

ITEM II

**REVISED DRAFT**  
**MINUTES**  
**NORTHWEST PROGRESSO – FLAGLER HEIGHTS**  
**REDEVELOPMENT ADVISORY BOARD**  
**FORT LAUDERDALE**  
**100 NORTH ANDREWS AVENUE**  
**8<sup>th</sup> FLOOR CONFERENCE ROOM**  
**MARCH 25, 2015 – 3:30 P.M.**

**Cumulative Attendance**  
**May 2014 - April 2015**

<b><u>Members Present</u></b>	<b><u>Attendance</u></b>	<b><u>Present</u></b>	<b><u>Absent</u></b>
Steve Lucas, Chair	A	7	0
Ella Phillips, Vice Chair	P	7	1
Jessie Adderley	P	8	1
Sonya Burrows	P	9	0
Ron Centamore	P	9	0
Alan Gabriel	P	7	2
Camille Hansen	P	6	0
Mickey Hinton	P	7	2
Brice Lambrix	A	4	3
Dylan Lagi	P	9	0
Mark Mattern	P	9	0
Dr. Rosalind Osgood	A	3	0
Scott Strawbridge	P	9	0
John Wilkes	P	6	2

Currently there are 14 appointed members to the Board, which means 8 would constitute a quorum.

It was noted that a quorum was present at the meeting.

**Staff**

Alfred Battle, Deputy Director of Sustainable Development  
Sandra Doughlin, DSD/ELR  
Donald Morris, Economic Reinvestment Administrator  
Bob Wojcik, Planner III  
Kirk Buffington, Director of Finance  
Jamie Opperlee, Recording Secretary, Prototype, Inc.

**Communication to City Commission**

None.

**I. Call to Order / Roll Call**

Vice Chair Phillips called the meeting to order at 3:35 p.m. Roll was called and it was noted a quorum was present.

## **II. Approval of Minutes from February 25, 2015**

**Motion** made by Mr. Gabriel, seconded by Ms. Burrows, to approve. In a voice vote, the **motion** passed unanimously.

## **III. Motion to Approve – North Loop – Wave Streetcar Project, Bank Loan**

Mr. Battle stated that this is a request for the Board to approve Staff's recommendation that the CRA enter into an agreement with SunTrust Bank to issue debt for the North Loop portion of the Wave Streetcar project. He recalled that the Board has previously recommended that funding for this project be secured, and the City Commission has approved the issuance of debt, which resulted in an RFP to secure a lender. This proposal will be brought before the City Commission for adoption at their next meeting.

He clarified that \$1.75 million will be provided up front in order to satisfy the CRA's agreement with the South Florida Regional Transportation Authority (SFRTA) to add the North Loop to the Wave project. These funds were taken from the Flagler Village portion of the CRA's capital improvement program, and will be replaced once the debt has been issued.

**Motion** made by Mr. Mattern, seconded by Mr. Centamore, to approve.

Mr. Battle described the Wave Streetcar route and the North Loop. The CRA will pay an \$870,000 portion of the debt service each year as long as the CRA continues to exist. The loan will be self-amortizing. The principal will be paid back through assessments and revenue generated by the Wave. It was clarified that the \$870,000 would be the extent of the CRA's exposure; in the event that the CRA no longer exists, the City is written as the responsible party for funding the debt service.

In a roll call vote, the **motion** passed 10-1 (Mr. Strawbridge dissenting).

## **IV. Presentation – Ambassador Program / Chris Wren, DDA**

Chadwick Blue, representing the Downtown Development Authority (DDA), provided an overview of the Ambassador Program. In 2014, he and other members of the DDA visited West Palm Beach to view that city's Ambassador Program and determine if it could be implemented in Fort Lauderdale. The DDA launched this program in October 2014 and used City grant funds to increase the program's hours and the scope of its patrol in January 2015. He emphasized the positive impact of the Ambassador Program on the Downtown area, including a close relationship with the Fort Lauderdale Police

Department, who are supportive of the program. The intent of the Ambassador Program is to address smaller issues, such as loitering, small larcenies, and graffiti.

Mr. Blue advised that the current hours of operation are Sunday through Thursday, 10 a.m. to 10 p.m., and 9 a.m. to 12 a.m. on Fridays and Saturdays. Teams work in two-person shifts and begin by meeting with businesses in the area. They also use maps to assist tourists and residents. In the event of major issues, the teams observe from a safe distance and contact the Police.

James Wetherington and Marcus Sigler, representing the Ambassador Security Program, described his responsibilities, pointing out that they do not act as Police Officers. Some issues they help to address include facilitating contact between homeless persons and organizations that can help them, educating tourists on safety and crime prevention, and working with the community to improve communication, build relationships, and ensure the overall quality of life. They invited the Board members to visit the Downtown area and see the Ambassador Program in action.

The members discussed the program further, including its service area, which includes the Riverwalk, 7<sup>th</sup> Avenue, and Collee Landing. Service has recently been added on Las Olas Boulevard. The Ambassadors provide a daily activity report listing everything they encountered during each shift. Service is paid for by private organizations.

Mr. Battle explained that the purpose of today's presentation is to further inform the Board about the Ambassador Program. The CRA has not yet entered into a funding agreement to expand service into Flagler Village. If they decide to do so, the DDA's existing contract with the Ambassador Program would be amended and the CRA would make a contribution to the DDA to fund a pilot program. When the current contract expires, the City would participate in the next vendor selection process. Once the program is underway, its hours and staffing would be tailored to the needs of its service area.

**V. Funding Request – T & G Group Holdings, LLC – Shoney's Restaurant  
525 NW 7<sup>th</sup> Avenue**

This Item was deferred until the April 22, 2015 meeting.

**VI. Funding Request – Refresh Live, Inc. – 1033 Sistrunk Boulevard**

It was clarified that the funding request is for \$122,784.80 for Refresh Live, which currently operates in the Midtown Commerce Center. The funds would help expand this operation with a full build-out, including a commercial kitchen and seated restaurant, as well as chef training. A \$102,675.20 portion of the request would be a forgivable loan from the Business Property Investment Program. The additional \$20,109.60 would cover the cost of a lease on the current space.

Chad and Karen Cherry, representing Refresh Live and Bring Organics Back, confirmed that the total cost of the project would be roughly \$300,000, with the balance of the cost provided by Refresh Live, Inc. Ms. Cherry explained that the business provides organic, fresh, and local food, as well as education to help promote healthier eating and lifestyles. At present, the lack of a commercial kitchen limits the capacity of the program.

Refresh Live plans to offer meal delivery, a corporate café, contract services, and rentable kitchens in addition to its restaurant function. It is expected to create at least 20 jobs, which would not be limited to food service. Ms. Cherry noted that the presence of another business in the area also promotes neighborhood safety and a community hub. The members and guests present expressed support for the business's efforts to provide fresh local food and promote healthier options within the CRA.

There was further discussion of the funding request, which would provide \$102,675.20 from the Business Property Investment Program and \$20,109.60 for commercial rental assistance. Mr. Wojcik explained that an existing mortgage on the subject property will be forgiven in August 2015 and replaced by a smaller third mortgage. Commercial rental assistance will be provided while the building undergoes renovation. The \$102,675.20 loan will be forgiven over a 5-year period. If the business fails or moves out within this period, they will have to repay a portion of the loan.

Mr. Cherry pointed out that the business has been successful thus far without the assistance requested from the CRA or the expansion it would help fund. It was clarified that because the obligation for repayment of the loan would fall on both the business and the property owner, there should be consideration of extending the term of the lease in order to make the lease and loan periods consistent.

**Motion** made by Ms. Burrows, seconded by Ms. Adderley, to accept Staff recommendations, with the caveat of splitting in two the build-out and the rental reimbursement separate and the requirement or recommendation that the lease be extended to meet the [loan's time frame]. In a voice vote, the **motion** passed unanimously.

## **VII. Funding Request – Rechter Holdings, Inc. – 913 NE 4<sup>th</sup> Avenue**

Mr. Wojcik explained that the subject property was purchased by Dr. Michael Rechter. Prior to his purchase, the property was occupied by a company that manufactured solar panels. The building will be completely renovated to create more attractive retail space, including an office, an art gallery, and a restaurant/bar. Minimum construction costs for the renovation are estimated at \$901,000. The Applicant has secured a loan for \$450,000, and plans to pay the remainder of the costs after the bank loan and proposed CRA contribution.

The funding request, which totals \$206,000, qualifies for three CRA programs: the Business and Property Investment Program, which would cover up to 20% of construction costs; the façade grant program for \$15,000; and streetscape improvements estimated at \$182,000, for which the CRA would cover 50% of the costs. Staff recommends approval of the request.

Dr. Michael Rechter, CEO of Integra Real Estate, advised that the company has previously focused on redeveloping shopping centers. He described some of the company's properties in other cities, including an entertainment center, a bowling alley, and a restaurant/bar. They hope to have similar success in the Progresso area with retail space. The total investment for the property is expected to total over \$1 million.

The Board discussed the request, with Mr. Centamore noting that some high-end businesses already exist in the Progresso triangle and will help promote redevelopment. He added that his neighborhood association had recently approved Integra's plans for the subject property. There was also discussion of improving mobility and providing on-street parking on Progresso Drive. Mr. Strawbridge cautioned that redevelopment of more than 50% of the property could trigger a change in the required base floor elevation.

The members also discussed access and parking, with Dr. Rechter clarifying that the space adjacent to the restaurant use is likely to be occupied by uses that do not require a great deal of parking. Mr. Wojcik confirmed that the entire site is being improved, with its build-out to be dependent upon tenant uses. Mr. Strawbridge expressed concern with the parking plans, pointing out that the parking formula used to calculate the site's requirement could contribute to commercial parking spillover into residential areas.

**Motion** made by Mr. Gabriel, seconded by Ms. Burrows, to recommend funding from the three separate programs: the Business and Property Investment Program not to exceed \$100,000.00; forgivable loan, forgiven over a seven-year period; the second is the Façade Grant Program not to exceed \$15,000, and the third is the Streetscape Improvement Program in the amount not to exceed \$91,267.

