

**DEVELOPMENT AGREEMENT
FOR
DEVELOPMENT INCENTIVE PROGRAM GRANT
(THE SISTRUNK MARKET PROJECT)**

between

**FORT LAUDERDALE
COMMUNITY REDEVELOPMENT AGENCY**

And

**NORTHWEST 6TH INVESTMENTS, LLC
a Florida limited liability company**

Dated as of January 30, 2019

**DEVELOPMENT AGREEMENT
DEVELOPMENT INCENTIVE PROGRAM GRANT
(THE SISTRUNK MARKET PROJECT)**

This DEVELOPMENT AGREEMENT FOR DEVELOPMENT INCENTIVE PROGRAM GRANT (the "Agreement") is made as of this ____ day of _____, 2019, by and between the FORT LAUDERDALE COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic of the State of Florida created pursuant to Part III, Chapter 163, Florida Statutes (the "Agency") and NORTH WEST 6TH INVESTMENTS, LLC, a Florida limited liability company ("Developer").

WITNESSETH:

WHEREAS, the Agency was created to eliminate "slum and blight" and to stimulate community redevelopment;

WHEREAS, the Northwest-Progresso-Flagler Heights Plan ("Redevelopment Plan") was adopted on November 7, 1995 and subsequently amended in 2001, 2002, 2013, 2016 and 2018 and provides for redevelopment of the Northwest-Progresso-Flagler Heights Area (the "Redevelopment Area");

WHEREAS, the Agency, pursuant to the Redevelopment Plan, has created certain business incentive programs to stimulate redevelopment within the Redevelopment Area including the Development Incentive Program (the "Programs");

WHEREAS, the Developer, pursuant to the terms of the Programs, has applied for funding to renovate a 23,000 warehouse to create a food hall which may include a coffee roasting facility, event space, classroom and meeting spaces, food, art, and craft kiosks and a roof top urban garden but shall include a micro-brewery with tap room at 115 West Sistrunk Boulevard, Fort Lauderdale, Florida which is within the Redevelopment Area;

WHEREAS, on July 18, 2017, the Agency's Northwest-Progresso-Flagler Heights Advisory Board (the "Advisory Board") approved the Developer's funding request for the Project;

WHEREAS, on December 5, 2017, after review of the Developer's Proposal (as hereinafter defined), the Agency accepted Developer's Proposal as being in the public interest and in furtherance of the goals, objectives and provisions of the Redevelopment Plan and authorized negotiation of a development agreement between the Agency and Developer setting forth the terms and conditions for the funding and development of the Project;

WHEREAS, the Agency and Developer have entered into and concluded negotiations for the Project pursuant to the Development Incentive Grant Program, which negotiations have resulted in this Agreement;

WHEREAS, the members of Developer have approved this Agreement and have authorized and directed certain individuals to execute this Agreement on behalf of Developer.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties hereby agree as follows:

ARTICLE 1. DEFINITIONS

1.01 Definitions

1.02 The terms defined in this Article 1 shall have the following meanings in this Agreement, except as herein otherwise expressly provided:

“Act” means the Constitution of the State of Florida; Section 163.01, Florida Statutes, Part III, Chapter 163, Florida Statutes, et. seq.; and other applicable provisions of law, and ordinances and resolutions of Broward County, the City of Fort Lauderdale and the Agency pertaining to the redevelopment of the Redevelopment Area (as in after defined).

“Affiliate (s)” means any trust, firm, partnership, corporation, joint venture, association, company, or other legal or business entity or investment enterprise that is controlled by, whether directly or indirectly, by Steve J. D’Apuzzo, Sr. where control means control over the management and voting of the Affiliate.

“Agency” means the Fort Lauderdale Community Redevelopment Agency, its agents, employees and officers, and any successors or assigns thereto, provided that such successors and assigns shall be limited to governmental entities.

“Agreement” means this Agreement for the Development Incentive Program, including any Exhibits, and any amendments hereto or thereto.

“Approved Tenant” means a vendor, licensee, tenant or subtenant under a written lease, license, or other agreement with the Developer or Affiliate which includes normal and customary market terms for occupancy in the Project and approved by the Agency. Approved Tenant shall include the tenant for the microbrewery.

“Arbitrable Event” shall mean a dispute or disagreement between the parties concerning the occurrence or nonoccurrence of any event or whether a set of facts meets criteria set forth in this Agreement, which such dispute or disagreement shall be resolvable by resort to arbitration under Article 13 hereof.

“Authorized Representative” means the Executive Director or his designee, as to the Agency and Steve J. D’Apuzzo, Sr., or his designee, as to the Developer, and person or persons designated and appointed from time to time as such by the Agency or the Developer pursuant to Section 2.04.

“Building Code” means the code which governs building and construction standards, review of plans for construction, issuance of building permits, inspections for compliance with construction standards, issuance of Certificate of Occupancy, issuance of Certificate of Completion and other matters pertaining to construction of structures in the City.

“Building Permit” means, for each part of the Project to be constructed on the Project Site, any building permit issued by the appropriate department, office or official of the City (or other governmental authority having jurisdiction over the Project Site) charged with reviewing the plans, specifications, drawings, details and other construction documents for compliance with the Building Code and other similar codes applicable to that part of the Project being constructed thereon, and having the authority to issue building permits for construction of buildings, structures or other improvements in accordance with construction documents therefor reviewed and approved by such department, office or official.

“Certificate of Completion” means a certificate of completion or temporary certificate of completion issued by the City or other appropriate governmental authority for the commercial components of the Project.

“City” means the City of Fort Lauderdale, Florida, a Florida Municipal Corporation, and any successors or assigns thereto.

“City Codes” or “Codes” means the ordinances and codes of the City that regulate the development and construction of projects and buildings, including the Building Code and zoning regulations.

“City Commission” means the elected governing body of the City, by whatever name known or however constituted from time to time.

“Closing Date” means the date, subsequent to the issuance of a Certificate of Completion for the Project, on which the Development Incentive Program Grant Documents have been executed and delivered by the Developer, an agreement in recordable form has been received from the first and second mortgage holder consenting to a second or third mortgage and security agreement in favor of the Agency and the initial funding has been approved for disbursement which disbursement shall not occur no sooner than one year from the Completion Date. Both parties acknowledge that closing may occur simultaneously with the Agency’s funding of the initial disbursement.

“Commencement Date” means the date on which the Developer commences construction of the Project as evidenced by issuance of a Permit.

“Completion Date” means the date on which a Certificate of Completion is issued for the commercial components of the Project, the Project is substantially open for business as a food hall, and the Developer is eligible for the commencement of the Development Incentive Program Grant as set forth in Section 6.02. The Completion Date shall be no later than 365 days after the Commencement Date.

“Contractor” means one or more Persons constituting a general contractor or Major Subcontractor properly licensed by the State of Florida or other appropriate jurisdiction to the extent required by applicable law, authorized to perform construction contractor services in the State of Florida, registered with the City as required by applicable law, bonded and insured to the extent required by applicable law and this Agreement.

“Developer” means North West 6th Investments, LLC, a Florida limited liability company, and successors and/or assigns approved by the Agency in accordance with the provisions of Article 11 hereof.

“Development Incentive Program Grant” or “Grant” means a forgivable loan in an amount not to exceed One Million Four Hundred Thousand Dollars (\$1,400,000.00) provided by the Agency pursuant to this Development Agreement and Grant Documents to reimburse the Developer for eligible hard and soft costs associated with substantial renovations including interior improvements, restoration, rehabilitation and permanently attached fixtures/systems, which loan shall be forgivable at the end of five (5) years starting from the Completion Date, subject to satisfaction of the terms and conditions set forth herein.

“Effective Date” means the date on which the last of the party executes this Agreement.

“Executive Director” means the designate executive director of the Agency.

“Exhibits” means those agreements, diagrams, drawings, specifications, instruments, forms of instruments, and other documents attached hereto and designated as exhibits to, and incorporated in and made a part of, this Agreement.

“Final Site Plan” shall have the meaning set forth in Section 4.01.

“Full Time Equivalent (FTE) Job Hours ” means each and every hour for all full or part time employees hired by the Developer, its Affiliates or an Approved Tenant for which an employee is paid or entitled to be paid due to vacation, holiday, illness, incapacity (including disability, layoff, jury duty, military duty or leave of absence).

“Grant Documents” mean this Development Agreement for Development Incentive Program Grant, Second or Third Mortgage and Security Agreement, Promissory Note, Declaration of Restrictive Covenant (the form of the Promissory Note, Mortgage and Security Agreement and Declaration of Restrictive Covenant are attached hereto as Exhibit “D”), an agreement in recordable form from the first mortgage holder consenting to a second or third mortgage and security agreement in favor of the Agency, and such other documents contemplated by this transaction.

“Grant Eligibility Period” means a term of five (5) years starting from the Completion Date.

“Hard Costs” means costs for work, labor and materials required to renovate pre-existing structures on the Project Site and construct and complete the Project.

“Job Creation Requirement” means 208,000 FTE Job Hours.

“Major Subcontractor” means the Contractors for site development work (infrastructure), structural improvements, underground water and sewer utilities, mechanical, (HVAC), plumbing and electrical.

“Permits” means all zoning, variances, special exceptions, yard modifications, zoning approvals, development orders respecting land use and consents required to be granted, awarded, issued, or given by any governmental authority relative to the regulation of land use or zoning in order for construction of the Project, or any part thereof, to commence, and to be completed.

“Person” means any natural person, firm, partnership (general or limited), corporation, company, association, joint venture, joint stock association, estate, trust, business trust, cooperative, limited liability corporation, limited liability partnership, limited liability company or association, or body politic, including any heir, executor, administrator, trustee, receiver, successor or assignee, or other person acting in a similar representative capacity.

“Principals” means Steve J. D’Apuzzo, Sr.

“Project” shall have the meaning set forth in the fourth WHEREAS.

“Project Site” shall have the meaning set forth in Section 3.01.

