

THIRD AMENDMENT TO DEVELOPMENT AGREEMENT

THIS THIRD AMENDMENT TO DEVELOPMENT AGREEMENT (the "**Amendment**") is made and entered into as of the 14 day of November, 2016 (the "**Amendment Effective Date**"), by and between ICEBOX CAFE RE, LLC, a Florida limited liability company ("**Developer**"), and the HALLANDALE BEACH COMMUNITY REDEVELOPMENT AGENCY, a body public and corporate of the State of Florida (the "**CRA**").

WITNESSETH:

WHEREAS, the Developer and the CRA 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 to Development Agreement**") and as further amended by that certain Amendment to Development Agreement dated October __, 2016 (the "**Second Amendment to Development Agreement**"; collectively, with the Original Development Agreement and the First Amendment to Development Agreement, the "**Development Agreement**");

WHEREAS, the Development Agreement sets forth certain requirements related to the development of that certain real property further described in the Development Agreement; and

WHEREAS, the Developer and the CRA desire to incorporate certain modifications into the Development Agreement as further set forth in this Amendment.

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, Developer and the CRA agree as follows:

1. **Incorporation of Whereas Clauses.** The Whereas clauses of this Amendment are true and correct and are incorporated into and made a part of this Amendment as specifically as if set forth herein. All capitalized terms used in this Amendment without separate definition shall have the same meanings assigned to them in the Development Agreement.

2. **CRA Financing.** Section 2.3 of the Development Agreement is hereby amended to provide that:

- a. The Gap Grant is reduced to One Hundred Thirty-Eight Thousand and 00/100 Dollars (\$138,000.00).
- b. The CRA Financing shall mean an aggregate of Three Hundred Ninety-Three Thousand and 00/100 Dollars (\$393,000.00).

3. **Delivery of Gap Grant.** Section 2.3 of the Development Agreement is hereby further amended to provide that the CRA shall provide the Gap Grant (as reduced in accordance with the terms hereof) to Developer simultaneously with disbursement of the CRA Loan. The timing of delivery of the Gap Grant is being amended in accordance with the terms hereof to accommodate the CRA's request to construct certain improvements in Phase 1 which were initially scheduled to be completed in Phase 3. Accordingly, Section 4.8 of the Development Agreement is hereby deleted.

4. Conveyance of the Phase 1 Property and Phase 2 Property. Sections 4.5 and 4.6 of the Development Agreement are hereby amended to provide that the CRA shall convey the Phase 1 Property and Phase 2 Property (collectively, the "Property") to Developer simultaneously with the Developer's closing of the CRA Loan and the Construction Loan. The timing of conveyance of the Property is being amended in accordance with the terms hereof. Accordingly, Section 4.6 of the Development Agreement is hereby deleted and Section 4.5 of the Development Agreement is hereby amended as follows:

"4.5 Conveyance of the Phase 1 Property~~Property~~. The ~~Phase 1 Property~~Property shall be conveyed to Developer simultaneously with Developer's closing of the CRA Loan and the Construction Loan, provided, however, that within thirty (30) days following fulfillment to the satisfaction of the CRA, in its reasonable discretion, of the last of the following conditions have been met: (a) an Event of Default on the part of Developer has not occurred which remains uncured at the time of such conveyance, (b) the Developer has provided the CRA with satisfactory proof of the Developer's Equity contribution, ~~(d) the Borrower has closed on the CRA Loan and~~ (eg) a covenant (the "Covenant") to be recorded in the Public Records simultaneously with the Deed (as defined below) pursuant to which (i) the Developer agrees that: (A) the Property shall not be used for any purposes other than the Project uses described in this Agreement, or any other use as may be permitted by the CRA from time to time, for a minimum period of fifteen (15) years and (B) if a breach of the prohibition set forth in the foregoing subsection (A) remains uncured thirty (30) days after Developer's receipt of written notice of such breach from the CRA, then the Developer agrees to pay to the CRA, as the CRA's sole remedy, a sum equal to the unamortized amount as of the date of such breach of ~~Five Hundred Eighty Thousand Four Hundred Twenty and 00/100 Dollars (\$588,420.00)~~One Million Six Thousand Four Hundred Twenty and 00/100 Dollars (\$1,006,420.00) amortized on a straight line basis over the fifteen (15) year period, which Covenant shall be in form and substance reasonably acceptable to the CRA and its legal counsel. The conveyance of the Property by the CRA to the Developer shall be by Special Warranty Deed (the "Deed") free and clear of all rights of possession, liens and encumbrances, subject to any easements or other restrictions of record including, but not limited to, the Covenant and the Declaration of Restrictive Covenants set forth below and otherwise on an "AS-IS" "WHERE-IS" basis with no representations or warranties of any kind whatsoever except for the warranty of title as set for in the Deed or any other documents executed by the CRA in connection with said conveyance. The CRA shall also provide an owner's affidavit as well as other documents and information reasonably required by the title company to issue to Developer an owner's title insurance policy for the ~~Phase 1 Property~~Property without the "standard exceptions". In addition to the foregoing, the Developer agrees to accept title to the ~~Phase 1 Property~~Property subject to a perpetual Declaration of Restrictive Covenants prepared by the CRA's legal counsel and in a form and substance reasonably acceptable to the CRA in all respects that provides for, among other things, (a) the maintenance, repair and replacement of the improvements on the Project so that it remains consistent with the Site Plan for a period of fifteen (15) years, subject to any and all modifications to the Site Plan approved by the CRA from time to time, and (b) the prohibition of operation of the ~~Phase 1 Property~~Property for the following uses: (i) a convenience or check cashing store, (ii) gas station or automobile repair facility, (iii) billiard parlor, night club or