Mr. Wilkes asserted that he had concerns with the proposal, such as the idea of funding a project that is intended to promote supportive development in the area but is not surrounded by similar businesses or uses. He also felt the parking proposed for the site was insufficient, and that the estimated costs of development may not be accurate. Mr. Wojcik advised that the estimated costs have been documented by the Applicant, who has a record of professionalism and success in development; and that the uses are supported by the community and not in conflict with the Redevelopment Plan.

In a roll call vote, the **motion** passed 10-1 (Mr. Wilkes dissenting).

**VIII. Funding Increase – Progresso Village Neighborhood Enhancement Project**

This Item was deferred until the April 22 meeting.

**IX. Communication to CRA Board**

None.

**X. Old / New Business**

Vice Chair Phillips announced that training for City Board and Committee members will be held on Monday, April 27, at 5:30 p.m. on the third floor of City Hall. Topics will include meeting protocol, public records, and the Sunshine Law. She also reminded the Board of the upcoming joint workshop with the CRA Board, which is scheduled for Tuesday, April 7, at 12:00 noon on the eighth floor of City Hall.

**XI. Adjournment**

There being no further business to come before the Board at this time, the meeting was adjourned at 5:37 p.m.

Any written public comments made 48 hours prior to the meeting regarding items discussed during the proceedings have been attached hereto.

[Minutes prepared by K. McGuire, Prototype, Inc.]


# ITEM IV



**MEMORANDUM**

DATE: April 22, 2015

TO: NPF CRA Advisory Board Members

FROM: Bob Wojcik, AICP, Economic Reinvestment Coordinator 

SUBJECT: Funding Request - \$331,000 - T & G Group Holdings, LLC/  
Shoney's Restaurant - 525 NW 7<sup>th</sup> Avenue

**REQUEST**

The CRA has received an application from T & G Group Holdings, LLC for financial assistance for a new Shoney's restaurant to be located at 525 NW 7 Avenue. The applicant is requesting \$331,000 from the CRA to fill the project funding gap; the difference between the project costs and identified sources of debt and equity from the developer. A copy of the Location Map and photos of the site are attached as **Exhibit A**.

**BACKGROUND**

T & G Group Holdings, LLC has entered into contracts to purchase the 36,000 square foot vacant parcel from Gaddis Holdings at 525 NW 7 Avenue at a cost of \$528,290 and the adjacent 8,438 square foot parcel from Southern REO Group, LLC which has a vacant residential structure located at 517 NW 7 Avenue at a cost of \$140,000. Copies of the property acquisition information along with Broward County Property Appraiser information are attached as **Exhibit B**.

T & G Group Holdings has obtained franchise rights from Shoney's North America, LLC and plans to develop a 3,000 square foot Shoney's restaurant on the property. The restaurant will be constructed based on an updated design concept from Shoney's. The concept site plan includes a Shoney's restaurant along with a future retail building to be constructed on the property. No additional information has been provided on this future retail use at this time. A copy of the franchise agreement is attached as **Exhibit C** and a preliminary site plan/design illustration of the project is attached as **Exhibit D**. The concept site plan is currently being reviewed by staff members with the Department of Sustainable Development Urban Design and Planning division.

The managing partner of T & G Group Holdings, LLC is Homer Thomas, CEO who has 14 years of experience in operating franchise restaurants. Mr. Thomas was a multi-franchise owner of Sub Way restaurants between 1993 and 2004, a Financial Advisor for Morgan Stanley & Company through 2009 and is the owner and operator of Paradise Sunshine Sports, a sporting goods store in Pompano Beach. His business partner is Ralph Grissett, Jr, COO, who has over thirty years of experience in the food sales and service industry.

A copy of the business plan for T&G Holding, LLC is attached as **Exhibit E**. The business plan indicates that there is a market in the area for a buffet style/sit down restaurant that will seat up to 140 guest and serve breakfast, lunch and dinner 16 hours a day, seven days a week. The restaurant will attract a diverse customer base and will target blue collar and white collar workers including service, mechanics and government workers, tourist, local community who attend numerous churches in the area, in addition to new residents who have moved into the downtown area. The location of the restaurant places it in close proximity to City of Fort Lauderdale offices, Broward County, Hospital District, Post Office and other government workers, in addition to several major churches and the All Aboard Florida Terminal. They project annual food and drink sales of approximately \$1 Million annually, with annual estimated expenses of \$505,000 annually.

If constructed, the developer anticipates that twenty (20) full time permanent jobs will be created. The developer will focus on hiring from the local area as stated in **Exhibit F**.

**PROJECT ASSISTANCE OVERVIEW**

Total project costs are estimated at \$1,790,000. An overview of the project Sources and Uses are outlined below.

Sources		Uses	
SBA 7A Program	\$822,000	Land Acquisition	\$668,000
Black Business Investment Fund	\$250,000	Building Construction	\$570,000
S. Florida Regional Planning Council	\$150,000	Furniture and Equipment	\$106,000
Fort Lauderdale CRA	\$331,000	Inventory	\$40,000
Developer Equity	\$237,000	Architectural	\$130,400
		Franchise Agreement	\$35,000
		Working Capital	\$150,000
		Other Soft Cost	\$90,600
<b>TOTAL</b>	<b>\$1,790,000</b>	<b>TOTAL</b>	<b>\$1,790,000</b>

The developer submitted an application for funding utilizing the CRA Property and Business Investment Program (**Exhibit G**), which scored a total of 102 points (**Exhibit H**) out of a maximum of 140 points, well within the minimum score of 70 required for funding. Based on the information submitted, the application exceeds the maximum program funding limits. The unique nature of this project suggests a creative approach to provide funding. In response staff proposes utilizing CRA TIF funds re-deposited into the City of Fort Lauderdale CDBG account on May 19, 2009 in accordance with the CDBG HUD Repayment Plan. The funds can only be used for eligible activities on

projects that can achieve a CDBG national objective. Staff is recommending that the funds be used for the eligible CDBG activity of property acquisition and the project would achieve the HUD National Objective of benefitting low and moderate income persons through job creation. Because these funds are only being used for property acquisition, it will not trigger payment of prevailing wage rates under the Davis Bacon Act.

The Developer has committed developer cash/equity of not less than \$237,000 to the project, but is still in the process of securing firm financing commitments from lenders for the project. Mr. Thomas anticipates having these commitments finalized prior to review by the CRA Board.

The developer's decision to bring a highly recognized full service franchise restaurant to the CRA at this higher risk location rather than on a more heavily travelled thoroughfare such as Broward or Sunrise Boulevard has been recognized by staff as needing a more aggressive incentive package than might be offered at other locations. The need to aggressively pursue the redevelopment of vacant properties at the intersection of NW 7<sup>th</sup> Ave and Sistrunk Boulevard and to facilitate new development opportunities is a strategic objective and goal of the CRA as approved by the CRA Board in the CRA's 5 Year Strategic Program on October 15, 2013. The CDBG Line of credit was identified in the CRA 5 year Program but is not tied to any specific CRA incentive program or committed to any other potential or proposed project.

The CDBG ratio for job creation to funding is one job per \$35,000 in HUD assistance. The project will create twenty (20) new jobs from the area, well in excess of the funding ratio to job creation requirements of the program. Furthermore, this type of project has the ability to attract further investment in the area and bring a diverse group of patrons to the intersection of Sistrunk and NW 7<sup>th</sup> Avenue.

#### **ADDITIONAL FUNDING INFORMATION**

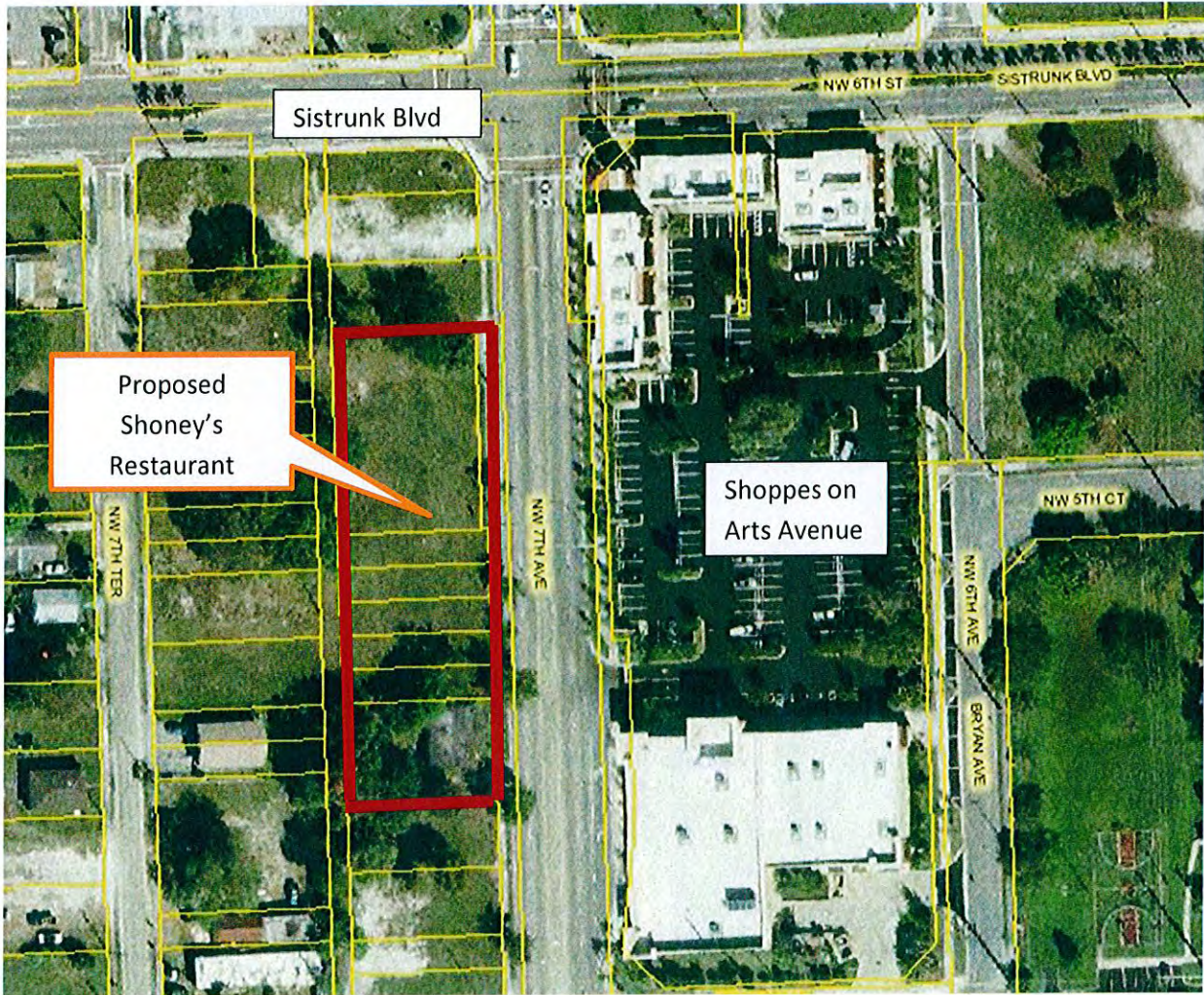
Because the developer does not have firm lender commitments for the project at this time, this recommendation is conditioned on the developers securing loan approvals for the project and that the developer's cash/equity contribution to the project be not less than \$237,000. Should the developers contribution be reduced or lender financing be increased, the CRA's contribution will be equally reduced. The funding agreement will contain restrictive covenants which will be recorded that the project site shall be used for the use specified in the agreement unless otherwise approved by the Agency, and therefore any future development on the site will need to be reviewed by this advisory board and approved by the CRA Board.