“Proposal” means the proposal for development of the Project Site presented by Developer to the Agency’s Advisory Board on July 18, 2017.

“Public Property” means those portions of the Project Site consisting of: (i) streets, alleys and other public ways and (ii) land, including plazas, on which infrastructure improvements will be constructed and dedicated to the public, if any.

“Redevelopment Area” shall have the meaning set forth in the second WHEREAS clause.

“Redevelopment Plan” shall have the meaning set forth in the second WHEREAS clause.

“Regular Scheduled Meeting” means a regularly scheduled meeting of the Agency that is presently scheduled for the first and third Tuesday of each month, at which a quorum is present.

“Soft Costs” means those costs associated with the development and construction of the Project which are not Hard Costs, including, without limitation, surveying, architectural and engineering fees, provided that “Soft Costs” shall not include developer fees, general overhead charges or other similar fees payable to Developer or Affiliates of the Developer.

“Termination Date” means the date on which any party terminates this Agreement as provided in Section 12.01.

"Unavoidable Delay" means any of the following events or conditions or any combination thereof: acts of God, acts of a public enemy, riot, insurrection, war, act of terrorism, pestilence, archaeological excavations required by law, unavailability of materials after timely ordering of same, epidemics, quarantine restrictions, freight embargoes, fire, lightning, hurricanes, earthquakes, tornadoes, floods, inclement weather (as indicated by the records of the local weather bureau for a ten (10) year period preceding the Effective Date), exercise of the power of condemnation as to a portion of the Project Site bearing a material relationship to the improvements to be constructed, strikes or labor disturbances, any of which shall be beyond the reasonable control of the party performing the obligation; adverse economic conditions, delays due to proceedings under Chapters 73 and 74, Florida Statutes, restoration in connection with any of the foregoing or any other cause beyond the reasonable control of the party performing the obligation in question, including, without limitation, such causes as may arise from the act of the other party to this Agreement, or acts of or failure to act by any governmental authority, which such event(s) or condition(s) or any combination(s) thereof substantially frustrate on a commercially reasonable basis the performance contemplated by this Agreement.

1.03 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 corporations and associations, including public bodies, as well as natural persons. "Herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinabove," "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 2. PURPOSE PROPOSAL; PROJECT DEVELOPMENT SCHEDULE.

2.01 Purpose of Agreement.

(a) The purpose of this Agreement is to set forth the agreement between the Agency and Developer for the terms and conditions of the Grant and the development of the Project and to set forth mutual roles and responsibilities of each. It is also to further the implementation of the Redevelopment Plan by providing for the development and construction of the Project on the Project Site in accordance with the conceptual site plan and the Final Site Plan, as approved by the City.

(b) Developer agrees to develop the Project by using its commercially reasonable efforts to (i) obtain approvals from governmental authorities necessary for the development of the Project, and (iii) construct various improvements on the Project Site consistent with the terms of this Agreement.

2.02 Developer's Proposal.

(a) The Proposal is hereby found by the parties hereto: (i) to be consistent with and in furtherance of the objectives of the Redevelopment Plan, (ii) to conform to the provisions of the Act, (iii) to be in the best interests of the citizens and residents of the City, (iv) to further the purposes and objectives of the Agency, and (v) to further the public purpose of eradicating conditions of "slum and blight" in the Redevelopment Area.

(b) Based upon and as a result of the findings set forth in subsection (a) above, the Proposal, including such changes and revisions as are provided for by this Agreement, is hereby affirmed by the Developer and approved and accepted by the Agency.

(c) The parties hereto agree that the terms and conditions set forth in this Agreement do not, individually or collectively, constitute a substantial deviation from the Proposal.

2.03 Cooperation of the Parties.

The parties hereto recognize that the successful development of the Project and each component thereof is dependent upon continued cooperation of the parties hereto, and each agrees that it shall act in a reasonable manner hereunder. No cooperation or assistance by the Agency shall be construed or implied to constitute any action by the City or any board, commission or committee thereof acting in its governmental capacity.

2.04 Authorized Representative.

(a) The Agency has designated the Executive Director as its Authorized Representative to act on its behalf to the extent of the grant of authority to such representative. The Developer has designated Steve J. D'Apuzzo, Sr. its Authorized Representative to act on its behalf. Written notice of the designation of such an Authorized Representative (and any subsequent change in the Authorized Representative) and the authority that may be exercised by such Authorized Representative, shall be given by the designating party to the other party in writing in accordance with the procedure set forth in Section 16.01 hereof.

(b) Except as otherwise expressly provided in this Agreement, whenever approval or action by the Developer or the Agency is required by this Agreement, such action or approval may, to the extent of authorization granted, be taken or given by the Authorized Representative thereof. Subject to any limitation of authority set forth in the written notice, a party to this Agreement may rely upon the representation of the other party's Authorized Representative that such person has the requisite authority to give the approval or take the action being done by that Authorized Representative.

ARTICLE 3. PROJECT SITE.

3.01 Project Site.

The Project Site is a parcel of land together with all improvements thereon, located at 115 West Sistrunk Boulevard, Fort Lauderdale, Florida which property is more particularly described in Exhibit "A".

ARTICLE 4. CONCEPTUAL AND FINAL SITE PLAN.

4.01 Conceptual Site Plan and Final Site Plan.

Agency acknowledges that Developer has prepared and completed the Conceptual Site Plan that was submitted to and approved by the Advisory Board. Developer shall prepare and submit to the City a proposed final site plan for the Project, which shall be similar to the Conceptual Site Plan, but shall be set forth with greater detail as to elevations, building footprint, architectural features, landscaping, and parking for the entire Project (the "Final Site Plan"). The Developer hereby represents that the Final Site Plan attached hereto as Exhibit "B" has been approved by the City in its regulatory capacity.

4.02 Preparation of Conceptual and Final Site Plan.

Developer is responsible for and shall pay the cost of preparing, submitting and obtaining approval of any version of the conceptual site plan and Final Site Plan and any revisions or modifications thereto.

4.03 Approval of Modifications or Revisions to Final Site Plan by Executive Director.

(a) Proposed modification(s) of or revision(s) to the Final Site Plan may be approved by the Executive Director of the Agency without further review or approval of the Agency.

(b) Any denial by the Executive Director under this Section 4.03 may be appealed by Developer to the Agency.

ARTICLE 5. REGULATORY PROCESS.

5.01 Not a Development Order or Permit

Agency and Developer agree that this Agreement is not intended to be and should not be construed or deemed to be a "development order" or "development permit" within the meaning of those terms in Section 163.3164, Florida Statutes.

ARTICLE 6. PROJECT FUNDING.

6.01 Development Incentive Program Grant

The Agency agrees, and the Grant Documents shall provide, as follows:

Subject to the conditions set forth herein, the Agency agrees to grant to Developer up to One Million Four Hundred Thousand Dollars (\$1,400, 000) in accordance with the terms of this

Agreement and in accordance with the policy of the Agency's Development Incentive Program, to reimburse the Developer for eligible costs associated with improvements to the Project Site including hard and soft construction costs for the Project. Developer shall use its own funds, funds obtained from construction financing, funds from other financing sources or equity contributions for the amount needed to design, develop, construct, own, operate and maintain the Project as contemplated by this Agreement. To support its request for reimbursement for eligible construction costs, Developer shall provide invoices from its Contractor, Major Subcontractor, subcontractor, materialman or vendor for material or services paid for by the Developer, with supporting documentation in the form of cancelled checks paid by the Developer or other documentation showing proof of payment. The Developer shall submit sufficient information to support its request for reimbursement of eligible costs and to document its investment or equity match equal to or greater than the Agency Grant at least ninety days before submitting its first Jobs Report.

6.02 Disbursement of Grant Proceeds.

Subject to an annual appropriation by the Board of Commissioners of the Agency and provided the Developer provides satisfactory proof of payment for eligible costs and expenses under the Development Incentive Program related to the Project, the Development Incentive Program Grant shall be disbursed as set forth below. No disbursement shall be made until after the Closing Date and no sooner than twelve (12) months after the Completion Date. No disbursement shall be made if an Event of Default has been declared under this Agreement. Funding for this project is subordinate and subject to funding for operating and administrative costs of the Agency and the senior debt of the Agency and will be funded on an equal basis with other obligations of the Agency.

Provided all conditions for disbursement have been met, the parties anticipate disbursement shall be made as follows:

1. The lesser of \$400,000 or a prorata portion of the Grant equal to the FTE Job Hours created during the first year and accepted and approved by the Agency shall be made within 75 days after the first anniversary of the Completion Date; and
2. The lesser of \$500,000 or a prorata portion of the Grant equal to the FTE Job Hours created during the second year and accepted and approved by the Agency shall be made within 75 days after the second anniversary of the Completion Date; and
3. In years 3, 4 and 5, so much of the Grant as has not been disbursed to the extent FTE Job Hours has been created and accepted and approved by the Agency.

ARTICLE 7. JOB CREATION AND MAINTENANCE REQUIREMENTS

7.01 Job Creation Requirements.

The Developer shall open, operate and maintain the Project during the Grant Eligibility Period. The Developer shall create on an annual basis for two years commencing on the Completion Date, FTE Job Hours for up to 50 employees. Developer shall use commercially reasonable efforts to insure that at least twenty percent (20%) of the employees reside in the Northwest Progresso Flagler Heights Community Redevelopment Area at the time of the hire or subsequently moves to the Redevelopment Area within ninety days (90) after being hired. Any employee hired by the Developer, its Affiliates or an Approved Tenant, subject to the approval process set forth below, and employed at the Project Site shall be eligible for calculation of FTE Job Hours. Provided an event of default has not been declared under this Agreement, a portion of the Development Incentive Program Grant Amount shall be forgiven for each FTE Job Hours created and approved by the Agency in accordance with this Article 7. Notwithstanding, the occurrence of an event of default, including without limitation, failure to open and operate the Project for a minimum of five years, sale, transfer or conveyance of the Property or sale, conveyance or transfer of the stock or membership interest of Steve J. D'Apuzzo, Sr. in the Developer as described in Article 12 shall require a repayment of the entire Grant without credit for creation of any FTE Job Hours.

