmental authority necessary for the immediate development/construction of the Project Improvements; all such licenses, permits, authorizations, consents, zoning and land use, concurrency, site plan, or other approvals shall be and shall remain throughout the term of this Agreement in full force and effect. Copies of all building permits and/or licenses free of contingencies are to be submitted to Agency for approval for all Streetscape Improvements, including related amenities. Prior to Closing, Developer shall deliver to Agency all authorizations, permits or approvals required by any

governmental authority for the construction of the Streetscape Improvements and operation of the Property for the purposes contemplated under this Agreement.

(j) Developer shall deliver to Agency such other documents and certificates as Agency may reasonably request from Developer in form and content satisfactory to Agency.

(k) Developer shall provide to Agency the terms, conditions and time table for identifying, ordering, delivering, storing and insured the furniture, fixtures and equipment for the Project acceptable to Agency.

Final Advance. Within ten (10) days of the completion of the improvements being funded with Agency Funds, in addition to satisfying all of the conditions and supplying all of the documents required under this Agreement, Developer shall supply Agency with the following documents prior to payment of the final advance and, in form and substance reasonably acceptable to Agency:

1) Certificates from Developer's architect, engineer, contractor, certifying that the improvements (including any off-site improvements) have been completed in accordance with, and as completed comply with, the Plans and all laws and governmental requirements; and Agency shall have received two (2) sets of detailed "as built" Plans approved in writing by Developer, Developer's architect, and each contractor;

2) Final affidavits (in a form approved by Agency) from architect, engineer, General Contractor and each contractor certifying that each of them and their subcontractors, laborers, and materialmen has been paid in full for all labor and materials for construction of the improvements; and final lien releases or waivers (in a form approved by Agency) by architect, engineer, Contractor, and all subcontractors, materialmen, and other parties who have supplied labor, materials, or services for the construction of the improvements, or who otherwise might be entitled to claim a contractual, statutory or constitutional lien against the Property;

3) Evidence satisfactory to Agency that all laws and governmental requirements have been satisfied, including receipt by Agency of all necessary governmental licenses, certificates and permits (including certificates of occupancy) with respect to the completion, use, occupancy and operation of the improvements, together with evidence satisfactory to Agency that all such licenses, certificates, and permits are in full force and effect and have not been revoked, canceled or modified;

4) Three (3) copies of a final as-built survey satisfactory to Agency;

5) All Certificates of Occupancy for the improvements;

6) Policies of fire, lightning and extended coverage insurance,

and such other types of insurance as may be reasonably required by Agency in such amounts and containing such terms as required in this Agreement or as otherwise required by Agency, endorsed to show the interests of Agency and in form and substance and written by companies satisfactory to Agency.

(a) Conditions for Each Advance: Ten (10) business days prior to each advance, Developer shall supply Agency with a written request for (in form acceptable to Agency) executed by Developer for an advance, which request shall set forth the amount sought, shall constitute a covenant and affirmation of Developer that the warranties and representations in this Agreement are correct and true, that all the covenants, terms and conditions of this Agreement are being complied with, and that no unmatured event of default or event of default has occurred as of the date of the advance. The form for advances of the Agency Funds must be executed by Contractor and all requests for Agency Funds must be accompanied by such other evidence as may from time to time be reasonably requested by Agency, including, but not limited to, applications, certificates and affidavits of Agency, Contractor, and title company, if any, showing:

- (i) The percentage of completion of the improvements and the value of that portion of the improvements completed at that time.
- (ii) To the extent required under applicable Florida law, waiver of liens one month in arrears from all subcontractors and materialmen indicating the dollar amount received from previous draw. Waiver of liens from Contractor for the total amount of the previous draw and indicating that all outstanding claims for labor, materials and fixtures through the date of the last advance have been paid and liens therefor waived in writing, except for non-paid claims approved by Agency.
- (iii) That Developer has complied with all of its obligations under the Agency documents as of the date of the request for an advance.
- (iv) To the extent required by Agency, copies of all bills or statements for expenses for which the advance is required.
- (v) That all change orders and extras required to be approved have been approved in writing by Agency.
- (vi) That the amount of undisbursed Agency Funds is sufficient to pay the cost of completing the improvements in accordance with the Plans, as same may have been amended or evidence that Developer has sufficient funds to cover the cost overruns.
- (vii) That each requisition of funds is to be used for the specific account for which the requisition is made.
- (viii) That funds requested to be disbursed are not for any other purpose or in any other amount than as described and allocated on the Project budget.
- (ix) Any change orders, cost overruns or other associated construction costs that are not covered by the balance of the loan, must first be funded by the Developer prior to the Agency funding the next draw.

- (x) The warranties and representations contained in this Agreement are correct and true, all the covenants, terms and conditions of this Agreement remain satisfied, and no unmatured event of default or event of default has occurred as of the date of the advance.

The request for an advance shall contain claims for labor and materials to the date of the last inspection by the Agency and not for labor and materials rendered thereafter. One (1) time each month, the Agency may inspect the Property to determine the percentage of completion for purposes of the next request for an advance. Advances shall be made no more frequently than once a month.

Advances. Advances shall be made to Developer by Agency, or at Agency's option, through title company, if any, and Agency shall comply with all disbursing requirements of Agency and title company.

Developer's Contribution. Developer shall be obligated to fund the balance of the Project costs in excess of the Agency Funds and any costs overruns or any additional unforeseen circumstances. Developer has funded \$42,355.00 of its funds and shall provide evidence that it has made additional disbursements of \$5,500.00 for approved Project costs before Agency will make any additional disbursements. Based on an estimated budget of \$541,332.50, both parties anticipate Developer has to fund from its own funds an additional \$50,000 which will be funded, *pari parsu*, with Agency Funding. Developer shall not be reimbursed for its contribution.

5. Cross Default. A default under the Façade Agreement shall be deemed a default under this Agreement. Further, a default under this Agreement shall be deemed a default under the Façade Agreement.
6. Ratification and Capitalized Terms. Unless modified herein, all other terms and conditions of the Agreement remain unchanged. The Developer hereby ratifies and approves the Agreement as amended by this First Amendment.

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

SIGNATURE PAGE FOLLOWS

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: _____
Dean J. Trantalis, Chair

By: _____
Christopher J. Lagerbloom,
Executive Director

ATTEST:

APPROVED AS TO FORM:
Alain E. Boileau, General Counsel

Jeffrey A. Modarelli, CRA Secretary

Lynn Solomon, Assistant General Counsel

DEVELOPER:

WITNESSES:

1134 LLC, a Florida limited liability company

By: _____

Title: Manager

Print Name: _____

[Witness print or type name]

[Witness print or type name]

By: _____

Title: Manager

Print Name _____

STATE OF FLORIDA:

COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____, 2019, by _____ as _____ and by _____ as _____ of 1134 LLC, a Florida limited liability company, on behalf of the company. He is personally known to me or has produced _____ and _____ 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

**THE OWNER HEREBY JOINS AND CONSENT AS TO EXECUTION OF THE
MORTGAGE AND RESTRICTIVE COVENANT.**

WITNESSES:

CHDS LLC, a Florida limited liability company
(Owner)

By: _____

President

Title: Owner

Print Name: _____

[Witness print or type name]

By: _____

Title: Owner

Print Name: _____

[Witness print or type name]

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this ____ day of _____, 2019 by _____ and _____ as _____ of CHDS LLC, a Florida limited liability company on behalf of the company. They are personally known to me or have produced _____ and _____ 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

Lot 8, Block 3, TUSKEGEE PARK, according to the Plat thereof, recorded in Plat Book 3, Page 9, of the Public Records of Broward County, Florida, LESS the following described portion of said property: Begin at the NW corner of Lot 8; thence go South 89°48'40" East along the North line thereof, 50 feet to the NE corner of Lot 8; thence South 00°04'10" West along the East line of Lot 8, 12.61 feet to a line 35 feet South of and parallel to the North boundary of the SE 1/4 of Section 4, township 50 South, Range 42 East; thence North 89°41' 50" West along said parallel line, 50 feet to the West line of Lot 8; thence North 00°04'10" East along said West line, 12.51 feet to the Point of Beginning.