#### **RECOMMENDATION**

Staff recommends a funding assistance package to T & G Group Holdings, LLC in the amount not to exceed \$331,000 using Community Development Block Grant program fund CD09RET as a contribution to the cost of property acquisition for a Shoney's Restaurant at 525 NW 7th Avenue.

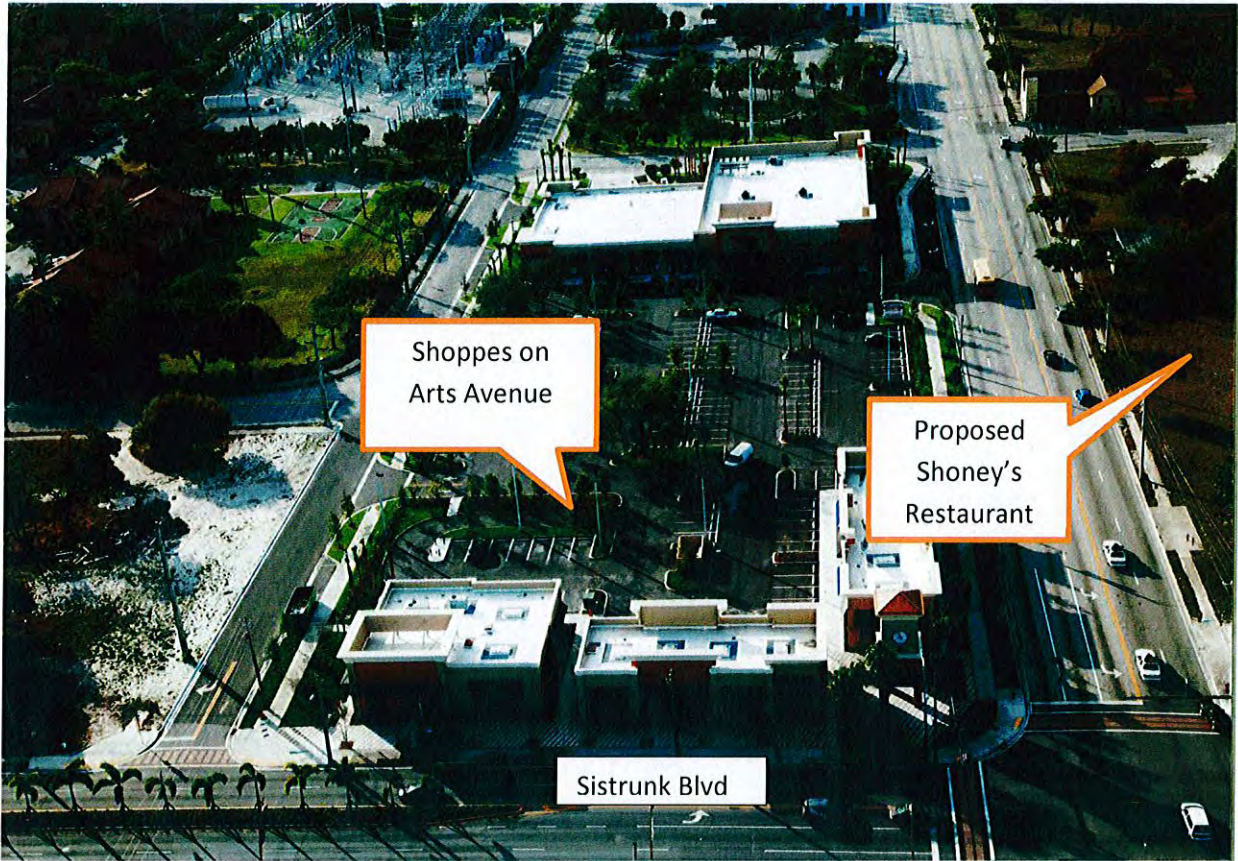
## **Attachments**

- Exhibit A: Location Map and Site Photos
- Exhibit B: Property Offers/Contracts
- Exhibit C: Shoney's Franchise Agreement
- Exhibit D: Preliminary Site Plan /Design Illustration
- Exhibit E: Business Plan
- Exhibit F: Employment Projections
- Exhibit G: CRA Funding Application
- Exhibit H: CRA Scoring Sheet



**LOCATION MAP – PROPOSED SHONEY’S RESTAURANT**

tc.



**PROPOSED SHONEY'S RESTAURANT - 525 NW 7 Avenue**



517 NW 7 Ave – Part of Proposed Shoney's Restaurant Location



517-525 NW 7<sup>th</sup> Avenue - Location of Proposed New Shoney's Restaurant



Proposed Shoney's Restaurant Location as seen from  
Entrance to Shoppes on Arts Avenue



**Commercial Contract**

1\* **1. PARTIES AND PROPERTY:** T&G GROUP HOLDINGS, LLC ("Buyer")  
 2\* agrees to buy and JPG INVSTMENT PROPERTIES, LLC ("Seller")  
 3\* agrees to sell the property as: Street Address: CITY OF FORT LAUDERDALE LOT C-1, NW 7 AVENUE/ FOLIO#S  
 4\* 504203011300 THRU 1360  
 5\* Legal Description: NORTH LAUDERDALE 1-48 D LOTS 7 TO LOT 17, LESS E 20, LESS E 15 FOR ST BLK 14  
 6\* \_\_\_\_\_  
 7\* and the following Personal Property: N/A  
 8\* \_\_\_\_\_  
 9 (all collectively referred to as the "Property") on the terms and conditions set forth below.

10\* **2. PURCHASE PRICE:** \$ 528,290.00  
 11\* (a) Deposit held in escrow by EVAN B PLOTKA, P.L. \$ 40,000.00  
 12 ("Escrow Agent") (checks are subject to actual and final collection)  
 13\* Escrow Agent's address: 3837 HOLLYWOOD BLVD, HOLLYWOOD FL 33021 Phone: (954)334-7600  
 14\* (b) Additional deposit to be made to Escrow Agent within N/A days after Effective Date \$ 0.00  
 15\* (c) Additional deposit to be made to Escrow Agent within N/A days after Effective Date \$ 0.00  
 16\* (d) Total financing (see Paragraph 5) R.A. H.T. \$422,632.00 \$ (SEE PARAGRAPH 5)  
 17\* (e) Other SELLER AGREES TO HOLD MORTGAGE NOTE FOR 1 YEAR \$ 106,658 - 166,034.00  
 18 (f) All deposits will be credited to the purchase price at closing. Balance to close, subject  
 19\* to adjustments and prorations, to be paid with locally drawn cashier's or official bank \$ 216,516 - 322,256.00  
 20 check(s) or wire transfer. 316,974.

21 **3. TIME FOR ACCEPTANCE; EFFECTIVE DATE; COMPUTATION OF TIME:** Unless this offer is signed by Seller  
 22\* and Buyer and an executed copy delivered to all parties on or before January 9, 2015, this offer will be  
 23 withdrawn and the Buyer's deposit, if any, will be returned. The time for acceptance of any counter offer will be 3  
 24 days from the date the counter offer is delivered. The "Effective Date" of this Contract is the date on which the  
 25 last one of the Seller and Buyer has signed or initialed and delivered this offer or the final counter offer.  
 26 Calendar days will be used when computing time periods, except time periods of 5 days or less. Time periods of 5  
 27 days or less will be computed without including Saturday, Sunday, or national legal holidays. Any time period ending  
 28 on a Saturday, Sunday, or national legal holiday will extend until 5:00 p.m. of the next business day. Time is of the  
 29 essence in this Contract. R.A. H.T.

30 **4. CLOSING DATE AND LOCATION:**  
 31\* (a) Closing Date: This transaction will be closed on April 17, 2015 (Closing Date) unless specifically  
 32 extended by other provisions of this Contract. The Closing Date will prevail over all other time periods including, but  
 33 not limited to, Financing and Due Diligence periods. In the event insurance underwriting is suspended on Closing  
 34 Date and Buyer is unable to obtain property insurance, Buyer may postpone closing up to 5 days after the  
 35 insurance underwriting suspension is lifted.

36\* Buyer ( ) and Seller ( ) acknowledge receipt of a copy of this page, which is Page 1 of 8 Pages.

37\* (b) Location: Closing will take place in BROWARD County, Florida. (If left blank, closing  
38 will take place in the county where the property is located.) Closing may be conducted by mail or electronic means.