The annual Job Creation Requirement shall be calculated by multiplying a forty (40) hour work week by fifty two (52) weeks per employee for a total of 104,000 FTE Job Hours for each year. The total FTE Job Hours required under this Agreement is 208,000 FTE Job Hours. It is anticipated that the Job Creation Requirement shall be created within two (2) years from the Completion Date. However, to the extent the Job Creation Requirement has not been met within 2 years from the Completion Date, FTE Job Hours created during the latter years of the Grant Eligibility Period may be eligible for consideration if the Jobs Report and other conditions are satisfied and approved by the Agency.

7.02 Job Creation Reports.

To the extent Developer is seeking credit for FTE Job Hours, Developer shall provide to Agency an annual written report ("Job Report") certifying the number of FTE Job Hours created for the preceding year within forty five days of the first anniversary of the Completion Date and each anniversary thereafter for two (2) years and up to five (5) years if necessary. The Job Report shall be substantially in the format attached as Exhibit "C" and shall include the following information for each employee for which FTE Job Hours credit is requested: (i) the name of the employer of the employee; (ii) the identification number for the employee; (iii) the employee's job title; (iv) the date on which the employee resided in the Redevelopment Area, if any; (v) the employee's annual salary, or if paid hourly, the employee's hourly rate; (vi) the number of FTE Job Hours claimed for the employee. Upon a written request, the Developer shall provide the Agency within five (5) days the name of any employee for which FTE Job Hours credit is sought. Failure to provide the requested information for any employee shall eliminate the FTE Job Hours credit for that employee.

7.03 Approval of Affiliates or Approved Tenants.

Affiliates and Approved Tenants must be approved by the Agency and Developer shall submit the following information within 60 days after a business of an Affiliate or Approved Tenant opens for business within the Project and not less than 90 days before submission of the Job Report for which the Developer intends to seek FTE Job Hours credit; (i) the name of the employer; (ii) the estimated number of jobs to be created by the employer; (iii) a description of the business operations of the employer and of the Affiliate or the Approved Tenant; (iv) a certified copy of the written lease, license or other occupancy agreement which governs the occupancy of the employer in the Project which instrument may incorporate preservation of public records and audit rights in favor of the Agency, (v) the principals with controlling interest of the Affiliate, if applicable; and (v) such other reasonable information requested by the Agency. The Agency shall have 45 days after the submission of the above referenced information to determine if the Approved Tenant or Affiliate or business will qualify for FTE Job Hours which approval shall not be unreasonably withheld, conditioned or delayed. Failure to render a decision within the 45 days shall be considered an approval. The Developer shall not be entitled to receive FTE Job Hours credit originating from prohibited business or uses as described in the Declaration of Restrictive Covenant. Notwithstanding anything set forth in this Agreement to the contrary: (1) in no event shall any construction jobs created which are solely related to construction or renovation of the Project be included in the calculation of Full Time Equivalent (FTE) Job Hours under this Agreement. If an Approved Tenant or Affiliate fails to: (a) provide the information for the Jobs Report; (b) submit to an audit as required under Section 16.19 or (c) comply with a public records request as required under Section 16.20, then the job hours for that particular Affiliate or Approved Tenant shall not count towards the Job Creation Requirement and the Developer shall not be entitled to receive a reduction in the principal balance of the Grant for such Full Time Equivalent (FTE) Job Hours unless and until all of the requirements set forth herein have been satisfied.

ARTICLE 8. INDEMNIFICATION.

8.01 Indemnification.

(a) For consideration of \$10.00 and other good and valuable consideration herein provided, the receipt of which is hereby acknowledged by Developer, Developer agrees to indemnify, defend and hold harmless, the Agency, its respective agents, officers, or employees from any and all liabilities, damages, penalties, judgments, claims, demands, costs, losses, expenses or reasonable attorneys' fees which may be imposed upon or assessed against Agency both at the trial level and through appellate proceedings, for personal injury, bodily injury, death or property damage arising out of, or by reason of any act or omission of Developer, its agents, employees or contractors arising out of, in connection with or by reason of, the performance of any and all of Developer's obligations covered by this Agreement, or which are alleged to have arisen out of, in connection with or by reason of, the performance of any and all of Developer's obligations covered by this Agreement. In the event any action or proceeding shall be brought against the Agency by reason of any such claim, Developer shall defend such claim at Developer's expense by counsel selected by Developer, which counsel shall be reasonably satisfactory to the Agency.

(b) Developer's indemnification under subsection (a) shall survive termination or expiration of this Agreement for the applicable statute of limitations period relating to the occurrences, act or omission at issue, but shall apply only to occurrences, acts, or omissions that arise on or before the earlier of the Termination Date or the expiration of the Grant Eligibility Period.

(c) Developer's indemnity hereunder is in addition to and not limited by any insurance policy and is not and shall not be interpreted as an insuring agreement between or among the parties to this Agreement, nor as a waiver of sovereign immunity for any party entitled to assert the defense of sovereign immunity.

8.02 Limitation of Indemnification.

Notwithstanding anything to the contrary contained herein, with respect to the indemnification by Developer the following shall apply:

(a) Developer shall not be responsible for damages that could have been, but were not, mitigated by the Agency;

(b) Developer shall not be responsible for that portion of any damages caused by the negligent or willful acts or omissions of the Agency;

(c) there shall be no obligation to indemnify hereunder in the event that the Agency (1) shall have effected a settlement of any claim without the prior written consent of Developer, or (2) shall not have subrogated Developer to the Agency's rights against any third party by an assignment to Developer of any cause or action against such third party.

(d) there shall be no obligation of indemnification on the part of Developer as to any contractual breaches by Developer under this Development Agreement.

ARTICLE 9. REPRESENTATIONS, WARRANTIES AND COVENANTS OF DEVELOPER.

9.01 Representations and Warranties of Developer.

Developer represents and warrants to the Agency that each of the following statements is currently true and accurate and agrees the Agency may rely upon each of the following statements:

(a) Developer is a Florida limited liability company duly organized and validly existing under the laws of the State of Florida, has all requisite power and authority to carry on its business as now conducted, to own or hold its properties and to enter into and perform its obligations hereunder and under each document or instrument contemplated by this Agreement to which it is or will be a party, and has consented to service of process upon a designated agent for service of process in the State of Florida.

(b) This Agreement and, to the extent such documents presently exist in form acceptable to the Agency and Developer, each document contemplated or required by this Agreement to which Developer is or will be a party has been duly authorized by all necessary action on the part of, and has been or will be duly executed and delivered by Developer, and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof:

- (1) requires the approval and consent of any other party, except such as have been duly obtained or as are specifically noted herein.
- (2) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on Developer, or
- (3) contravenes or results in any breach of, default under or, other than as contemplated by this Agreement, results in the creation of any lien or encumbrance upon any property of the Developer under any indenture, mortgage, deed of trust, bank loan or credit agreement, the Developer's Articles of Organization, or, any other agreement or instrument to which the Developer is a party or by which Developer may be bound.

(c) This Agreement and, to the extent such documents presently exist in form accepted by the Agency and Developer, each document contemplated or required by this Agreement to which Developer is or will be a party constitutes, or when entered into will constitute, a legal, valid and binding obligation of Developer enforceable against Developer in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(d) There are no pending or, to the knowledge of Developer, threatened actions or proceedings before any court or administrative agency against Developer, which question the validity of this Agreement or any document contemplated hereunder, 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 Developer.

(e) Developer has filed or caused to be filed all federal, state, local and foreign tax returns, if any, which were required to be filed by Developer prior to delinquency, and has paid, or caused to be paid, all taxes shown to be due and payable on such returns or on any assessments levied against the Developer.

(f) Developer agrees that as of the Effective Date and through the expiration of the Grant Eligibility Period, it shall use its commercially reasonable efforts to maintain the financial capacity necessary to carry out its obligations and responsibilities in connection with the development of the Project as contemplated in this Agreement.

(g) The principal place of business and principal executive offices of Developer are in the City of Ft. Lauderdale, Broward County, Florida.

(h) At the time of submitting its Proposal, Developer had, and will continue to have and at all times through the expiration of the Grant Eligibility Period, will maintain the experience, expertise, and knowledge to develop, cause the construction, and complete the Project and oversee and manage the design, planning, construction, completion, marketing of the Project and operations of the Project.

(i) The Developer holds all right, title and interest in the Property free and clear of any liens, encumbrances and other adverse matters except as previously disclosed to the Agency.

ARTICLE 10. REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE AGENCY.

10.01 Representations and Warranties.

The Agency represents and warrants to the Developer that each of the following statements is currently true and accurate and agrees that the Developer may rely on each of the following statements:

(a) The Agency is a validly existing body corporate and politic of the State of Florida, is the duly created community redevelopment agency of the City under the Florida Community Redevelopment Act, has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations hereunder and under each document or instrument contemplated by this Agreement to which it is or will be a party.

(b) This Agreement and, to the extent such documents presently exist in form acceptable to the Agency and the Developer, each document contemplated or required by this Agreement to which the Agency is or will be a party, have been duly authorized by all necessary action on the part of, and have been or will be duly executed and delivered by the Agency, and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof;

1. requires the approval and consent of any other party, except such as have been duly obtained or as are specifically noted herein,
2. contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the Agency, or
3. contravenes or results in any breach of, or default under or, other than as contemplated by this Agreement, results in the creation of any lien or encumbrance upon any property of the Agency under any indenture, mortgage, deed of trust, bank loan or credit agreement, applicable ordinances, resolutions or, on the date of this Agreement, any other agreement or instrument to which the Agency is a party, specifically including any covenants of any bonds, notes, or other forms of indebtedness of the Agency outstanding on the Effective Date.

