

FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FOURTH AMENDMENT TO DEVELOPMENT AGREEMENT (the “**Fourth Amendment**”) is made and entered into as of January 29, 2018 (the “**Effective Date**”), by and between ICEBOX CAFE RE, LLC, a Florida limited liability company (the “**Developer**”), the HALLANDALE BEACH COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic (the “**CRA**”) and ICEBOX PANTRY RE, LLC, a Florida limited liability company (the “**Successor Developer**”).

R E C I T A L S

1. The CRA and the Developer entered into that certain Development Agreement dated July 11, 2016 (the “**Original Development Agreement**”), as amended by that certain Amendment to Development Agreement dated August 24, 2016 (the “**First Amendment**”), as further amended by that certain Second Amendment to Development Agreement dated October 23, 2016 (the “**Second Amendment**”), as further amended by that certain Third Amendment to Development Agreement dated November 14, 2016 (the “**Third Amendment**”) and as further amended by that certain side letter dated December 20, 2017 (the “**Side Letter**” and, collectively, with the Original Development Agreement, the First Amendment, the Second Amendment and the Third Amendment, the “**Development Agreement**”).

2. The Developer and the CRA desire to incorporate certain modifications into the Development Agreement including the assignment of the Development Agreement from Developer to the Successor Developer.

NOW, THEREFORE, in consideration of the mutual promises and agreements set forth in this Amendment and the Development Agreement, the adequacy of which is hereby acknowledged, the Developer, Successor Developer and the CRA agree as follows.

Section 1. **Recitals.** The foregoing recitals are true and correct and incorporated herein by this reference. All defined terms not defined in this Fourth Amendment shall have the meanings set forth in the Development Agreement.

Section 2. **Initial Site Work.** In order to expedite the Project and as an accommodation to the Developer, the CRA agrees to engage EMS Site Development to perform the Initial Site Work for a not to exceed amount of Sixty Seven Thousand Five Hundred Ninety and 00/100 Dollars (\$67,590) in accordance with the proposal attached hereto as Exhibit “A” and made a part hereof. Except as set forth in the preceding sentence, the CRA shall have no further obligation to perform or cause to be performed the Initial Site Work. Developer acknowledges and agrees that the Developer remains responsible for any remaining Initial Site Work and, in consideration of the CRA obligations hereunder, hereby waives and releases the CRA from any claims, injuries, costs, damages, fees and judgments including attorneys’ fees and costs (at both the trial and appellate levels) arising from, related to or in connection with the performance or non-performance of the Initial Site Work by EMS Site Development.

Section 3. CRA Financing. In consideration of the CRA's agreement to engage and pay EMS Site Development, the Gap Grant is reduced from One Hundred Thirteen Thousand and 00/100 Dollars (\$113,000) to Forty Five Thousand Four Hundred Ten and 00/100 Dollars (\$45,410). The CRA Financing shall be reduced from an aggregate of Three Hundred Sixty Eight Thousand and 00/100 Dollars (\$368,000) to an aggregate of Three Hundred Thousand Four Hundred Ten and 00/100 Dollars (\$300,410).

Section 4. Community Benefits Plan. Section 4.7 of the Development Agreement is hereby deleted in its entirety and replaced by the following:

"4.7. Community Benefits Plan. The Developer acknowledges and agrees that an integral element of the Project is a Community Benefits Plan. The obligation of the Developer with respect to the Community Benefits Plan is to make a payment to the City in the amount of Twenty Five Thousand and 00/100 Dollars (\$25,000) (the "CBP Payment"). The CBP Payment shall be made by the Developer to the City upon the earlier to occur, and as a condition, of (i) the conveyance of the CRA Property from the CRA to the Developer, (ii) the closing of the CRA Financing, (iii) the issuance of the building permit for the Project (iv) or any other event pursuant to which the CRA provides a material benefit to the Developer under the Agreement."

The definition of Certified CBP Achievement set forth in Section 2.3 of the Development Agreement hereby deleted in its entirety.