other place of recreation or amusement, (iv) any business serving alcoholic beverages except in conjunction with a restaurant operation, (v) a discount; variety, general or "dollar" store, (vi) a grocery store or supermarket, (vii) adult entertainment, adult bookstore or other store catering to adults only, (viii) smoke shop, (ix) pawn shop, (x) any business or facility used in growing, delivering, transferring, supplying, dispensing, dispersing, distributing or selling marijuana, whether by prescription, medical recommendation or otherwise, and whether consisting of live plants, seeds, seedlings or processed or harvested portions of the marijuana plant; or (xi) any combination of the foregoing uses. At any time prior to or after the conveyance of the ~~Phase 1 Property~~ Property to the Developer, the Developer may engage in marketing and presales at its cost and expense, as it deems necessary and appropriate. The CRA shall provide to Developer for review drafts of the Covenant and the Declaration of Restrictive Covenants within twenty (20) days after the Effective Date. If Developer elects to perform the Initial Site Work prior to the closing of the Construction Loan, prior to commencement of the Initial Site Work, the CRA agrees to deliver to Developer's attorney in escrow (the "Escrow") the executed closing documents conveying the ~~Phase 1 Property~~ Property to Developer in accordance with the terms hereof. The terms of the Escrow shall provide, in part, that the escrow agent shall be authorized to release the documents from escrow and record the Deed in the Public Records of Broward County, Florida, immediately upon the closing of the Construction Loan. The CRA and Developer shall use commercially reasonable efforts to agree upon the form of all documents required by this Section 4.5 as well as the terms of the Escrow prior to the expiration of the Phase 1 Inspection Period."

5. Miscellaneous. Except as specifically modified in this Amendment, all of the terms and conditions of the Development Agreement are and shall remain in full force and effect. In the event of any inconsistency between the terms of this Amendment and the terms of the Development Agreement, the terms of this Amendment shall control. This Amendment shall be construed and enforced in accordance with the laws of the State of Florida; and this Amendment shall be binding upon and inure to the benefit of the heirs, legal representatives, successors and permitted assigns of Developer and the CRA.

6. Counterparts/Electronic Signatures. This Amendment may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same Amendment. To facilitate execution and delivery of this Amendment, the parties may execute and exchange executed counterparts by facsimile or e-mail in a PDF file to the other party or to the other party's counsel. Facsimile signatures or signatures in a PDF file shall have the same legal effect as original signatures.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed by their duly authorized officer where applicable and sealed as of the date first above written.

DEVELOPER:

ICEBOX CAFE RE, LLC,
a Florida limited liability company

By: Robert J. Siegmann
Robert Siegmann
Managing Member

CRA:

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

By: Daniel A. Rosemond
Daniel A. Rosemond
Executive Director

Attest:

By: M. Bataille
Mario Bataille, CMC
CRA Clerk

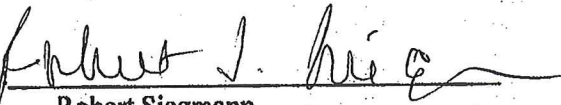
Approved as to form and legal sufficiency:

By: Gray Robinson, P.A.
Gray Robinson, P.A.
CRA Attorney

JOINDER AND CONSENT

The undersigned hereby joins in and consents to this Amendment.

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

By 

Robert Siegmann
Managing Member