(c) This Agreement and, to the extent such documents presently exist in form accepted by the Agency and the Developer, each document contemplated or required by this Agreement to which the Agency is or will be a party constitute, or when entered into will constitute, legal, valid and binding obligations of the Agency enforceable against the Agency in accordance with the terms thereof, except as such enforceability may be limited by public policy or applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(d) As of the Effective Date there are no pending or threatened actions or proceedings before any court or administrative agency against the Agency or against any officer of the Agency which question the validity of any document contemplated hereunder or which are likely in any individual case, or in the aggregate, to materially adversely affect the consummation of the transactions contemplated hereunder or the financial condition of the Agency.

(e) Agency agrees that as of the Effective Date, subject to budget and appropriation of funds, it has the financial capacity to carry out its obligations and responsibilities as contemplated in this Agreement.

10.02 Covenants.

The Agency covenants with Developer that until the earlier of the Termination Date or expiration of the Grant Eligibility Period, as the case may be:

(a) The Agency shall timely perform or cause to be performed all of the obligations contained herein which are the responsibility of the Agency to perform.

(b) During each year that this Agreement and the obligations of the Agency under this Agreement shall be in effect, the Agency shall cause to be executed and to continue to be in effect those instruments, documents, certificates, permits, licenses and approvals, and shall cause to occur those events contemplated by this Agreement that are applicable to and are the responsibility of the Agency.

(c) The Agency shall to the extent permitted by law assist and cooperate with the Developer to accomplish the development of the Project in accordance with this Agreement and the Final Site Plan, will carry out its duties and responsibilities contemplated by this Agreement, and will not violate any laws, ordinances, rules, regulations, orders, contracts, or agreements that are or will be applicable thereto, and, to the extent permitted by law, the Agency will not enact or adopt or urge or encourage the adoption of any ordinances, resolutions, rules, regulations or orders or approve or enter into any contracts or agreements, including issuing any bonds, notes, or other forms of indebtedness, that will result in any provision of this Agreement to be in violation thereof.

ARTICLE 11. RESTRICTIONS ON ASSIGNMENT AND TRANSFER.

11.01 Representations as to Development.

Developer represents and agrees that its undertaking pursuant to this Agreement, are, and will be used, for the purpose of development of the Project Site as set forth in the Agreement and not for speculation in land holding. Developer further recognizes the importance of creation of jobs and the development of the Project Site to the general welfare of the community, and the substantial financial and other public commitments that have been made available by law and through the assistance of local government for the purpose of making such development possible. Developer further acknowledges that the qualifications and identity of Developer, the Principals and their respective business experience, reputation, financial capacity to carry out the obligation and responsibilities in connection with the Project and their respective development track record within the community is of particular concern to the community and the Agency because it is by such experience, financial capacity, qualifications, reputation, past performance and identity, now in effect, that the Agency is entering into this Agreement with Developer for the benefit of the community and the Plan and, in so doing, is further willing to accept and rely on the obligations of Developer for the faithful performance of all undertakings and covenants described in this Agreement.

11.02 Restriction on Transfer of Interests Prior to the Expiration of the Grant Eligibility Period.

In reliance upon Section 11.01 above, Developer agrees that prior to the expiration of the Grant Eligibility Period, without the prior approval of the Agency, which such approval shall be governed by the criteria set forth in Section 11.04 below:

1. There shall be no sale or transfer of stock or memberships nor the entry of any voting trusts or shareholder or membership agreements or any other similar devices or arrangements within Developer which would result in the transfer of control of the Developer from the Principals to another Person; and
2. There shall be no sale or transfer of stock or membership nor the entry of any voting trust or shareholder or membership agreements or any other similar devices or arrangements within any corporate member of the Developer which would result in the transfer of control of the Developer from the Principals to another Person.

However, a transfer of control resulting from the death or incapacity of a Principal shall not constitute an event of default under this Agreement.

11.03 Notification to Agency as to Ownership Changes.

In order to assist in the effectuation of the purposes of this Agreement, Developer agrees that during the period between the Effective Date and the Expiration of the Grant Eligibility Period that:

- (a) Developer shall, at such time or times as the Agency may request, furnish Agency with a complete statement, under oath, setting forth all of the members of Developer, the

proportion of the membership held, and in the event any other parties have a beneficial interest of 10% or more in any of the corporate members in Developer, their names and the extent of such interest, all as determined or indicated by the records of Developer and its corporate members; and

(b) Developer will promptly notify Agency of any material changes in the legal or beneficial ownership control over Developer.

11.04 Restrictions On Transfer, Assignment and Encumbrance of Project Site and Assignment of Agreement.

In light of Section 11.01 above, Developer represents and agrees for itself and its successors and assigns (except as so authorized by the provisions of this Agreement) that it will not, prior to the Expiration of the Grant Eligibility Period, as to a proposed sale, assignment or transfer of the Project Site, make or create, or suffer to be made or created, any total or partial sale, assignment, conveyance, or master lease (which will not preclude Developer from selling or leasing individual units in the ordinary course of business without the approval of the Agency), or any trust or power, sale, transfer, or encumbrance other than construction and permanent financing or other financing provided or approved by the Principals (hereinafter, collectively, known as "Transfer") in any other mode or form or with respect to this Agreement or the Project Site, without first obtaining the prior written approval of the Agency, which approval shall not be unreasonably withheld.

(a) The Agency shall be entitled to require, except as may otherwise be provided in this Agreement, as conditions to granting any such prior approval, that:

1. Any proposed successor Developer or proposed successor Principals therein shall have the business experience and reputation, development track record and sufficient financial capacity to carry out the obligations under this Agreement, as determined, in the reasonable discretion of the Agency.
2. Any proposed successor Developer, by instrument in writing satisfactory to the Agency, in its reasonable discretion, shall, for itself and its successors and assigns expressly assume all of the obligations of Developer under the Grant Documents and shall agree to abide by and be subject to all of the terms, conditions, obligations, reservations and restrictions ("terms and conditions") to which Developer is subject.
3. There shall be submitted to the Agency for review all instruments and other legal documents reasonably necessary to assure compliance with Section 11.04(a)(1).

(b) The provisions of this Article respecting restrictions on Transfers shall not be construed in such a manner as to preclude transfer to a construction lender and its successors in interest. The term "successors in interest" is intended to include not only successors in interest to

the construction lender but also any transferee or assignee of the construction lender, including but not limited to purchasers at a foreclosure sale or acquisition by way of deed in lieu of foreclosure.

ARTICLE 12. DEFAULT; TERMINATION.

12.01 Default by the Developer.

(a) On or after the Effective Date through and including the Grant Eligibility Period, there shall be an "event of default" by Developer under this Agreement upon the occurrence of any one or more of the following:

1. Developer shall fail to perform or comply with any material provision of this Agreement or Grant Documents applicable to it within the time prescribed therefor; or
2. Developer shall make a general assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts as they become due or shall file a petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation or shall file an answer admitting, or shall fail reasonably to contest, the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of Developer of any material part of such entity's properties; or
3. Within ninety (90) days after the commencement of any proceeding by or against Developer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed or otherwise terminated, or, if within ninety (90) days after the appointment without the consent or acquiescence of Developer of any trustee, receiver or liquidator of any of such entities or of any material part of any of such entity's properties, then such appointment shall not have been vacated; or
4. Developer fails to continuously operate and maintain the Project as a food hall for a minimum of five (5) years from the Completion Date; or
5. The Developer sells, conveys or transfer a portion or all of its right, title or interest in the Project or the Property, not including Approved Tenants, during the five year period starting from the Completion Date; or
6. Steve J. D'Apuzzo, Sr. sells, transfer, conveys or assigns his stock or membership interest in the Developer to another party without the consent and approval of the Agency; or

7. Developer fails to pay the unpaid principal balance of the Grant.

(b)(1) If an event of default by Developer described in subsection (a) above shall occur, the Agency shall provide written notice thereof to Developer, and,

- i. if such event of default shall not be cured by Developer within ninety (90) days after receipt of the written notice from the Agency specifying in reasonable detail the event of default by Developer; or
- ii. if, as to non-monetary defaults, such event of default is of such nature that it cannot be completely cured within such time period, then if Developer shall not have commenced to cure such default within such time period and shall not continue to diligently prosecute such cure to completion within such reasonable longer period of time as may be necessary, then the Agency, for events of default described in subsection (a) above, may, pursue any and all legal remedies (excluding therefrom the right to pursue consequential punitive and incidental damages and "loss of projected tax revenue"), equitable remedies of specific performance, injunctive relief or rescission to which the Agency is entitled, including terminating any disbursements of funds by the Agency hereunder. In the event of a default which has not been cured, the Grant, shall be due and payable in full, notwithstanding the creation or acceptance of FTE Job Hours.

(2) In the event Developer commences to cure a default but finds that the default is of such a nature that it cannot be completely cured within time provided in subsection (b)(1) above and Developer intends to continue to diligently prosecute such cure to completion, then Developer shall be obligated to provide notice to Agency as to the time frame reasonably needed to cure such default, which such time frame shall be subject to the Agency's approval in its commercially reasonable discretion. If Developer has failed to complete the cure by the end of the time frame designated as the reasonable additional time needed to cure, the Agency shall be permitted to pursue any and all legal or equitable remedies to which it is entitled, as limited by subsection (b)(1) above.

(c) In addition to any other rights of termination provided elsewhere in this Agreement, this Agreement may be terminated by the Agency or Developer after the occurrence of any of the following events or conditions:

1. The entire Project Site is taken by the exercise of the power of eminent domain by a governmental authority (other than the City or the Agency) or a Person entitled to exercise such power or benefiting therefrom, or such part of the Project Site is taken by the power of eminent domain so as to render the Project Site unusable for its intended uses or economically unviable as contemplated by this Agreement, it being the intent of the parties that in the event a dispute arises as to whether a "taking" renders the Project unusable for its intended uses or economically unviable as contemplated by this Agreement, that such dispute shall be an Arbitrable Event;

2. The appropriate governmental authority (including the City in exercise of its governmental and regulatory authority and responsibility), upon petition by Developer, denies or fails to:

- (i) issue Building Permits where the application meets all requirements of the Codes and the terms of this Agreement,
- (ii) approve a rezoning of the Project Site to a zoning classification consistent with this Agreement and the Final Site Plan (if applicable), or
- (iii) approve any other land use approval necessary to commence construction of the Project on the Project Site where the application meets all requirements of the law, and Developer has proceeded diligently, expeditiously and in good faith to obtain such approval, permits or other necessary actions including exhaustion of all administrative remedies applicable thereto through the second level of certiorari review.