Section 5. Developer Default. Section 8.1 of the Development Agreement is hereby amended by inserting the following subsection 8.1(h):

"(h) Failure to Commence Construction of the Work. If the Developer fails to commence construction of the Work within ninety (90) days following the closing of the Construction Loan."

The second line of the first full paragraph following subsection 8.1(h) is amended by deleting "(g)" and inserting "(h)".

Section 6. Assignment and Assumption. Developer hereby assigns, transfers, and sets over to Successor Developer all of Developer's rights, title, interests, obligations and benefits in and to the Development Agreement from and after the Effective Date. Successor Developer, for itself and its successors and assigns, expressly assumes all of the obligations of the Developer under the Development Agreement, and agrees to abide by and be subject to all of the terms, conditions, obligations, reservations and restrictions to which the Developer is subject to with respect to the Development Agreement. Notwithstanding anything herein to the contrary, the Developer shall not be released from its liabilities and obligations as the Developer under the Agreement until the completion of the Project.

The Developer agrees to indemnify and hold the CRA, its board members, and employees harmless to the fullest extent permitted by law from all liabilities, losses, interest, damages, costs

or expenses (including without limitation, reasonable attorneys' fees, whether suit is instituted or not and if instituted, whether incurred at any trial, appellate or post judgment level), threatened or assessed against, levied upon, or collected from, the CRA arising out of, from, or in any way connected with or arising from the liabilities and obligations of the Developer under the Agreement prior to the Effective Date.

CRA consents to the foregoing assignment and assumption on the terms and conditions set forth herein. Such consent is expressly subject to and conditioned upon the Developer depositing with the CRA the amount of Seven Thousand Five Hundred and 00/100 Dollars (\$7,500) (the "Deposit") from which the CRA may deduct the actual costs of time and materials incurred by the CRA in conjunction with the CRA's review and approval of this Fourth Amended and the assignment and assumption including, but not limited to, the legal fees and expenses of the CRA. Following the approval by the CRA Board of Directors of this Fourth Amendment, the CRA shall reconcile with the Developer and reimburse to the Developer any unused portion of the Deposit; provided further that the Developer shall be responsible for and pay any amounts in excess of the Deposit up to an aggregate of Twenty Five Thousand and 00/100 Dollars (\$25,000) as set forth in Section 12.1(d) of the Agreement.

Following the Effective Date and the receipt by the CRA of the Deposit, all references in the Development Agreement to the Developer shall mean and refer to the Successor Developer, except for any references in this Fourth Amendment which are expressly meant to refer only to the Developer including the indemnification set forth in the prior paragraph.

Section 7. Conflicts. Except as expressly modified herein by this Fourth Amendment, the provisions of the Development Agreement remain unmodified and in full force and effect and are hereby ratified by the parties. In the event of any conflict between the terms and provisions of this Fourth Amendment and the terms and provisions of the Development Agreement, the terms and provisions of this Fourth Amendment shall control.

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IN WITNESS WHEREOF, the undersigned have caused the execution hereof as of January 29, 2018.

DEVELOPER:

ICEBOX CAFE RE, LLC,
a Florida limited liability company

By: _____
Robert Siegmann
Managing Member

CRA:

HALLANDALE BEACH COMMUNITY REDEVELOPMENT AGENCY,
a public body corporate and politic

By: _____
Roger M. Carlton
Executive Director

Attest:

By: _____
Mario Bataille, CMC
HBCRA Clerk

Approved as to form and legal sufficiency:

By: _____
GrayRobinson, P.A.
HBCRA Attorney

SUCCESSOR DEVELOPER

ICEBOX PANTRY RE, LLC,
a Florida limited liability company

By: _____
Robert Siegmann
Managing Member

JOINDER AND CONSENT

The undersigned hereby joins in and consent to this Fourth Amendment and reaffirms all of its rights and obligations relating to, arising from or in connection with the CRA Loan.

ICEBOX CAFE, L.C.,
a Florida limited liability company

By: _____
Robert Siegmann
Managing Member