39 **5. THIRD PARTY FINANCING:**

40\* **BUYER'S OBLIGATION:** Within 3 days (5 days if left blank) after Effective Date, **Buyer** will apply for third party  
41\* financing in an amount not to exceed 80 % of the purchase price or \$ \_\_\_\_\_, with a fixed interest rate  
42\* not to exceed \_\_\_\_\_% per year with an initial variable interest rate not to exceed \_\_\_\_\_%, with points or commitment  
43\* or loan fees not to exceed \_\_\_\_\_% of the principal amount, for a term of 7 years, and amortized over 30  
44 years, with additional terms as follows:

45\* \_\_\_\_\_  
46 **Buyer** will timely provide any and all credit, employment, financial and other information reasonably required by any  
47\* lender. **Buyer** will use good faith and reasonable diligence to (i) obtain Loan Approval within 45 days (45 days if  
48 left blank) from Effective Date (Loan Approval Date), (ii) satisfy terms and conditions of the Loan Approval, and  
49 (iii) close the loan. **Buyer** will keep **Seller** and Broker fully informed about loan application status and authorizes the  
50 mortgage broker and lender to disclose all such information to **Seller** and Broker. **Buyer** will notify **Seller** immediately  
51 upon obtaining financing or being rejected by a lender. **CANCELLATION:** If **Buyer**, after using good faith and  
52\* reasonable diligence, fails to obtain Loan Approval by Loan Approval Date, **Buyer** may within 5 days (3 days if left  
53 blank) deliver written notice to **Seller** stating **Buyer** either waives this financing contingency or cancels this Contract.  
54 If **Buyer** does neither, then **Seller** may cancel this Contract by delivering written notice to **Buyer** at any time  
55 thereafter. Unless this financing contingency has been waived, this Contract shall remain subject to the  
56 satisfaction, by closing, of those conditions of Loan Approval related to the Property. **DEPOSIT(S) (for purposes**  
57 **of Paragraph 5 only):** If **Buyer** has used good faith and reasonable diligence but does not obtain Loan  
58 Approval by Loan Approval Date and thereafter either party elects to cancel this Contract as set forth above or the  
59 lender fails or refuses to close on or before the Closing Date without fault on **Buyer's** part, the Deposit(s) shall be  
60 returned to **Buyer**, whereupon both parties will be released from all further obligations under this Contract, except for  
61 obligations stated herein as surviving the termination of this Contract. If neither party elects to terminate this Contract  
62 as set forth above or **Buyer** fails to use good faith or reasonable diligence as set forth above, **Seller** will be entitled to  
63 retain the Deposit(s) if the transaction does not close.

64\* **6. TITLE:** **Seller** has the legal capacity to and will convey marketable title to the Property by  statutory warranty  
65\* deed  other \_\_\_\_\_, free of liens, easements and encumbrances of record or  
66 known to **Seller**, but subject to property taxes for the year of closing; covenants, restrictions and public utility  
67 easements of record; existing zoning and governmental regulations; and (list any other matters to which title will be  
68\* subject) PHASE 1 AND/OR PHASE 2 ENVIRONMENTAL REPORTS

69\* \_\_\_\_\_  
70 provided there exists at closing no violation of the foregoing and none of them prevents **Buyer's** intended use of the  
71\* Property as RFETAIL BUSINESS USE

72 **(a) Evidence of Title:** The party who pays the premium for the title insurance policy will select the closing agent  
73\* and pay for the title search and closing services. **Seller** will, at (check one)  **Seller's**  **Buyer's** expense and  
74\* within \_\_\_\_\_ days  after Effective Date  or at least 15 days before Closing Date deliver to **Buyer** (check one)  
75\*  (i.) a title insurance commitment by a Florida licensed title insurer setting forth those matters to be  
76 discharged by **Seller** at or before Closing and, upon **Buyer** recording the deed, an owner's policy in the amount  
77 of the purchase price for fee simple title subject only to exceptions stated above. If **Buyer** is paying for the  
78 evidence of title and **Seller** has an owner's policy, **Seller** will deliver a copy to **Buyer** within 15 days after  
79 Effective Date.  
80\*  (ii.) an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an  
81 existing firm. However, if such an abstract is not available to **Seller**, then a prior owner's title policy acceptable  
82 to the proposed insurer as a base for reissuance of coverage may be used. The prior policy will include copies  
83 of all policy exceptions and an update in a format acceptable to **Buyer** from the policy effective date and  
84 certified to **Buyer** or **Buyer's** closing agent together with copies of all documents recited in the prior policy and  
85 in the update. If such an abstract or prior policy is not available to **Seller** then (i.) above will be the evidence of  
86 title.

87 **(b) Title Examination:** **Buyer** will, within 15 days from receipt of the evidence of title deliver written notice to **Seller**  
88 of title defects. Title will be deemed acceptable to **Buyer** if (1) **Buyer** fails to deliver proper notice of defects or

89\*  Buyer [Signature] and Seller [Signature] acknowledge receipt of a copy of this page, which is Page 2 of 8 Pages.

90\* (2) Buyer delivers proper written notice and Seller cures the defects within 10 days from receipt of the notice  
91 ("Curative Period"). If the defects are cured within the Curative Period, closing will occur within 10 days from receipt  
92 by Buyer of notice of such curing. Seller may elect not to cure defects if Seller reasonably believes any defect  
93 cannot be cured within the Curative Period. If the defects are not cured within the Curative Period, Buyer will have  
94 10 days from receipt of notice of Seller's inability to cure the defects to elect whether to terminate this Contract or  
95 accept title subject to existing defects and close the transaction without reduction in purchase price.

96 (c) Survey: (check applicable provisions below)

97\*  (i.) Seller will, within 10 days from Effective Date, deliver to Buyer copies of prior surveys, plans,  
98 specifications, and engineering documents, if any, and the following documents relevant to this transaction:

99\* \_\_\_\_\_  
100 prepared for Seller or in Seller's possession, which show all currently existing structures. In the event this  
101 transaction does not close, all documents provided by Seller will be returned to Seller within 10 days from the  
102 date this Contract is terminated.

103\*  Buyer will, at  Seller's  Buyer's expense and within the time period allowed to deliver and examine title  
104 evidence, obtain a current certified survey of the Property from a registered surveyor. If the survey reveals  
105\* encroachments on the Property or that the improvements encroach on the lands of another,  Buyer will  
106\* accept the Property with existing encroachments  such encroachments will constitute a title defect to be  
107 cured within the Curative Period.

108 (d) Ingress and Egress: Seller warrants that the Property presently has ingress and egress.

109 **7. PROPERTY CONDITION:** Seller will deliver the Property to Buyer at the time agreed in its present "as is"  
110 condition, ordinary wear and tear excepted, and will maintain the landscaping and grounds in a comparable condition.  
111 Seller makes no warranties other than marketability of title. In the event that the condition of the Property has  
112 materially changed since the expiration of the Due Diligence Period, Buyer may elect to terminate the Contract and  
113 receive a refund of any and all deposits paid, plus interest, if applicable. By accepting the Property "as is", Buyer  
114 waives all claims against Seller for any defects in the Property. (Check (a) or (b))

115\*  (a) As Is: Buyer has inspected the Property or waives any right to inspect and accepts the Property in its "as is"  
116 condition.

117\*  (b) Due Diligence Period: Buyer will, at Buyer's expense and within 30 days from Effective Date ("Due  
118 Diligence Period"), determine whether the Property is suitable, in Buyer's sole and absolute discretion, for Buyer's  
119 intended use and development of the Property as specified in Paragraph 6. During the Due Diligence Period,  
120 Buyer may conduct any tests, analyses, surveys and investigations ("Inspections") which Buyer deems necessary  
121 to determine to Buyer's satisfaction the Property's engineering, architectural, environmental properties; zoning and  
122 zoning restrictions; flood zone designation and restrictions; subdivision regulations; soil and grade; availability of  
123 access to public roads, water, and other utilities; consistency with local, state and regional growth management and  
124 comprehensive land use plans; availability of permits, government approvals and licenses; compliance with  
125 American with Disabilities Act; absence of asbestos, soil and ground water contamination; and other inspections  
126 that Buyer deems appropriate to determine the suitability of the Property for Buyer's intended use and  
127 development. Buyer will deliver written notice to Seller prior to the expiration of the Due Diligence Period of  
128 Buyer's determination of whether or not the Property is acceptable. Buyer's failure to comply with this notice  
129 requirement will constitute acceptance of the Property in its present "as is" condition. Seller grants to Buyer, its  
130 agents, contractors and assigns, the right to enter the Property at any time during the Due Diligence Period for the  
131 purpose of conducting Inspections; provided, however, that Buyer, its agents, contractors and assigns enter the  
132 Property and conduct Inspections at their own risk. Buyer will indemnify and hold Seller harmless from losses,  
133 damages, costs, claims and expenses of any nature, including attorneys' fees at all levels, and from liability to any  
134 person, arising from the conduct of any and all inspections or any work authorized by Buyer. Buyer will not engage  
135 in any activity that could result in a mechanic's lien being filed against the Property without Seller's prior written  
136 consent. In the event this transaction does not close, (1) Buyer will repair all damages to the Property resulting  
137 from the Inspections and return the Property to the condition it was in prior to conduct of the Inspections, and  
138 (2) Buyer will, at Buyer's expense release to Seller all reports and other work generated as a result of the  
139 Inspections. Should Buyer deliver timely notice that the Property is not acceptable, Seller agrees that Buyer's  
140 deposit will be immediately returned to Buyer and the Contract terminated.

141 (c) Walk-through Inspection: Buyer may, on the day prior to closing or any other time mutually agreeable to the

142\* Buyer  and Seller  ( ) ( ) acknowledge receipt of a copy of this page, which is Page 3 of 8 Pages.

143 parties, conduct a final "walk-through" inspection of the Property to determine compliance with this paragraph and  
144 to ensure that all Property is on the premises.