(d) In the event of a termination pursuant to this Subsection 12.01(c) above and provided no disbursements have been made by the Agency, neither Developer nor the Agency shall be obligated or liable one to the other in any way, financially or otherwise for any claim or matter arising from or as a result of this Agreement or any actions taken by Developer and the Agency, or any of them, hereunder or contemplated hereby, and each party shall be responsible for its own costs.

12.02 Agreement Termination.

(a) In the event of a termination of this Agreement pursuant to the terms of Section 12.01(c) above prior to the Completion Date, this Agreement shall no longer be of any force and effect except for those provisions hereof which expressly survive termination, the rights, duties and obligations of the parties hereto shall have been terminated and released (subject to those surviving provisions hereof) and, if the termination is prior to the Completion, then the Project Site shall no longer be subject to any restrictions, limitations or encumbrances imposed by this Agreement. Nothing in this Section shall prohibit Developer from completing any Building on which City has issued Building Permits and Developer commenced construction pursuant thereto. Notwithstanding anything contained herein to the contrary, the Agency and the Developer may agree to terminate this Agreement at any time. In the event of an agreed termination, the Project Site shall no longer be subject to any restriction, limitation, or encumbrances imposed by this Agreement.

(b) In the event of termination after disbursements have been made under the Grant, the Developer shall be obligated repay any outstanding sums under the Grant.

Notwithstanding anything set forth in this Agreement to the contrary, nothing herein shall be deemed a pledge or the right to place a lien on the Agency's revenue. This Agreement shall not be construed as a grant or consent to encumber the Redevelopment Trust Fund of the Agency. Further, payments under this Agreement are subordinate and inferior to existing debt service and general operating and overhead payments of the Agency.

ARTICLE 13. ARBITRATION AND MEDIATION

13.01 Mediation Prior to Arbitration.

If a dispute arises out of or relates to this contract, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation administered by the American Arbitration Association under its Commercial Mediation Procedures before resorting to arbitration, litigation, or some other dispute resolution procedure.

13.02 Agreement to Arbitrate.

Any disagreement or dispute between the parties which has been specifically delineated in this Agreement as arbitrable may be arbitrated in the manner set forth in this Article 13, provided no judicial or administrative action or proceeding is pending with regard to the same matter. Arbitration is limited to those disagreements or disputes which have specifically been delineated as an Arbitrable Event herein or which the parties mutually agree to be an Arbitrable Event. All parties hereby agree such arbitration, once commenced, shall be the exclusive procedure for resolving such disagreement or dispute and agree to be bound by the result of any such arbitration proceeding unless all parties mutually agree to terminate such proceedings prior to decision. If any arbitration proceeding under this Article adversely affects the performance of any party hereunder, then any time periods provided herein for such performance by that party shall be tolled during the pendency of the arbitration proceeding affecting such performance.

13.03 Appointment of Arbitrators.

(a)(1) Unless accelerated arbitration as provided in Section 13.07 hereof is invoked, any party invoking arbitration herewith shall, within five (5) days after giving notice of impasse in the dispute resolution process or upon following the expiration of the time period for such dispute resolution occurrence of the event permitting arbitration to be invoked, give written notice to that effect to the other parties, and shall in such notice appoint a disinterested person who is on the list of qualified arbitrators maintained by the American Arbitration Association or a disinterested person not on such list to whom an objection is not made by any other party hereto within five (5) days of receipt of the notice of such appointment as the arbitrator or, if more than one (1) arbitrator is to be appointed, as one of the arbitrators.

(a)(2) Within ten (10) days after receipt of the notice described in Section 13.03(a)(1), the other parties shall by written notice to the original party acknowledge that arbitration has been invoked as permitted by this Agreement, and shall either accept and approve the appointment of such individual set forth in the original notice as a sole arbitrator or shall appoint one (1) disinterested person per party of recognized competence in such field as an arbitrator.

(b)(1) If two (2) arbitrators are appointed pursuant to Subsection (a) above, the arbitrators thus appointed shall appoint a third disinterested person who is on the list of qualified arbitrators maintained by the American Arbitration Association, and such three (3) arbitrators shall as promptly as possible determine such matter.

(b)(2) If the second arbitrator shall not have been appointed as provided in Subsection (a), the first arbitrator shall, after ten (10) days' notice to the parties, proceed to determine such matters.

(b)(3) If the two (2) arbitrators appointed by the parties pursuant to Subsection (a) shall be unable to agree within fifteen (15) days after the appointment of the second arbitrator upon the appointment of the third arbitrator, they shall be given written notice of such failure to agree to the parties and, if the parties then fail to agree upon the selection of such third arbitrator within fifteen (15) days thereafter, then within ten (10) days thereafter each of the parties upon written notice to the other parties hereto may request the appointment of a third arbitrator by the office in or for the State of Florida (or if more than one office, the office located closest to the City) of the American Arbitration Association (or any successor organization thereto) or, in its absence, refusal, failure or inability to act, request such appointment of such arbitrator by the Circuit Court in and for Broward County, or as otherwise provided in Chapter 682, Florida Statutes, known and referred to as the Florida Arbitration Act, as amended.

13.04 General Procedures.

In any arbitration proceeding under this Article, those parties appointing arbitrators shall each be fully entitled to present evidence and argument to the sole arbitrator or panel of arbitrators. The arbitrator or panel of arbitrators shall only interpret and apply the terms of this Agreement and may not change any such terms, or deprive any party to this Agreement of any right or remedy expressed or implied in this Agreement, or award any damages or other compensation to any party hereto. The arbitration proceedings shall follow the rules and procedures of the American Arbitration Association (or any successor organization thereto) unless specifically modified by this Agreement, or as then agreed to by the parties hereto.

13.05 Decision of Arbitrators.

(a) If any decision reached by arbitration as provided in this Article requires performance by Developer, Developer covenants and agrees to comply with any decision of the arbitrator(s) promptly after the date of receipt by Developer of such decision, and to continue such performance to completion with due diligence and in good faith.

(b) If any such decision requires performance by the Agency, the Agency covenants and agrees to comply promptly with any decision reached by arbitrator(s) promptly after the date of receipt by the Agency of such decision, and to continue such performance to completion with due diligence and in good faith.

(c) Nothing in this Article, nor in any arbitration decision rendered under this part, shall be construed to require any payment by one party to the other not otherwise specifically provided herein.

(d) No arbitration decision under this Article shall be deemed to be binding upon the City, unless the City becomes the assignee of the Agency.

13.06 Expense of Arbitration.

The expenses of any arbitration proceeding pursuant to this Article shall be borne equally by the parties to such proceeding, provided, however, for the purpose of this Section 13.06 "expenses" shall include the fees and expenses of the arbitrators and the American Arbitration Association with respect to such proceedings, but shall not include attorneys' fees or expert witness fees, or any costs incurred by attorneys or expert witnesses, unless (and to the extent) agreed to by the parties to such proceeding, which in the absence of such Agreement shall be the responsibility of the party incurring such fees or costs.

13.07 Accelerated Arbitration.

(a)(1) If any of the parties to any arbitration proceeding under this Article determines the matter for arbitration should be decided on an expedited basis, then after an initial election to invoke arbitration pursuant to Section 13.02 hereof has been made, either party to such proceeding may invoke accelerated arbitration by giving notice thereof to the other parties no later than three (3) days after arbitration has been initially invoked and the other parties do not object within three (3) days thereafter.

(a)(2) Accelerated arbitration, for purposes of this Section 13.07, shall be accomplished by either party notifying the American Arbitration Association (or any successor organization thereto) that the parties have agreed to use a single arbitrator, qualified to decide the matter for arbitration, to be appointed by the American Arbitration Association (or any successor organization thereto) with the consent of the parties to such proceeding within three (3) days after receipt of the request and to decide such matter within five (5) days after such appointment.

(a)(3) If an arbitrator is not so appointed with consent of the parties to the proceeding within three (3) days after the notice referred to in Paragraph (2) is received by the American Arbitration Association, the accelerated proceeding under this Section 13.07 shall terminate and the procedures otherwise set forth in this Article shall apply, unless the parties mutually agree to an extension of such time period.

(b) Developer and the Agency hereby agree to use such accelerated procedure only when reasonably necessary, to not contest the appointment of the arbitrator or his or her decision except as may be permitted by law, and that all other provisions of this Article, except as are in conflict with this Section 13.07, remain in effect and applicable to an accelerated arbitration proceeding.

13.08 Applicable Law.

To the extent not inconsistent with this Article, any arbitration proceeding under this Article shall be governed by the provisions of Chapter 682, Florida Statutes, as amended, known and referred to as the Florida Arbitration Code.

13.09 Arbitration Proceedings and Records.

Any arbitration hearing under this Article shall be considered a meeting subject to Section 286.011, Florida Statutes, and shall be open to any member of the public. Unless

otherwise rendered confidential pursuant to or by the operation of any applicable law or order (other than an order by a sole arbitrator or panel of arbitrators acting under this part), the record of such proceedings shall be a public record under Chapter 119, Florida Statutes.

ARTICLE 14. FIRE OR OTHER CASUALTY; CONDEMNATION.

14.01 Loss or Damage to Project.

Subject to the terms of the any financing documents, Developer shall diligently commence and complete the reconstruction or repair of any loss or damage caused by fire or other casualty to each and every part of the Project in substantial conformance with the Final Site Plan for such reconstruction or repairs, provided the Project or portion thereof can be restored and be commercially feasible for its intended use as contemplated by this Agreement after the loss or damage; and, provided further, that nothing contained herein shall obligate Developer to restore any tenant's leasehold improvements.

