

**RESOLUTION NO. R-2012-145**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO NEGOTIATE AND EXECUTE A FOURTH AMENDMENT TO A HOMEOWNER DEVELOPMENT ASSISTANCE AGREEMENT, IN SUBSTANTIALLY THE ATTACHED FORM, BETWEEN THE CITY OF NORTH MIAMI AND 125 DEVELOPERS, LLC TO PROVIDE FOR AN EXTENSION OF THE LOAN TERM; PROVIDING FOR AN EFFECTIVE DATE AND ALL OTHER PURPOSES.**

**WHEREAS**, on February 27, 2007, the City Council of the City of North Miami passed Resolution R-2007-35 which authorized the City Manager and City Attorney to enter into a Homeownership Development Assistance Agreement (“the Agreement”) with 125 Developers, LLC (Borrower) to finance the sale of units at 360 NE 125<sup>th</sup> Street (the “Property”) at affordable prices; and

**WHEREAS**, funds in the amount of Three Hundred Thousand Dollars (\$300,000.00) were disbursed to 125 Developers, LLC and are secured by a mortgage recorded at Official Record Book 25788 at Page Numbers 2348-2353 of the Public Records of Miami-Dade County, Florida; and

**WHEREAS**, the original Agreement was executed on April 27, 2007 with a loan term ending May 1, 2009; and

**WHEREAS**, the City Council on March 24, 2009 passed Resolution R-2009-34 which authorized a First amendment to the Agreement to extend the loan term to September 30, 2010 to allow additional time for the sale of the affordable housing units required under the Agreement; and

**WHEREAS**, a Second Amendment to the agreement was subsequently passed on April 12, 2011 (R-2011-39) allowing for an extension of the loan term to December 31, 2011; and

**WHEREAS**, on January 24, 2012, the Mayor and City Council approved a Third Amendment to the Agreement (R-2012-10) extending the loan term to June 15, 2012 and

allowing for the assignment and conversion of the Homeownership Development Assistance agreement to a Multi-Family Rental Rehabilitation Loan Agreement; and

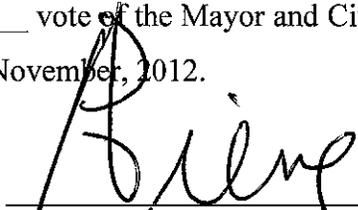
**WHEREAS**, the City supports a Fourth Amendment to the Agreement allowing for a further extension of the loan term to November 30, 2012, to allow sufficient time for the execution of the previously approved Assignment and Conversion of the Homeownership Development Assistance Agreement.

**NOW THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORTH MIAMI, FLORIDA:**

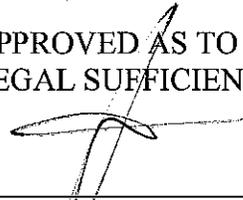
**Section 1. Authority to City Manager and City Attorney.** The Mayor and City Council of the City of North Miami, Florida, hereby authorize the City Manager and the City Attorney to negotiate and execute a Fourth Amendment to the Homeownership Development Assistance agreement, in substantially the attached form attached hereto as Exhibit "A."

**Section 2. Effective Date.** This Resolution shall become effective immediately upon adoption.

**PASSED AND ADOPTED** by a 5-0 vote of the Mayor and City Council of the City of North Miami, Florida, this 13 day of November, 2012.