EXHIBIT "B"
PROPOSED PROJECT PLANS

(To be provided)

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 Ninety (90) days of the Effective Date
Completion Date: Building permit has been inspected and passed by Building Official and building received Certificate of Occupancy	Within 12 months after Commencement Date
Disbursements directly to Contractor by Agency pursuant to the Agreement	
*Closing Date	Date on which all conditions precedent in section 6.2 of this Agreement are satisfied

EXHIBIT "D"
BUDGET – PROJECTED AGENCY FUNDING

(To be provided)

PREPARED BY AND RETURN TO:

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 _____, 2019.

WHEREAS, in furtherance of the Plan (defined herein), and pursuant to duly convened public meetings, a certain First Amendment to Development Agreement for Property and Business Improvement Program was executed between Fort Lauderdale Community Redevelopment Agency, a community redevelopment agency created pursuant to Chapter 163, Part III, Florida Statutes ("Agency") and 1134 LLC, a Florida limited liability company ("Developer") and CHDS LLC, a Florida limited liability company ("Owner") dated _____ ("Agreement") 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 development and use of the Property described in **Exhibit "A"** owned by Owner and leased 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, and Owner joins and consents, 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 166, 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 Developer shall maintain and repair the Project after the Completion Date. The Developer at its own expense and subject to reasonable construction conditions and activities, keep the Project and Project Site in good and clean order and condition and will promptly make all necessary or appropriate repairs, replacements and renewals, thereof, whether interior or exterior, structural or non-structural, ordinary or extraordinary, foreseen or unforeseen. All repairs, replacements and renewals shall be equal in quality and class to the original work. When making such repairs, replacements and renewals, the Developer shall comply, if legally required, with all laws, ordinances, codes and regulations then applicable to the Project or Project Site.

The Developer further covenants and agrees that the Project Site shall only be used for the Smitty's Wings Restaurant business for a period of seven (7) years commencing on the Project Completion Date. The Developer further agrees that the Project Site shall not be used for those non-permitted uses as provided in 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 (v) convenience store or convenience kiosk as provided in the ULDR, during a seven (7) year term commencing on Project Completion Date.

The Owner joins in and consents to this Declaration of Restrictive Covenants and acknowledges that it encumbers the Property and shall constitute a covenant running with the land.

OWNER:

WITNESSES:

CHDS, LLC, a Florida limited liability company

By: _____

Title: Owner

Print Name: _____

[Witness print or type name]

By: _____

Title: Owner

Print Name: _____

[Witness print or type name]

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____, 2019, by _____ as _____ and by _____ as _____ of CHDS LLC, a Florida limited liability company, on behalf of the company. They are personally known to me or have produced _____ and _____ 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

DEVELOPER:

WITNESSES:

1134 LLC, a Florida limited liability company

By: _____

Title: Manager

Print Name: _____

[Witness print or type name]

[Witness print or type name]

By: _____

Title: Manager

Print Name _____

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____, 2019, by _____ as _____ and by _____ as _____ of 1134 LLC, a Florida limited liability company, on behalf of the company. They are personally known to me or have produced _____ and _____ 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

Lot 8, Block 3, TUSKEGEE PARK, according to the Plat thereof, recorded in Plat Book 3, Page 9, of the Public Records of Broward County, Florida, LESS the following described portion of said property: Begin at the NW corner of Lot 8; thence go South 89°48'40" East along the North line thereof, 50 feet to the NE corner of Lot 8; thence South 00°04'10" West along the East line of Lot 8, 12.61 feet to a line 35 feet South of and parallel to the North boundary of the SE 1/4 of Section 4, township 50 South, Range 42 East; thence North 89°41'50" West along said parallel line, 50 feet to the West line of Lot 8; thence North 00°04'10" East along said West line, 12.51 feet to the Point of Beginning.