14.02 Partial Condemnation of Project or Project Site; Application of Proceeds.

Subject to the terms of the construction first lien financing documents, in the event that part, but not all, of the Project Site shall be taken by the exercise of the power of eminent domain at any time during the term set forth in Section 14.01 above, the compensation awarded to and received by Developer shall be applied first to the restoration of the Project or portion thereof, provided the Project or portion thereof can be restored and be commercially feasible for its intended use as contemplated by this Agreement after the taking, and, if not, can be retained by Developer.

ARTICLE 15. PROJECT INSURANCE PROCEEDS.

15.01 Project Insurance Proceeds.

(a) For the term beginning with the Effective Date until expiration of the Grant Eligibility Period (the "Term") whenever the Project, or any part thereof, shall have been damaged or destroyed, Developer shall promptly make proof of loss and shall proceed promptly to collect, or cause to be collected, all valid claims that may have arisen against insurers or others based upon such damage or destruction.

(b) Subject to the terms of any financing documents, Developer agrees that all proceeds of property or casualty insurance, for casualty suffered during the Term received by Developer as a result of such loss or damage shall be used for payment of the costs of the reconstruction or repair of the Project to the extent necessary to repair or reconstruct the Project.

15.02 Notice of Loss or Damage to Project.

Developer shall promptly give the Agency written notice of any significant damage or destruction to the Project stating the date on which such damage or destruction occurred, the expectations of Developer as to the effect of such damage or destruction on the use of the Project, and the proposed schedule, if any, for repair, or reconstruction of the Project.

ARTICLE 16. MISCELLANEOUS

16.01 Notices.

All notices under this Agreement to be given by one party to the other shall be in writing and the same shall only be deemed given if transmitted as follows:

(a) By facsimile, certified mail, return receipt requested, by courier or overnight service or personal hand-delivery to the following addresses:

DEVELOPER:

North West 6th Investments, LLC
Attn: Steven J D'Apuzzo Sr.
2755 East Oakland Park Blvd. Suite 304
Fort Lauderdale, FL 33306
(954) 270-5953
e-mail: 2755east@gmail.com

WITH COPIES TO:

Daniel M. Landis
Landis & Mallinger, P.L.
7284 W Palmetto Park Road Suite 302
Boca Raton, FL. 33433
(561) 391-5506
dan@landisandmallinger.com

AGENCY:

City of Fort Lauderdale Community
Redevelopment Agency of the or successor
Executive Director,
100 North Andrews Avenue
Fort Lauderdale, Florida 33301
e-mail: lfeldman@fortlauderdale.org

WITH COPIES TO:

Lynn Solomon
City Attorney's Office
City of Fort Lauderdale
100 North Andrews Ave
Fort Lauderdale, FL 33301
lsolomon@fortlauderdale.gov

Or to such other addresses as the parties may by writing designate to the other party from time to time. All notices, demands, deliveries, or other communications hereunder shall be deemed to have been given or served for all purposes hereunder on the day a facsimile is sent with confirmation of its sending, forty-eight (48) hours after the time that such communication was deposited in the United States mails (Saturdays, Sundays and legal holidays excluded), postage prepaid, in the manner aforesaid, one (1) day after delivery to a recognized overnight courier service, or upon delivery, whichever event shall first occur.

(b) Refusal by any person to accept delivery of any notice delivered to the office at

the address indicated above (or as it may be changed) shall be deemed to have been an effective delivery as provided in this Section 16.01.

16.02 Severability.

If any term, provision or condition contained in this Agreement shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such term, provision or condition to persons or circumstances other than those in respect of which it is invalid or unenforceable, shall not be affected thereby, and each term, provision and condition of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

16.03 Applicable Law and Construction.

The laws of the State of Florida shall govern the validity, performance and enforcement of this Agreement. This Agreement has been negotiated by the Agency and Developer, and the Agreement, including without limitation, the Exhibits, shall not be deemed to have been prepared by the Agency or Developer, but by all equally.

16.04 Venue; Submission to Jurisdiction.

(a) For purposes of any suit, action or other proceeding arising out of or relating to this Agreement, the parties hereto do acknowledge, consent, and agree that venue thereof is Broward County, Florida.

(b) Each party to this Agreement hereby submits to the jurisdiction of the State of Florida, Broward County and the courts thereof and to the jurisdiction of the United States District Court for the Southern District of Florida, for the purposes of any suit, action or other proceeding arising out of or relating to this Agreement and hereby agrees not to assert by way of a motion as a defense or otherwise that such action is brought in an inconvenient forum or that the venue of such action is improper or that the subject matter thereof may not be enforced in or by such courts.

(c) If at any time during the term of this Agreement, Developer is not a resident of the State of Florida or has no office, employee, agency or general partner thereof available for service of process as a resident of the State of Florida, or if any permitted assignee thereof shall be a foreign corporation, partnership or other entity or shall have no officer, employee, agent or general partner available for service of process in the State of Florida, Developer hereby designates the Secretary of State, State of Florida, its agent for, the service of process in any court.

16.05 Captions.

The article and section headings and captions of this Agreement and the table of contents preceding this Agreement are for convenience and reference only and in no way define, limit, describe the scope or intent of this Agreement or any part thereof, or in any way affect this Agreement or construe any article, section, subsection, paragraph or provision hereof.

16.06 Holidays.

It is hereby agreed and declared that whenever a notice or performance under the terms of this Agreement is to be made or given on a Saturday or Sunday or on a legal holiday observed in the City, it shall be postponed to the next following business day.

16.07 Exhibits and Attachment.

Each Exhibit and Attachment referred to and attached to this Agreement is an essential part of this Agreement. The Exhibits and any amendments or revisions thereto, even if not physically attached hereto shall be treated as if they are part of this Agreement.

16.08 No Brokers.

The Agency and Developer hereby represent, agree and acknowledge that no real estate broker or other person is entitled to claim or to be paid a commission as a result of the execution and delivery of this Agreement, including any of the Exhibits and Attachment.

16.09 Not an Agent of City or Agency.

During the term of this Agreement, neither Developer nor Developer hereunder shall be an agent of the City or the Agency, with respect to any and all services to be performed by Developer or Developer (and any of its agents, assigns, or successors) with respect to the Project.

16.10 No Recording.

Neither this Agreement nor a short-form Memorandum of Agreement may be recorded in the Public Records of Broward County, Florida.

16.11 Public Purpose.

The parties acknowledge and agree that this Agreement satisfies, fulfills and is pursuant to and for a public purpose and municipal purpose and is in the public interest, and is a proper exercise of the Agency's power and authority under the Act.

16.12 No General Obligation.

In no event shall any obligation of the Agency under this Agreement be or constitute a general obligation or indebtedness of the City or the Agency, a pledge of the ad valorem taxing power of the City or the Agency or a general obligation or indebtedness of the City or the Agency within the meaning of the Constitution of the State of Florida or any other applicable laws, but shall be payable solely from legally available revenues and funds. Neither Developer nor any other party under or beneficiary of this Agreement shall ever have the right to compel

the exercise of the ad valorem taxing power of the City, the Agency or any other governmental entity or taxation in any form on any real or personal property to pay the City's or the Agency's obligations or undertaking hereunder.

16.13 Disclaimer As To Governmental Authority.

Nothing in this Agreement shall be construed, interpreted or applied in such a manner as will constitute an undelegatable contracting away or waiver of any governmental power by the Agency or the City.

16.14 Term; Expiration.

Except as may be expressly specified otherwise herein, if not earlier terminated as provided in Article 12, this Agreement shall expire upon the Expiration of the Grant Eligibility Period. Thereafter, this Agreement shall no longer be of any force and effect, except as to such provisions of the Agreement which expressly survive expiration or termination thereof and subject to such statute of limitations of Florida.

16.15 Approvals Not Unreasonably Withheld.

The parties hereto represent that it is their respective intent as of the Effective Date and do covenant and agree in the future that all approvals, consents, and reviews will be undertaken and completed as expeditiously as possible, in good faith, and will not be arbitrarily or unreasonably withheld, unless otherwise expressly authorized by the terms of this Agreement. If a matter to be consented to or approved by the Agency, requires the consideration of the Agency's Board of Commissioners (whether pursuant to this Agreement or the written opinion of the Agency's General Counsel), then, provided Agency gives Developer notice of such requirement within the time period provided for such consent or approval, such matter shall not be deemed approved or consented to unless the Agency shall fail to respond to Developer's request by the date which is three (3) days after the next Regular Scheduled Meeting of the Agency's Board of Director's which occurs no later than the next Regular Scheduled Meeting following receipt of such request (but in no event not later than forty five days following such request).

16.16 Time of the Essence.

Time is of the essence in the performance of all obligations and all approvals or reviews contemplated by this Agreement.

16.17 Standing and Enforceability.

The parties stipulate and agree that for enforcement purposes during the term of this Agreement only Developer, Agency, and, if specifically permitted by this Agreement, their successors and assigns, shall have standing. No rights of enforcement of this Agreement shall accrue to or vest in any other person, entity or governmental body.

16.19 Audit Right and Retention of Records.

Agency shall have the right to audit the books, records, and accounts of Developer that are related to 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. 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 City 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 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 has been initiated and audit findings have 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. If the Florida public records law is determined by Agency to be applicable to Developer shall comply with all requirements thereof; however, Developer shall violate no confidentiality or non-disclosure requirement of either federal or state law. 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.

Developer shall maintain during the term of the Agreement all books of account, reports and records in accordance with generally accepted accounting practices and standards for records directly related to this contract.

16.20 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.

Developer and all contractors or subcontractors (the "**Contractor**") engaging in services in connection with construction and/or maintenance of the Project shall:

(a) Keep and maintain public records that ordinarily and necessarily would be required by 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 the Agreement and as to Contractor 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 or maintenance at 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 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 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.