145 **8. OPERATION OF PROPERTY DURING CONTRACT PERIOD:** Seller will continue to operate the Property and any  
146 business conducted on the Property in the manner operated prior to Contract and will take no action that would  
147 adversely impact the Property, tenants, lenders or business, if any. Any changes, such as renting vacant space, that  
148\* materially affect the Property or Buyer's intended use of the Property will be permitted  only with Buyer's consent  
149\*  without Buyer's consent.

150 **9. CLOSING PROCEDURE:** Unless otherwise agreed or stated herein, closing procedure shall be in accordance with  
151 the norms where the Property is located.

152 **(a) Possession and Occupancy:** Seller will deliver possession and occupancy of the Property to Buyer at  
153 closing. Seller will provide keys, remote controls, and any security/access codes necessary to operate all locks,  
154 mailboxes, and security systems.

155 **(b) Costs:** Buyer will pay Buyer's attorneys' fees, taxes and recording fees on notes, mortgages and financing  
156 statements and recording fees for the deed. Seller will pay Seller's attorneys' fees, taxes on the deed and  
157 recording fees for documents needed to cure title defects. If Seller is obligated to discharge any encumbrance at or  
158 prior to closing and fails to do so, Buyer may use purchase proceeds to satisfy the encumbrances.

159 **(c) Documents:** Seller will provide the deed; bill of sale; mechanic's lien affidavit; originals of those assignable  
160 service and maintenance contracts that will be assumed by Buyer after the Closing Date and letters to each  
161 service contractor from Seller advising each of them of the sale of the Property and, if applicable, the transfer of its  
162 contract, and any assignable warranties or guarantees received or held by Seller from any manufacturer,  
163 contractor, subcontractor, or material supplier in connection with the Property; current copies of the condominium  
164 documents, if applicable; assignments of leases, updated rent roll; tenant and lender estoppels letters; tenant  
165 subordination, non-disturbance and attornment agreements (SNDAs) required by the Buyer or Buyer's lender;  
166 assignments of permits and licenses; corrective instruments; and letters notifying tenants of the change in  
167 ownership/rental agent. If any tenant refuses to execute an estoppels letter, Seller will certify that information  
168 regarding the tenant's lease is correct. If Seller is an entity, Seller will deliver a resolution of its Board of Directors  
169 authorizing the sale and delivery of the deed and certification by the appropriate party certifying the resolution and  
170 setting forth facts showing the conveyance conforms to the requirements of local law. Seller will transfer security  
171 deposits to Buyer. Buyer will provide the closing statement, mortgages and notes, security agreements, and  
172 financing statements.

173 **(d) Taxes and Prorations:** Real estate taxes, personal property taxes on any tangible personal property, bond  
174 payments assumed by Buyer, interest, rents (based on actual collected rents), association dues, insurance  
175 premiums acceptable to Buyer, and operating expenses will be prorated through the day before closing. If the  
176 amount of taxes for the current year cannot be ascertained, rates for the previous year will be used with due  
177 allowance being made for improvements and exemptions. Any tax proration based on an estimate will, at request  
178 of either party, be readjusted upon receipt of current year's tax bill; this provision will survive closing.

179 **(e) Special Assessment Liens:** Certified, confirmed, and ratified special assessment liens as of the Closing Date  
180 will be paid by Seller. If a certified, confirmed, and ratified special assessment is payable in installments, Seller will  
181 pay all installments due and payable on or before the Closing Date, with any installment for any period extending  
182 beyond the Closing Date prorated, and Buyer will assume all installments that become due and payable after the  
183 Closing Date. Buyer will be responsible for all assessments of any kind which become due and owing after Closing  
184 Date, unless an improvement is substantially completed as of Closing Date. If an improvement is substantially  
185 completed as of the Closing Date but has not resulted in a lien before closing, Seller will pay the amount of the last  
186 estimate of the assessment. This subsection applies to special assessment liens imposed by a public body and  
187 does not apply to condominium association special assessments.

188 **(f) Foreign Investment in Real Property Tax Act (FIRPTA):** If Seller is a "foreign person" as defined by FIRPTA,  
189 Seller and Buyer agree to comply with Section 1445 of the Internal Revenue Code. Seller and Buyer will  
190 complete, execute, and deliver as directed any instrument, affidavit, or statement reasonably necessary to comply  
191 with the FIRPTA requirements, including delivery of their respective federal taxpayer identification numbers or

✓ 192\* Buyer ( ) and Seller ( ) acknowledge receipt of a copy of this page, which is Page 4 of 8 Pages.

193 Social Security Numbers to the closing agent. If **Buyer** does not pay sufficient cash at closing to meet the  
194 withholding requirement, **Seller** will deliver to **Buyer** at closing the additional cash necessary to satisfy the  
195 requirement.

196 **10. ESCROW AGENT:** **Seller** and **Buyer** authorize Escrow Agent or Closing Agent (collectively "Agent") to  
197 receive, deposit, and hold funds and other property in escrow and, subject to collection, disburse them in accordance  
198 with the terms of this Contract. The parties agree that Agent will not be liable to any person for misdelivery of  
199 escrowed items to **Seller** or **Buyer**, unless the misdelivery is due to Agent's willful breach of this Contract or gross  
200 negligence. If Agent has doubt as to Agent's duties or obligations under this Contract, Agent may, at Agent's option,  
201 (a) hold the escrowed items until the parties mutually agree to its disbursement or until a court of competent  
202 jurisdiction or arbitrator determines the rights of the parties or (b) deposit the escrowed items with the clerk of  
203 the court having jurisdiction over the matter and file an action in interpleader. Upon notifying the parties of such action,  
204 Agent will be released from all liability except for the duty to account for items previously delivered out of escrow. If  
205 Agent is a licensed real estate broker, Agent will comply with Chapter 475, Florida Statutes. In any suit in which Agent  
206 interpleads the escrowed items or is made a party because of acting as Agent hereunder, Agent will recover  
207 reasonable attorney's fees and costs incurred, with these amounts to be paid from and out of the escrowed items and  
208 charged and awarded as court costs in favor of the prevailing party.

209 **11. CURE PERIOD:** Prior to any claim for default being made, a party will have an opportunity to cure any alleged  
210 default. If a party fails to comply with any provision of this Contract, the other party will deliver written notice to the non-  
211 complying party specifying the non-compliance. The non-complying party will have \_\_\_ days (5 days if left blank) after  
212 delivery of such notice to cure the non-compliance. Notice and cure shall not apply to failure to close.

213 **12. RETURN OF DEPOSIT:** Unless otherwise specified in the Contract, in the event any condition of this Contract is  
214 not met and **Buyer** has timely given any required notice regarding the condition having not been met, **Buyer's** deposit  
215 will be returned in accordance with applicable Florida Laws and regulations.

216 **13. DEFAULT:**

217 (a) In the event the sale is not closed due to any default or failure on the part of **Seller** other than failure to make  
218 the title marketable after diligent effort, **Buyer** may either (1) receive a refund of **Buyer's** deposit(s) or (2) seek  
219 specific performance. If **Buyer** elects a deposit refund, **Seller** will be liable to Broker for the full amount of the  
220 brokerage fee.

221 (b) In the event the sale is not closed due to any default or failure on the part of **Buyer**, **Seller** may either (1) retain  
222 all deposit(s) paid or agreed to be paid by **Buyer** as agreed upon liquidated damages, consideration for the  
223 execution of this Contract, and in full settlement of any claims, upon which this Contract will terminate or (2) seek  
224 specific performance. If **Seller** retains the deposit, **Seller** will pay the Brokers named in Paragraph 20 fifty percent  
225 of all forfeited deposits retained by **Seller** (to be split equally among the Brokers) up to the full amount of the  
226 brokerage fee. If **Buyer** fails to timely place a deposit as required by this Contract, **Seller** may either (1) terminate  
227 the Contract and seek the remedy outlined in this subparagraph or (2) proceed with the Contract without waiving  
228 any remedy for **Buyer's** default.

229 **14. ATTORNEY'S FEES AND COSTS:** In any claim or controversy arising out of or relating to this Contract, the  
230 prevailing party, which for purposes of this provision will include **Buyer**, **Seller** and Broker, will be awarded reasonable  
231 attorneys' fees, costs, and expenses.

232 **15. NOTICES:** All notices will be in writing and may be delivered by mail, overnight courier, personal delivery, or  
233 electronic means. Parties agree to send all notices to addresses specified on the signature page(s). Any notice,  
234 document, or item given by or delivered to an attorney or real estate licensee (including a transaction broker)  
235 representing a party will be as effective as if given by or delivered to that party.

236 **16. DISCLOSURES:**

237 (a) **Commercial Real Estate Sales Commission Lien Act:** The Florida Commercial Real Estate Sales  
238 Commission Lien Act provides that a broker has a lien upon the owner's net proceeds from the sale of commercial  
239 real estate for any commission earned by the broker under a brokerage agreement. The lien upon the owner's net

✓ 240\* Buyer  and Seller  acknowledge receipt of a copy of this page, which is Page 5 of 8 Pages.

241 proceeds is a lien upon personal property which attaches to the owner's net proceeds and does not attach to any  
242 interest in real property. This lien right cannot be waived before the commission is earned.

243 **(b) Special Assessment Liens Imposed by Public Body:** The Property may be subject to unpaid special  
244 assessment lien(s) imposed by a public body. (A public body includes a Community Development District.) Such  
245 liens, if any, shall be paid as set forth in Paragraph 9(e).

246 **(c) Radon Gas:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in  
247 sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that  
248 exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon  
249 and radon testing may be obtained from your county public health unit.

250 **(d) Energy-Efficiency Rating Information:** Buyer acknowledges receipt of the information brochure required by  
251 Section 553.996, Florida Statutes.

252 **17. RISK OF LOSS:**

253 **(a)** If, after the Effective Date and before closing, the Property is damaged by fire or other casualty, Seller will bear  
254 the risk of loss and Buyer may cancel this Contract without liability and the deposit(s) will be returned to Buyer.  
255 Alternatively, Buyer will have the option of purchasing the Property at the agreed upon purchase price and Seller  
256 will credit the deductible, if any and transfer to Buyer at closing any insurance proceeds, or Seller's claim to any  
257 insurance proceeds payable for the damage. Seller will cooperate with and assist Buyer in collecting any such  
258 proceeds. Seller shall not settle any insurance claim for damage caused by casualty without the consent of the  
259 Buyer.