EXHIBIT "F"
MORTGAGE

PREPARED BY:
Lynn Solomon
City Attorney's Office
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

MORTGAGE

THIS MORTGAGE, entered into this ____ day of _____, 2019, between 1134, LLC, a Florida limited liability company, whose address is 1740 NW 3 Court, Fort Lauderdale, FL 33311 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 Three Hundred and Twenty Five Thousand and No/100Dollars (\$325,000.00), or so much as has been advanced, 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 1134, LLC, (the "Developer") 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:

SEE EXHIBIT "A" ATTACHED HERETO

together with the buildings and improvements situated upon said properties; as security for the payment of the Note(s) and all future advances made by Mortgagee to the Developer in accordance with the First Amendment to Agreement for Development of Property entered into by Developer, Mortgagor and Mortgagee dated _____, 2019 (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 or Developer 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 or Developer 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 or Developer, 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 promisees, 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, Developer and Mortgagor have entered into the Agreement pursuant to which the indebtedness evidenced by the Note(s) is being incurred by the Developer. 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 or Developer 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.

14. Mortgagor hereby acknowledges and agrees it shall receive substantial benefit from substantial improvements to the Property as contemplated in the Agreement.

15. Mortgagor hereby represents that it has common ownership with the Developer.

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]

MORTGAGOR:

1134, LLC, a Florida limited liability company

Title: Manager
Print Name _____

Title: Manager
Print Name _____

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____, 2019, by _____ as _____ and by _____ as _____ of 1134 LLC, a Florida limited liability company, on behalf of the company. They are personally known to me or have produced _____ and _____ 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

Lot 8, Block 3, TUSKEGEE PARK, according to the Plat thereof, recorded in Plat Book 3, Page 9, of the Public Records of Broward County, Florida, LESS the following described portion of said property: Begin at the NW corner of Lot 8; thence go South 89°48'40" East along the North line thereof, 50 feet to the NE corner of Lot 8; thence South 00°04'10" West along the East line of Lot 8, 12.61 feet to a line 35 feet South of and parallel to the North boundary of the SE 1/4 of Section 4, township 50 South, Range 42 East; thence North 89°41'50" West along said parallel line, 50 feet to the West line of Lot 8; thence North 00°04'10" East along said West line, 12.51 feet to the Point of Beginning.

THIS INSTRUMENT PREPARED BY:

City Attorney's Office
City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

\$325,000.00

Fort Lauderdale, Florida
_____, 2019

PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned 1134 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 Three Hundred Twenty Five Thousand and No/100 Dollars (\$325,000.00) or so much as has been advanced.

- I. TERM: The term of this loan is seven (7) years from Completion Date as contemplated in the First Amendment to Property and Business Improvement Agreement between Maker and Agency dated _____, 2019 (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 seven (7) year period following the Completion Date, the property continues to be used for the Project as contemplated by the Agreement for a seven (7) year period following the Completion Date, Christopher Smith and Desorae Giles-Smith maintains an active role in the operation and management of the Project, Christopher Smith and Desorae Giles-Smith owns at 50% interest in the Developer and the Developer is not in default of any provision of the Agreement. After 7 years from the 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 of the property legally described in the Mortgage within seven (7) years from the Completion Date; or (2) should

there be any uncured event of default as described in this Note, the Mortgage, or the Agreement within seven (7) 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 first Mortgage on real estate by Maker in favor of Agency dated _____, duly filed in the public records of Broward County, Florida (the "Mortgage"). The Agency agrees to look 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:
1134 LLC, a Florida limited
Liability company (Developer)

By: _____
Print Name : _____
Title: Manager

By: _____
Print Name : _____
Title: Manager