(e) **If Developer or any 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.**

16.21 Non-Action on Failure to Observe Provisions of this Agreement.

The failure of the Agency or Developer to promptly or continually insist upon strict performance of any term, covenant, condition or provision of this Agreement, or any Exhibits or Attachments hereto, or any other agreement, instrument or document of whatever form or nature contemplated hereby shall not be deemed a waiver of any right or remedy that the Agency or Developer may have, and shall not be deemed a waiver of a subsequent default or nonperformance of such term, covenant, condition or provision.

16.22 Insurance to be Carried by the Developer/Contractor.

The Developer/Contractor shall purchase and maintain at its own expense, the following types and amounts of insurance, in forms and companies reasonably satisfactory to the Agency.

(a) During the construction period, the Developer, at its expense, shall keep all of the insurable buildings, property and equipment located on the Project Site insured under a Builder's Risk Insurance policy providing for "all risk property coverage" for loss or damage including the perils of fire, wind, flood, tropical storm or hurricane, theft, vandalism and malicious mischief. Such insurance shall be in a face amount not less than one hundred percent (100%) of the cost of construction of the Project, as set forth the

construction contract for the Project, and the insurer shall be obligated to pay one hundred percent (100%) of the cost of restoring the improvements constructed, from time to time, during the construction period. Each insurance policy shall include the Agency and such project lenders as request it as an additional insured, as the interest of each may appear, and shall provide for loss to be payable to Developer or, to the extent required under the project financing, or by the project lenders.

(b) Following any Completion Date and during the term of this Agreement, the Developer or its successors, at their expense, shall keep all of the insurable buildings, structures, property and equipment on the Project Site insured under an All Risk property policy for loss or damage including the perils of fire, wind, flood, tropical storm or hurricane, theft, vandalism, and malicious mischief. Such insurance shall be in an amount of no less than the replacement value of said insurable real property, including structures, property and equipment. As provided in this Article for any loss or damage to the Project, to the extent that insurance proceeds are available and the necessary or contemplated repairs are feasible, the Developer shall repair any damage or destruction to the Project. Each insurance policy shall name the Agency and such project lenders as request it as additional insured and loss payee, as the interest of each may appear, and provide for the loss to be payable to the Developer or, to the extent provided, the project lenders.

(c) During the construction period, the Developer or Contractor shall secure and maintain or cause to be secured and maintained in full force and effect such commercial general liability insurance including coverage for operations, independent contractors, products, completed operations, broad form property damage and personal injury as will protect the Developer, the Agency, and their agents and employees from any and all claims and damages for injury to persons or death or damage to any property of the Agency, or of the public, which may arise out of or in connection with the performance of any work or operations by the Developer in, on, under, or over the Project Site during the construction of the Project, whether said work or operations shall be by the Developer, the Contractor, or by anyone directly or indirectly contracted, employed or retained by any of them. The amounts of such insurance shall not be less than limits of \$1,000,000.00 per occurrence for injury to persons or death, or for property damage or such larger amount as determined by Developer. The limit of liability for personal injury shall be no less than \$1,000,000.00 and the limit of liability for contractual liability shall be no less than \$1,000,000.00. Each policy shall name the Agency and such project lenders, as request it, as additional insured.

(d) After any Completion Date and during the term of this Agreement, the Developer shall secure and maintain, or cause to be secured and maintained, in full force and effect, commercial general liability insurance, in an amount not less than \$500,000 per occurrence, and including coverage for premises, completed operations, independent contractors, broad form property damage and personal injury from any and all claims for damages for injury to persons or death, or for damage to any property of the Agency or the public which may arise out of the Developer's use and occupancy of the Project Site and the operation of the project on the Project Site. Developer may provide this insurance

by adding the Agency and their agents and employees as an "additional insured" on any and all policies provided.

(e) During the construction period, the Contractor shall secure and maintain or cause to be secured and maintained in full force and effect auto liability insurance in compliance with State law.

(f) The Developer, Contractor and all subcontractors shall each secure and maintain in full force and effect Workers' Compensation insurance, if applicable, for all their respective personnel, employed at the site of the work or in any way connected with the work that is the subject of this Agreement if such insurance is required by law to be provided. The insurance required by this provision shall comply fully with the Florida Worker's Compensation law shall include statutory limits on worker's compensation, as well as Employees Liability Insurance with limits of no less than \$500,000.00 per occurrence.

(g) All insurance and lesser amounts for insurance need to be approved in writing by the City's risk manager based on City's insurance requirements for similarly situated developments.

16.23 Non-Cancellation Clause.

All insurance policies or agreements required by this Article hereof shall provide that such policies or agreements cannot be substantially modified, canceled or terminated until after at least thirty (30) day's notice has been given to the Agency and the Developer, to the effect that such insurance policies or agreements are to be substantially modified (including the terms of such modification), canceled or terminated at a particular stated time thereafter.

16.24 Certificate of Insurance.

The Developer shall provide or cause to be provided to the Agency policies or certificates of insurance or other acceptable proof of compliance with the insurance provisions of this Agreement at such times as shall be reasonably required and shall file replacement certificates thirty (30) days prior to expiration or termination of the required insurance during the term of this Agreement.

16.25 Right of Parties to Obtain Insurance.

In the event the Developer at any time during the term of this Agreement refuses, neglects or fails to secure and maintain in full force and effect any or all of the insurance required by this Agreement, the Agency may procure or renew such insurance and after notice to the Developer that it must obtain such insurance within thirty (30) days of such notice, all amounts of money paid by the Agency for procurement or renewal of such insurance shall be due and payable forthwith by the Developer to the Agency to the extent either paid the cost of any such insurance together with interest, at the statutory rate, to the date of payment thereof by the Developer. The Agency shall notify the Developer in writing of the date, purposes, and amounts of any such payments made by it pursuant to this Article.

16.26 Non-Waiver of Developer's Obligations.

No acceptance or approval of any insurance policy or policies by the Agency or the Developer shall relieve or release or be construed to relieve or release any other party from any liability, duty or obligation assumed by or imposed upon it by the provisions of this Agreement.

16.27 Reasonable Deductible.

Any insurance policy required by this Article may contain a reasonable deductible provision provided advance notice of said deductible provision is given by the Developer to the Agency and approval from the Agency is given in writing, which approval shall not be unreasonably withheld or delayed. In the event that the Agency fails to approve or disapprove such deductible provision pursuant to this Article 16.27, within thirty (30) days of the notice from the Developer as required by this Article 16.27, such failure shall be deemed an approval of such deductible provision by the Agency.

16.28. Sovereign Immunity.

Nothing herein shall be deemed a waiver of sovereign immunity in favor of the Agency.

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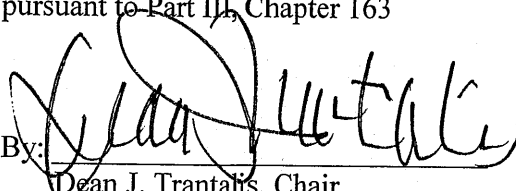
IN WITNESS WHEREOF, the parties hereto have set their hands effective as of the date set forth in the introductory paragraph.

AGENCY:

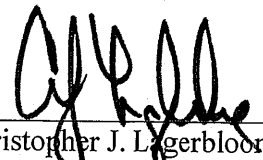
WITNESSES:

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


Jeannette A. Johnson
Jeannette A. Johnson
[Witness print or type name]

By: 
Dean J. Trantalis, Chair

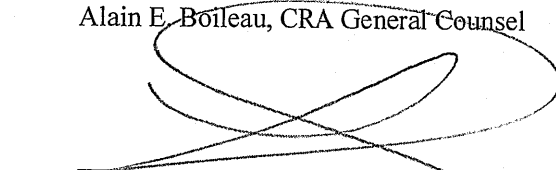
Quinn Rizzuto Smith
Quinn Rizzuto Smith
[Witness print or type name]

By: 
Christopher J. Lagerbloom,
Executive Director

ATTEST:


Jeffrey A. Modarelli, CRA Secretary

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


Lynn Solomon, Assistant General Counsel

WITNESSES:

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

Muriel I. Stalker

Muriel I. Stalker

[Witness print or type name]

Francisco Llanos

FRANCISCO LLANOS

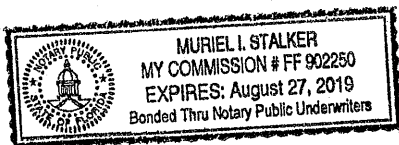
[Witness print or type name]

Steven J. D'Amico SA
Print Name: Steven J. D'Amico SA
Title: Authorized Representative

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 30th day of January, 2019 by Steven J. D'Amico, Sr. as Manager of Northwest 6th Investments LLC on behalf of the company. He is personally known to me or has produced _____ as identification.

(SEAL)

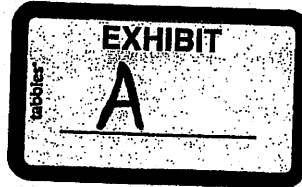


Muriel I. Stalker
Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed,
Printed or Stamped

My Commission Expires:

Commission Number



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

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, Davie, 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

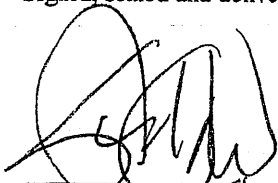
Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

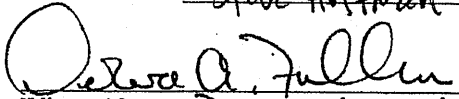
To Have and to Hold, the same in fee simple forever.

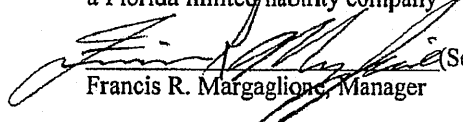
And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful 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

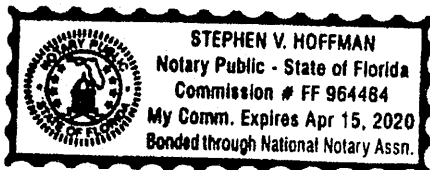

Witness Name: Debra A. Fullen

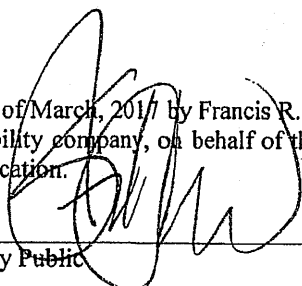
Flagler Property of Broward County LLC,
a Florida limited liability company
 (Seal)
Francis R. Margaglione, Manager

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.