260 **(b)** If, after the Effective Date and before closing, any part of the Property is taken in condemnation or under the  
261 right of eminent domain, or proceedings for such taking will be pending or threatened, Buyer may cancel this  
262 Contract without liability and the deposit(s) will be returned to Buyer. Alternatively, Buyer will have the option of  
263 purchasing what is left of the Property at the agreed upon purchase price and Seller will transfer to the Buyer at  
264 closing the proceeds of any award, or Seller's claim to any award payable for the taking. Seller will cooperate with  
265 and assist Buyer in collecting any such award.

266\* **18. ASSIGNABILITY; PERSONS BOUND:** This Contract may be assigned to a related entity, and otherwise  is  
267 not assignable  is assignable. If this Contract may be assigned, Buyer shall deliver a copy of the assignment  
268 agreement to the Seller at least 5 days prior to Closing. The terms "Buyer," "Seller" and "Broker" may be singular or  
269 plural. This Contract is binding upon Buyer, Seller and their heirs, personal representatives, successors and assigns  
270 (if assignment is permitted).

271 **19. MISCELLANEOUS:** The terms of this Contract constitute the entire agreement between Buyer and Seller.  
272 Modifications of this Contract will not be binding unless in writing, signed and delivered by the party to be bound.  
273 Signatures, initials, documents referenced in this Contract, counterparts and written modifications communicated  
274 electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or  
275 typewritten terms inserted in or attached to this Contract prevail over preprinted terms. If any provision of this Contract  
276 is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective. This Contract will be  
277 construed under Florida law and will not be recorded in any public records.

278 **20. BROKERS:** Neither Seller nor Buyer has used the services of, or for any other reason owes compensation to,  
279 a licensed real estate Broker other than:

280\* **(a) Seller's Broker:** CADWELL BANKER NT, ROBERT PIAOLLO  
281 (Company Name) (Licensee)  
282\* (3%)  
283 (Address, Telephone, Fax, E-mail)

284\* who  is a single agent  is a transaction broker  has no brokerage relationship and who will be compensated  
285\* by  Seller  Buyer  both parties pursuant to  a listing agreement  other (specify) \_\_\_\_\_

286\* \_\_\_\_\_

287\* [Signature] Buyer and [Signature] Seller acknowledge receipt of a copy of this page, which is Page 6 of 8 Pages.

334 Each person signing this Contract on behalf of a party that is a business entity represents and warrants to the other  
335 party that such signatory has full power and authority to enter into and perform this Contract in accordance with its  
336 terms and each person executing this Contract and other documents on behalf of such party has been duly authorized  
337 to do so

338\* [Signature]  
339 T&G GROUP HOLDINGS, LLC-Homer Thomas

Date: 1-5-15

340\* T&G GROUP HOLDINGS, LLC-Homer Thomas  
341 (Typed or Printed Name of Buyer)

Tax ID No: \_\_\_\_\_

342\* Title: CHIEF OPERATING OFFICER

Telephone: \_\_\_\_\_

343\* [Signature]  
344 T&G GROUP HOLDINGS, LLC-Ralph Grissett, Jr.

Date: 1-5-15

345\* T&G GROUP HOLDINGS, LLC-Ralph Grissett, Jr.  
346 (Typed or Printed Name of Buyer)

Tax ID No: \_\_\_\_\_

347\* Title: CHIEF FINANCIAL OFFICER

Telephone: \_\_\_\_\_

348\* Buyer's Address for purpose of notice: 3837 Hollywood Blvd, Ste. A Hollywood FL 33021

349\* Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

350\* [Signature]  
351

Date: 1/13/15

352\* JESSE P. GADDIS  
353 (Typed or Printed Name of Seller)

Tax ID No: \_\_\_\_\_

354\* Title: MANAGER

Telephone: \_\_\_\_\_

355\* \_\_\_\_\_  
356

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

357\* \_\_\_\_\_  
358 (Typed or Printed Name of Seller)

Tax ID No: \_\_\_\_\_

359\* Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

360\* Seller's Address for purpose of notice: \_\_\_\_\_

361\* Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

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362\* [Signature] and Seller ( ) ( ) acknowledge receipt of a copy of this page, which is Page 8 of 8 Pages.









<b>Site Address</b>	NW 7 AVENUE, FORT LAUDERDALE	<b>ID #</b>	5042 03 01 1340
<b>Property Owner</b>	JPG INVESTMENT PROPERTIES LLC	<b>Millage</b>	0312
<b>Mailing Address</b>	PO BOX 950 FORT LAUDERDALE FL 33302-0950	<b>Use</b>	10

<b>Abbreviated Legal Description</b>	NORTH LAUDERDALE 1-48 D LOT 15 LESS E 15 FOR ST BLK 14
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The just values displayed below were set in compliance with **Sec. 193.011, Fla. Stat.**, and include a reduction for costs of sale and other adjustments required by **Sec. 193.011(8)**.

<b>Property Assessment Values</b>					
Click here to see 2014 Exemptions and Taxable Values as reflected on the Nov. 1, 2014 tax bill.					
Year	Land	Building	Just / Market Value	Assessed / SOH Value	Tax
2015	\$26,020		\$26,020	\$7,480	
2014	\$26,020		\$26,020	\$6,800	\$278.79
2013	\$22,500		\$22,500	\$6,190	\$247.14

**IMPORTANT:** The 2015 values currently shown are "roll over" values from 2014. These numbers will change frequently online as we make various adjustments until they are finalized on June 1. Please check back here AFTER June 1, 2015, to see the actual proposed 2015 assessments and portability values.

<b>2015 Exemptions and Taxable Values by Taxing Authority</b>				
	County	School Board	Municipal	Independent
<b>Just Value</b>	\$26,020	\$26,020	\$26,020	\$26,020
<b>Portability</b>	0	0	0	0
<b>Assessed/SOH</b>	\$7,480	\$26,020	\$7,480	\$7,480
<b>Homestead</b>	0	0	0	0
<b>Add. Homestead</b>	0	0	0	0
<b>Wid/Vet/Dis</b>	0	0	0	0
<b>Senior</b>	0	0	0	0
<b>Exempt Type</b>	0	0	0	0
<b>Taxable</b>	\$7,480	\$26,020	\$7,480	\$7,480

<b>Sales History</b>			
Date	Type	Price	Book/Page or CIN
2/9/2007	QC*-T	\$100	43603 / 329
			1827 / 954

<b>Land Calculations</b>		
Price	Factor	Type
\$9.25	2,813	SF
<b>Adj. Bldg. S.F.</b>		

\* Denotes Multi-Parcel Sale (See Deed)

<b>Special Assessments</b>								
Fire	Garb	Light	Drain	Impr	Safe	Storm	Clean	Misc





December 30, 2014

Buyer: T & G Group Holdings, LLC

Re: 517 N.W. 7 Avenue Ft. Lauderdale 33311

MLs: H920967

OFFER TO PURCHASE

I have attached the contract offer to purchase for T&G Group Holdings, LLC. The Corporation is very motivated to purchase. The offer is attached for the property. Please confirm receipt of the offer to purchase. I look forward to a quick response and a fast closing.

Sincerely,

*B.G. Wright*

Barrington G. Wright

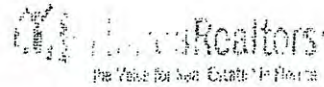
Executive Vice-President

First Colonial Realty

(305)495-9070

bgarfieldwright@gmail.com

(888)416-9459



Commercial Contract

1. PARTIES AND PROPERTY: T & G Group Holdings, LLC ("Buyer")

agrees to buy and SOUTHERN REO GROUP LLC ("Seller")

agrees to sell the property as: Street Address: 517 NW 7 AVENUE, FORT LAUDERDALE

Legal Description: NORTH LAUDERDALE 1-48 D LOT 18 LESS E 15 FOR ST, 19 LESS E 15 FOR ST, 20 LESS E

15 FOR ST BLK 14

and the following Personal Property:

(all collectively referred to as the "Property") on the terms and conditions set forth below. \$140,000.00

2. PURCHASE PRICE:

(a) Deposit held in escrow by EVAN B. PLOTKA, P.L. \$ 12,500.00

("Escrow Agent") (checks are subject to actual and final collection)

Escrow Agent's address: 3837 Hollywood Blvd Suite. A Hollywood FL 33021 Phone: (954)334-7600

(b) Additional deposit to be made to Escrow Agent within n/a days after Effective Date \$ 0.00

(c) Additional deposit to be made to Escrow Agent within n/a days after Effective Date \$ 0.00

(d) Total financing (see Paragraph 5) \$ 112,000.00

(e) Other n/a \$ 0.00

(f) All deposits will be credited to the purchase price at closing. Balance to close, subject to adjustments and prorations, to be paid with locally drawn cashier's or official bank check(s) or wire transfer. \$ 12,500.00

3. TIME FOR ACCEPTANCE; EFFECTIVE DATE; COMPUTATION OF TIME: Unless this offer is signed by Seller and Buyer and an executed copy delivered to all parties on or before 01-03-2015 this offer will be

withdrawn and the Buyer's deposit, if any, will be returned. The time for acceptance of any counter offer will be 3 days from the date the counter offer is delivered. The "Effective Date" of this Contract is the date on which the last one of the Seller and Buyer has signed or initialed and delivered this offer or the final counter offer.

Calendar days will be used when computing time periods, except time periods of 5 days or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal holidays. Any time period ending on a Saturday, Sunday, or national legal holiday will extend until 5:00 p.m. of the next business day. Time is of the essence in this Contract.