  
\_\_\_\_\_  
ANDRE D. PIERRE, ESQ.  
MAYOR

ATTEST:   
\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:  
  
\_\_\_\_\_  
REGINE M. MONESTIME  
CITY ATTORNEY

SPONSORED BY: CITY ADMINISTRATION

Moved by: Councilman Marcellus

Seconded by: Mayor Pierre

**Vote:**

Mayor Andre D. Pierre, Esq.	<u>  x  </u>	(Yes)	<u>      </u>	(No)
Vice Mayor Marie Erlande Steril	<u>  x  </u>	(Yes)	<u>      </u>	(No)
Councilperson Michael R. Blynn, Esq.	<u>  x  </u>	(Yes)	<u>      </u>	(No)
Councilperson Scott Galvin	<u>  x  </u>	(Yes)	<u>      </u>	(No)
Councilperson Jean R. Marcellus	<u>  x  </u>	(Yes)	<u>      </u>	(No)

**FOURTH AMENDMENT TO HOMEOWNERSHIP DEVELOPMENT  
ASSISTANCE AGREEMENT BETWEEN THE CITY OF NORTH MIAMI  
AND 125 DEVELOPERS, LLC**

**THIS FOURTH AMENDMENT**, entered into on this \_\_\_\_ day of November, 2012, by and between **THE CITY OF NORTH MIAMI**, a Florida municipal corporation (hereinafter referred to as the "CITY"), with its office located at 776 Northeast 125<sup>th</sup> Street, North Miami Florida 33161 and **125 DEVELOPERS, LLC**, a limited liability company duly organized and authorized to do business in the State of Florida, having its principal office at 360 N.E. 125<sup>th</sup> Street, Suite 101, North Miami, Florida 33161 (hereinafter referred to as "BORROWER"), (collectively the "Parties").

**RECITALS**

**WHEREAS**, the Parties desire to amend the original Homeownership Development Assistance Agreement which was entered into on April 27, 2007 for a loan under the City's Homeownership Development Assistance Program; and

**WHEREAS**, the loan funds in the amount of Three Hundred Thousand Dollars (\$300,000) were disbursed to BORROWER, and was used for the rehabilitation of ten (10) affordable housing units for sale to low and very low income first time homebuyers in accordance with the CITY's Homeownership Development Assistance and First Time Homebuyer Housing Program guidelines; and

**WHEREAS**, Borrower sold one (1) unit to a low income first time homebuyer thereby reducing the loan amount to Two Hundred Seventy Thousand Dollars (\$270,000); and

**WHEREAS**, due to unexpected downturn in the housing market, the original time period was insufficient for BORROWER to properly allow for the sale of the remaining nine (9) affordable housing units; and

**WHEREAS**, the original agreement was amended to allow for an extension of the effective term of the provision until September 30, 2010; and

**WHEREAS**, the agreement was subsequently amended to extend the loan term to December 31, 2011, to allow additional time for BORROWER to explore different options with EverBank to secure the first mortgage and take the property out of foreclosure; and

**WHEREAS**, on January 24, 2012, the Mayor and City Council approved a Third Amendment to the Agreement extending the loan term to June 15, 2012 and allowing for the assignment and conversion of the Homeownership Development Assistance Agreement to a Multi-Family Rental Rehabilitation Loan Agreement in order to save the City's investment; and

**WHEREAS**, the City supports a Fourth Amendment to the Agreement allowing for a further extension of the loan term to November 30, 2012, to allow sufficient time for the execution of the previously approved Assignment and Conversion of the Homeownership Development Assistance Agreement.

**NOW THEREFORE**, in consideration of the mutual terms and conditions set forth below, the Parties agree as follows:

1. Section 2.5. LOAN TERM is hereby amended. The loan term provision of the original agreement is hereby extended to November 30, 2012.
2. All other terms and conditions of the original agreement, including compensation, shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties have caused this Amendment to be executed by their respective and duly authorized representatives effective as of the date first written above:

CITY OF NORTH MIAMI

125 DEVELOPERS, LLC  
"Borrower"

By: Stephen E. Johnson

By: \_\_\_\_\_

Title: City Manager

Title: Authorized Representative

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Witness Signature \_\_\_\_\_

\_\_\_\_\_  
Typed/Printed Name of Witness

ATTEST:

\_\_\_\_\_  
MICHAEL A. ETIENNE, ESQ.  
City Clerk

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY:

\_\_\_\_\_  
REGINE M. MONESTIME  
City Attorney