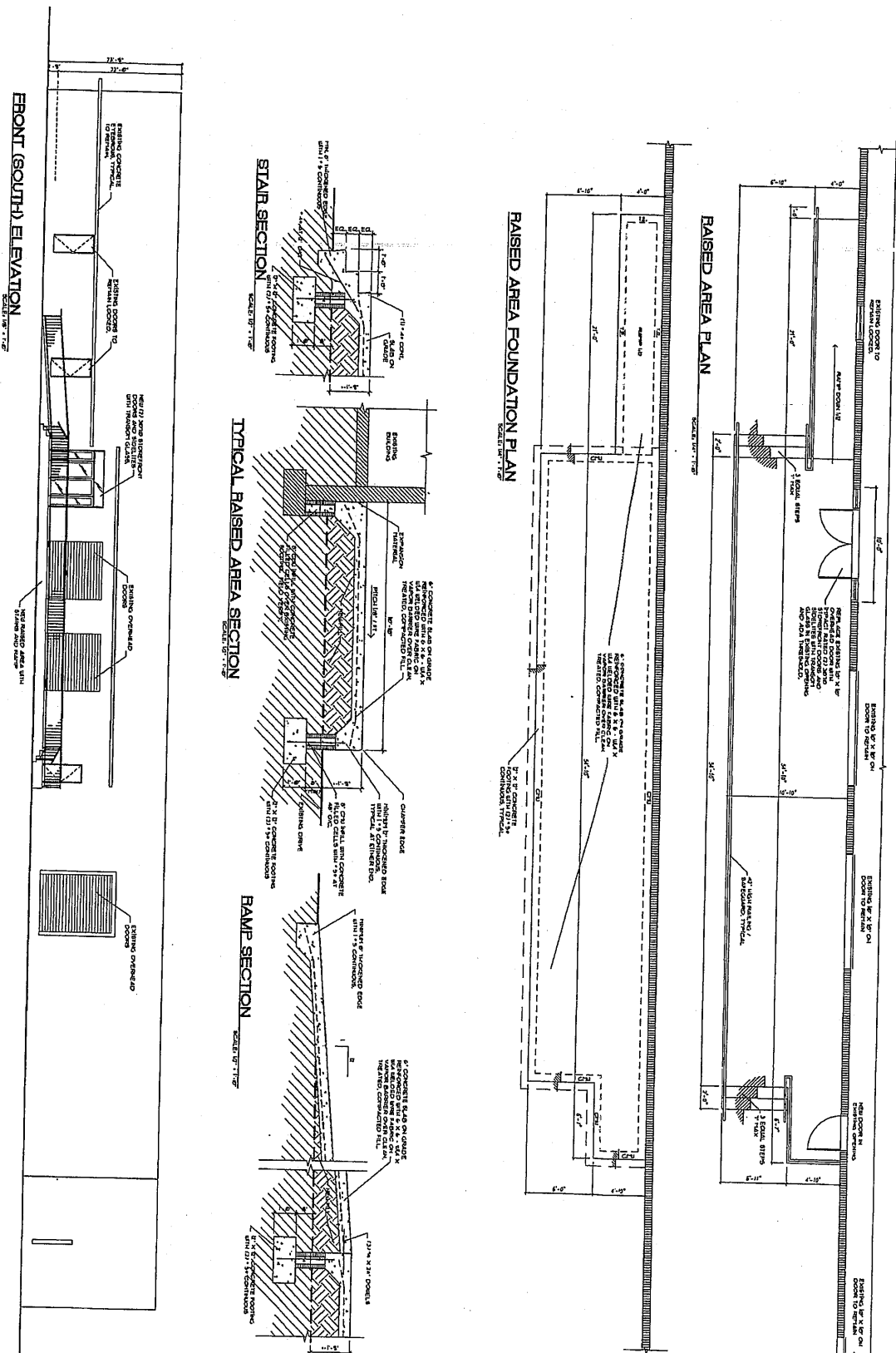
[Notary Seal]



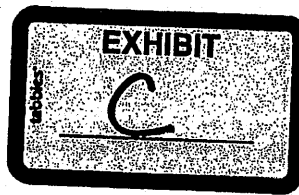

Notary Public

Printed Name: _____

My Commission Expires: _____



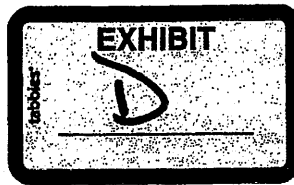
ALLICA ARCHITECTURAL GROUP SITE / VANILLA SHELL SISTRUNK MARKET PROJECT 115 NORTHWEST 6TH STREET FORT LAUDERDALE, FLORIDA		LICENSE No. 12640 ROBERT C. ALLICA, ARCHITECT 2540 NORTHWEST 13 AVENUE FORT LAUDERDALE, FLORIDA 33309 P 954.363.5320 F 954.363.5309 W 1/101 WOODLARK, FLORIDA 33305
DRAWN BY CHECKED BY APPROVED BY	DATE 07/23/08	SHEET NO. 1



CRA Employment Report for period of January 1, 20__ to December 31, 20__

Company Employed	Employee #	Employee Name *	Date of Hire	Date of Termination	Employee Job Title	Rate of Pay	Hours Worked	CRA Certified Date	Address in CRA
							Totals	-	
							FTE Benchmark	2080	
							Total FTE	-	

* = Employee Name will be supplied on request on a separate report where one can cross reference and employee name back to this report



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 30th day of January, 2018⁹.

WHEREAS, in furtherance of the Plan (defined herein), and pursuant to duly convened public meetings, a certain Development Agreement for Development Incentive Program Grant dated 1/30, 2019 was executed between Fort Lauderdale Community Redevelopment Agency, a community redevelopment agency created pursuant to Chapter 163, Part III, Florida Statutes ("Agency") and North West 6th Investments LLC, a Florida limited liability company ("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 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 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 as defined in the Agreement. 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 a food hall for a period of five (5) 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 five (5) year term commencing on Project Completion Date.

DEVELOPER:

WITNESSES:

Francisco Uaros
[Witness print or type name]

Muriel I. Stalker
[Witness print or type name]

NORTHWEST 6TH INVESTMENTS, LLC, a
Florida limited liability company

By:

Title: Manager

Print Name: Steven J Dapuzzo Sr

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this
30 of Jan, 2019 by Steven Dapuzzo Manager of
NORTHWEST 6TH INVESTMENTS LLC, a Florida limited liability company on behalf of
the company. He is personally known to me or has produced _____ as
identification.

(SEAL)



Muriel I. Stalker
Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed,
Printed or Stamped

My Commission Expires:

Commission Number

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

MORTGAGE

THIS MORTGAGE, entered into this _____ day of _____, 201____, between North West 6th Investments, LLC, a Florida limited liability company, whose address is _____ 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 not to exceed One Million Four Hundred Thousand and No/100Dollars (\$1,400,000.00) 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:

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 Mortgagor in accordance with the Development Agreement for Development Incentive Program Grant entered into by Mortgagor and Mortgagee dated _____, 201____ (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 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 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.

14. The Mortgagee acknowledges and agrees that the Mortgagor has executed a promissory note with an institutional lender(s), _____, to be secured by a mortgage encumbering the Property (the "First Mortgage "). Mortgagee further acknowledges and agrees that this Mortgage and the Note(s) in favor of the Mortgagee shall be subject to and at all times subordinate to the First Mortgage.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURE PAGE FOLLOWS]**

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:

MORTGAGOR
NORTH WEST 6TH INVESTMENTS
LLC, a Florida limited liability company

Francisco Llanos
[Witness-print or type name]

Muriel I. Stalker
Muriel I. Stalker

[Witness-print or type name]

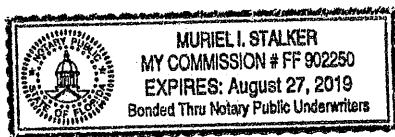
Title: Manager

Print Name Steven J Dapuzzo SR

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 30 day of January, 2019 by Steven Dapuzzo SR of North West 6th Investments LLC, a Florida limited liability company, on behalf of the company. He is personally known to me or has produced license as identification.

(SEAL)



Muriel I. Stalker
Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed,
Printed or Stamped

My Commission Expires:

Commission Number

NOTE

THIS INSTRUMENT PREPARED BY:

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

\$1,400,000.00

Fort Lauderdale, Florida
_____ 201__

PROMISSORY NOTE

FOR VALUE RECEIVED, the undersigned North West 6th Investments, 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 One Million Four Hundred Thousand and No/100 Dollars (\$1,400,000.00) or so much as shall be advanced.

- I. TERM: The term of this loan is five (5) years from Completion Date as contemplated in the Development Agreement for Development Incentive Program Grant between Maker and Agency dated _____, 201__ (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.
- III. PAYMENT: Payment on the principal amount of the loan shall not be required so long as the property or Project is not sold or transferred for a five (5) year period following the 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 Completion Date, Steve D'Apuzzo, Sr., is a principal of the Developer and the Developer is not in default of any provision of the Agreement. Further, the principal amount of this loan shall be forgiven to the extent Full Time Equivalent Job Hours as required under the Agreement are created and approved by the Agency and no event of default has been declared. After 5 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, is due immediately: (1) upon the sale,

transfer or refinance of the property legally described in the Mortgage within five (5) years from the Completion Date; or (2) upon the sale, transfer or conveyance of the stock or membership interest by the Steve D'Apuzzo, Sr., in the Maker without the approval of the Agency or (3) 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 _____, duly filed in the public records of Broward County, Florida (the "Mortgage").

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: North West 6th Investments, LLC,
a Florida limited liability company. (Developer)

By: _____

Print Name : Steven J D'Apuzzo Sr
Title: Manager