4. CLOSING DATE AND LOCATION:

(a) Closing Date: This transaction will be closed on February 20, 2015 (Closing Date), unless specifically extended by other provisions of this Contract. The Closing Date will prevail over all other time periods including, but not limited to, Financing and Due Diligence periods. In the event insurance underwriting is suspended on Closing Date and Buyer is unable to obtain property insurance, Buyer may postpone closing up to 5 days after the insurance underwriting suspension is lifted.

Buyer and Seller acknowledge receipt of a copy of this page, which is Page 1 of 8 Pages.

37\* (b) Location: Closing will take place in BROWARD County, Florida. (If left blank, closing  
38 will take place in the county where the property is located.) Closing may be conducted by mail or electronic means.

39 **5. THIRD PARTY FINANCING:**

40\* **BUYER'S OBLIGATION:** Within \_\_\_\_\_ days (5 days if left blank) after Effective Date, **Buyer** will apply for third party  
41\* financing in an amount not to exceed 80 % of the purchase price or \$ 100,000.00, with a fixed interest rate  
42\* not to exceed \_\_\_\_\_ % per year with an initial variable interest rate not to exceed \_\_\_\_\_ %, with points or commitment  
43\* or loan fees not to exceed \_\_\_\_\_ % of the principal amount, for a term of 7 years, and amortized over 30  
44 years, with additional terms as follows:

45\* \_\_\_\_\_  
46 **Buyer** will timely provide any and all credit, employment, financial and other information reasonably required by any  
47 lender. **Buyer** will use good faith and reasonable diligence to (i) obtain Loan Approval within 45 days (45 days if  
48 left blank) from Effective Date (Loan Approval Date), (ii) satisfy terms and conditions of the Loan Approval, and  
49 (iii) close the loan. **Buyer** will keep **Seller** and Broker fully informed about loan application status and authorizes the  
50 mortgage broker and lender to disclose all such information to **Seller** and Broker. **Buyer** will notify **Seller** immediately  
51 upon obtaining financing or being rejected by a lender. **CANCELLATION:** If **Buyer**, after using good faith and  
52 reasonable diligence, fails to obtain Loan Approval by Loan Approval Date, **Buyer** may within 5 days (3 days if left  
53 blank) deliver written notice to **Seller** stating **Buyer** either waives this financing contingency or cancels this Contract.  
54 If **Buyer** does neither, then **Seller** may cancel this Contract by delivering written notice to **Buyer** at any time  
55 thereafter. Unless this financing contingency has been waived, this Contract shall remain subject to the  
56 satisfaction, by closing, of those conditions of Loan Approval related to the Property. **DEPOSIT(S) (for purposes**  
57 **of Paragraph 5 only):** If **Buyer** has used good faith and reasonable diligence but does not obtain Loan  
58 Approval by Loan Approval Date and thereafter either party elects to cancel this Contract as set forth above or the  
59 lender fails or refuses to close on or before the Closing Date without fault on **Buyer's** part, the Deposit(s) shall be  
60 returned to **Buyer**, whereupon both parties will be released from all further obligations under this Contract, except for  
61 obligations stated herein as surviving the termination of this Contract. If neither party elects to terminate this Contract  
62 as set forth above or **Buyer** fails to use good faith or reasonable diligence as set forth above, **Seller** will be entitled to  
63 retain the Deposit(s) if the transaction does not close.

64\* **6. TITLE:** **Seller** has the legal capacity to and will convey marketable title to the Property by  statutory warranty  
65 deed  other \_\_\_\_\_, free of liens, easements and encumbrances of record or  
66 known to **Seller**, but subject to property taxes for the year of closing; covenants, restrictions and public utility  
67 easements of record; existing zoning and governmental regulations; and (list any other matters to which title will be  
68 subject) \_\_\_\_\_

69\* \_\_\_\_\_  
70 provided there exists at closing no violation of the foregoing and none of them prevents **Buyer's** intended use of the  
71 Property as RETAIL USE AS A RESTAURANT PARKING

72 (a) **Evidence of Title:** The party who pays the premium for the title insurance policy will select the closing agent  
73 and pay for the title search and closing services. **Seller** will, at (check one)  **Seller's**  **Buyer's** expense and  
74 within \_\_\_\_\_ days  after Effective Date  or at least 20 days before Closing Date deliver to **Buyer** (check one)  
75  (i.) a title insurance commitment by a Florida licensed title insurer setting forth those matters to be  
76 discharged by **Seller** at or before Closing and, upon **Buyer** recording the deed, an owner's policy in the amount  
77 of the purchase price for fee simple title subject only to exceptions stated above. If **Buyer** is paying for the  
78 evidence of title and **Seller** has an owner's policy, **Seller** will deliver a copy to **Buyer** within 15 days after  
79 Effective Date.  
80  (ii.) an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an  
81 existing firm. However, if such an abstract is not available to **Seller**, then a prior owner's title policy acceptable  
82 to the proposed insurer as a base for reissuance of coverage may be used. The prior policy will include copies  
83 of all policy exceptions and an update in a format acceptable to **Buyer** from the policy effective date and  
84 certified to **Buyer** or **Buyer's** closing agent together with copies of all documents recited in the prior policy and  
85 in the update. If such an abstract or prior policy is not available to **Seller** then (i.) above will be the evidence of  
86 title.

87 (b) **Title Examination:** **Buyer** will, within 15 days from receipt of the evidence of title deliver written notice to **Seller**  
88 of title defects. Title will be deemed acceptable to **Buyer** if (1) **Buyer** fails to deliver proper notice of defects or

89\* **Buyer** [Signature] and **Seller** [Signature] acknowledge receipt of a copy of this page, which is Page 2 of 8 Pages.

90\* (2) Buyer delivers proper written notice and Seller cures the defects within 10 days from receipt of the notice  
91 ("Curative Period"). If the defects are cured within the Curative Period, closing will occur within 10 days from receipt  
92 by Buyer of notice of such curing. Seller may elect not to cure defects if Seller reasonably believes any defect  
93 cannot be cured within the Curative Period. If the defects are not cured within the Curative Period, Buyer will have  
94 10 days from receipt of notice of Seller's inability to cure the defects to elect whether to terminate this Contract or  
95 accept title subject to existing defects and close the transaction without reduction in purchase price.

96 (c) Survey: (check applicable provisions below)

97\*  (i.) Seller will, within 10 days from Effective Date, deliver to Buyer copies of prior surveys, plans,  
98 specifications, and engineering documents, if any, and the following documents relevant to this transaction:  
99\* PHASE 1 AND PHASE 2 ENVIOROMENTAL REPORT(S)

100 prepared for Seller or in Seller's possession, which show all currently existing structures. In the event this  
101 transaction does not close, all documents provided by Seller will be returned to Seller within 10 days from the  
102 date this Contract is terminated.

103\*  Buyer will, at  Seller's  Buyer's expense and within the time period allowed to deliver and examine title  
104 evidence, obtain a current certified survey of the Property from a registered surveyor. If the survey reveals  
105\* encroachments on the Property or that the improvements encroach on the lands of another,  Buyer will  
106\* accept the Property with existing encroachments  such encroachments will constitute a title defect to be  
107 cured within the Curative Period.

108 (d) Ingress and Egress: Seller warrants that the Property presently has ingress and egress.

109 7. PROPERTY CONDITION: Seller will deliver the Property to Buyer at the time agreed in its present "as is"  
110 condition, ordinary wear and tear excepted, and will maintain the landscaping and grounds in a comparable condition.  
111 Seller makes no warranties other than marketability of title. In the event that the condition of the Property has  
112 materially changed since the expiration of the Due Diligence Period, Buyer may elect to terminate the Contract and  
113 receive a refund of any and all deposits paid, plus interest, if applicable. By accepting the Property "as is", Buyer  
114 waives all claims against Seller for any defects in the Property. (Check (a) or (b))

115\*  (a) As Is: Buyer has inspected the Property or waives any right to inspect and accepts the Property in its "as is"  
116 condition.

117\*  (b) Due Diligence Period: Buyer will, at Buyer's expense and within 20 days from Effective Date ("Due  
118 Diligence Period"), determine whether the Property is suitable, in Buyer's sole and absolute discretion, for Buyer's  
119 intended use and development of the Property as specified in Paragraph 6. During the Due Diligence Period,  
120 Buyer may conduct any tests, analyses, surveys and investigations ("Inspections") which Buyer deems necessary  
121 to determine to Buyer's satisfaction the Property's engineering, architectural, environmental properties; zoning and  
122 zoning restrictions; flood zone designation and restrictions; subdivision regulations; soil and grade; availability of  
123 access to public roads, water, and other utilities; consistency with local, state and regional growth management and  
124 comprehensive land use plans; availability of permits, government approvals and licenses; compliance with  
125 American with Disabilities Act; absence of asbestos, soil and ground water contamination; and other inspections  
126 that Buyer deems appropriate to determine the suitability of the Property for Buyer's intended use and  
127 development. Buyer will deliver written notice to Seller prior to the expiration of the Due Diligence Period of  
128 Buyer's determination of whether or not the Property is acceptable. Buyer's failure to comply with this notice  
129 requirement will constitute acceptance of the Property in its present "as is" condition. Seller grants to Buyer, its  
130 agents, contractors and assigns, the right to enter the Property at any time during the Due Diligence Period for the  
131 purpose of conducting Inspections; provided, however, that Buyer, its agents, contractors and assigns enter the  
132 Property and conduct Inspections at their own risk. Buyer will indemnify and hold Seller harmless from losses,  
133 damages, costs, claims and expenses of any nature, including attorneys' fees at all levels, and from liability to any  
134 person, arising from the conduct of any and all inspections or any work authorized by Buyer. Buyer will not engage  
135 in any activity that could result in a mechanic's lien being filed against the Property without Seller's prior written  
136 consent. In the event this transaction does not close, (1) Buyer will repair all damages to the Property resulting  
137 from the Inspections and return the Property to the condition it was in prior to conduct of the Inspections, and  
138 (2) Buyer will, at Buyer's expense release to Seller all reports and other work generated as a result of the  
139 Inspections. Should Buyer deliver timely notice that the Property is not acceptable, Seller agrees that Buyer's  
140 deposit will be immediately returned to Buyer and the Contract terminated.

141 (c) Walk-through Inspection: Buyer may, on the day prior to closing or any other time mutually agreeable to the

142\* Buyer [Signature] and Seller [Signature] acknowledge receipt of a copy of this page, which is Page 3 of 8 Pages.

143 parties, conduct a final "walk-through" inspection of the Property to determine compliance with this paragraph and  
144 to ensure that all Property is on the premises.

145 **8. OPERATION OF PROPERTY DURING CONTRACT PERIOD:** Seller will continue to operate the Property and any  
146 business conducted on the Property in the manner operated prior to Contract and will take no action that would  
147 adversely impact the Property, tenants, lenders or business, if any. Any changes, such as renting vacant space, that  
148 materially affect the Property or Buyer's intended use of the Property will be permitted  only with Buyer's consent  
149  without Buyer's consent.

150 **9. CLOSING PROCEDURE:** Unless otherwise agreed or stated herein, closing procedure shall be in accordance with  
151 the norms where the Property is located.

152 **(a) Possession and Occupancy:** Seller will deliver possession and occupancy of the Property to Buyer at  
153 closing. Seller will provide keys, remote controls, and any security/access codes necessary to operate all locks,  
154 mailboxes, and security systems.



155 **(b) Costs:** Buyer will pay Buyer's attorneys' fees, taxes and recording fees on notes, mortgages and financing  
156 statements and recording fees for the deed. Seller will pay Seller's attorneys' fees, taxes on the deed and  
157 recording fees for documents needed to cure title defects. If Seller is obligated to discharge any encumbrance at or  
158 prior to closing and fails to do so, Buyer may use purchase proceeds to satisfy the encumbrances.

159 **(c) Documents:** Seller will provide the deed; bill of sale; mechanic's lien affidavit; originals of those assignable  
160 service and maintenance contracts that will be assumed by Buyer after the Closing Date and letters to each  
161 service contractor from Seller advising each of them of the sale of the Property and, if applicable, the transfer of its  
162 contract, and any assignable warranties or guarantees received or held by Seller from any manufacturer,  
163 contractor, subcontractor, or material supplier in connection with the Property; current copies of the condominium  
164 documents, if applicable; assignments of leases, updated rent roll; tenant and lender estoppels letters; tenant  
165 subordination, non-disturbance and attornment agreements (SNDAs) required by the Buyer or Buyer's lender;  
166 assignments of permits and licenses; corrective instruments; and letters notifying tenants of the change in  
167 ownership/rental agent. If any tenant refuses to execute an estoppels letter, Seller will certify that information  
168 regarding the tenant's lease is correct. If Seller is an entity, Seller will deliver a resolution of its Board of Directors  
169 authorizing the sale and delivery of the deed and certification by the appropriate party certifying the resolution and  
170 setting forth facts showing the conveyance conforms to the requirements of local law. Seller will transfer security  
171 deposits to Buyer. Buyer will provide the closing statement, mortgages and notes, security agreements, and  
172 financing statements.

173 **(d) Taxes and Prorations:** Real estate taxes, personal property taxes on any tangible personal property, bond  
174 payments assumed by Buyer, interest, rents (based on actual collected rents), association dues, insurance  
175 premiums acceptable to Buyer, and operating expenses will be prorated through the day before closing. If the  
176 amount of taxes for the current year cannot be ascertained, rates for the previous year will be used with due  
177 allowance being made for improvements and exemptions. Any tax proration based on an estimate will, at request  
178 of either party, be readjusted upon receipt of current year's tax bill; this provision will survive closing.

179 **(e) Special Assessment Liens:** Certified, confirmed, and ratified special assessment liens as of the Closing Date  
180 will be paid by Seller. If a certified, confirmed, and ratified special assessment is payable in installments, Seller will  
181 pay all installments due and payable on or before the Closing Date, with any installment for any period extending  
182 beyond the Closing Date prorated, and Buyer will assume all installments that become due and payable after the  
183 Closing Date. Buyer will be responsible for all assessments of any kind which become due and owing after Closing  
184 Date, unless an improvement is substantially completed as of Closing Date. If an improvement is substantially  
185 completed as of the Closing Date but has not resulted in a lien before closing, Seller will pay the amount of the last  
186 estimate of the assessment. This subsection applies to special assessment liens imposed by a public body and  
187 does not apply to condominium association special assessments.

188 **(f) Foreign Investment in Real Property Tax Act (FIRPTA):** If Seller is a "foreign person" as defined by FIRPTA,  
189 Seller and Buyer agree to comply with Section 1445 of the Internal Revenue Code. Seller and Buyer will  
190 complete, execute, and deliver as directed any instrument, affidavit, or statement reasonably necessary to comply  
191 with the FIRPTA requirements, including delivery of their respective federal taxpayer identification numbers or

192\* Buyer (  ) and Seller (  ) acknowledge receipt of a copy of this page, which is Page 4 of 8 Pages.

193 Social Security Numbers to the closing agent. If **Buyer** does not pay sufficient cash at closing to meet the  
194 withholding requirement, **Seller** will deliver to **Buyer** at closing the additional cash necessary to satisfy the  
195 requirement.

196 **10. ESCROW AGENT:** **Seller** and **Buyer** authorize Escrow Agent or Closing Agent (collectively "Agent") to  
197 receive, deposit, and hold funds and other property in escrow and, subject to collection, disburse them in accordance  
198 with the terms of this Contract. The parties agree that Agent will not be liable to any person for misdelivery of  
199 escrowed items to **Seller** or **Buyer**, unless the misdelivery is due to Agent's willful breach of this Contract or gross  
200 negligence. If Agent has doubt as to Agent's duties or obligations under this Contract, Agent may, at Agent's option,  
201 (a) hold the escrowed items until the parties mutually agree to its disbursement or until a court of competent  
202 jurisdiction or arbitrator determines the rights of the parties or (b) deposit the escrowed items with the clerk of  
203 the court having jurisdiction over the matter and file an action in interpleader. Upon notifying the parties of such action,  
204 Agent will be released from all liability except for the duty to account for items previously delivered out of escrow. If  
205 Agent is a licensed real estate broker, Agent will comply with Chapter 475, Florida Statutes. In any suit in which Agent  
206 interpleads the escrowed items or is made a party because of acting as Agent hereunder, Agent will recover  
207 reasonable attorney's fees and costs incurred, with these amounts to be paid from and out of the escrowed items and  
208 charged and awarded as court costs in favor of the prevailing party.

209 **11. CURE PERIOD:** Prior to any claim for default being made, a party will have an opportunity to cure any alleged  
210 default. If a party fails to comply with any provision of this Contract, the other party will deliver written notice to the non-  
211 complying party specifying the non-compliance. The non-complying party will have 5 days (5 days if left blank) after  
212 delivery of such notice to cure the non-compliance. Notice and cure shall not apply to failure to close.

213 **12. RETURN OF DEPOSIT:** Unless otherwise specified in the Contract, in the event any condition of this Contract is  
214 not met and **Buyer** has timely given any required notice regarding the condition having not been met, **Buyer's** deposit  
215 will be returned in accordance with applicable Florida Laws and regulations.

216 **13. DEFAULT:**

217 (a) In the event the sale is not closed due to any default or failure on the part of **Seller** other than failure to make  
218 the title marketable after diligent effort, **Buyer** may either (1) receive a refund of **Buyer's** deposit(s) or (2) seek  
219 specific performance. If **Buyer** elects a deposit refund, **Seller** will be liable to Broker for the full amount of the  
220 brokerage fee.

221 (b) In the event the sale is not closed due to any default or failure on the part of **Buyer**, **Seller** may either (1) retain  
222 all deposit(s) paid or agreed to be paid by **Buyer** as agreed upon liquidated damages, consideration for the  
223 execution of this Contract, and in full settlement of any claims, upon which this Contract will terminate or (2) seek  
224 specific performance. If **Seller** retains the deposit, **Seller** will pay the Brokers named in Paragraph 20 fifty percent  
225 of all forfeited deposits retained by **Seller** (to be split equally among the Brokers) up to the full amount of the  
226 brokerage fee. If **Buyer** fails to timely place a deposit as required by this Contract, **Seller** may either (1) terminate  
227 the Contract and seek the remedy outlined in this subparagraph or (2) proceed with the Contract without waiving  
228 any remedy for **Buyer's** default.

229 **14. ATTORNEY'S FEES AND COSTS:** In any claim or controversy arising out of or relating to this Contract, the  
230 prevailing party, which for purposes of this provision will include **Buyer**, **Seller** and Broker, will be awarded reasonable  
231 attorneys' fees, costs, and expenses.

232 **15. NOTICES:** All notices will be in writing and may be delivered by mail, overnight courier, personal delivery, or  
233 electronic means. Parties agree to send all notices to addresses specified on the signature page(s). Any notice,  
234 document, or item given by or delivered to an attorney or real estate licensee (including a transaction broker)  
235 representing a party will be as effective as if given by or delivered to that party.

236 **16. DISCLOSURES:**

237 (a) **Commercial Real Estate Sales Commission Lien Act:** The Florida Commercial Real Estate Sales  
238 Commission Lien Act provides that a broker has a lien upon the owner's net proceeds from the sale of commercial  
239 real estate for any commission earned by the broker under a brokerage agreement. The lien upon the owner's net

240 Buyer RAZ and Seller HS acknowledge receipt of a copy of this page, which is Page 5 of 8 Pages.

241 proceeds is a lien upon personal property which attaches to the owner's net proceeds and does not attach to any  
242 interest in real property. This lien right cannot be waived before the commission is earned.

243 (b) **Special Assessment Liens Imposed by Public Body:** The Property may be subject to unpaid special  
244 assessment lien(s) imposed by a public body. (A public body includes a Community Development District.) Such  
245 liens, if any, shall be paid as set forth in Paragraph 9(e).

246 (c) **Radon Gas:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in  
247 sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that  
248 exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon  
249 and radon testing may be obtained from your county public health unit.

250 (d) **Energy-Efficiency Rating Information:** Buyer acknowledges receipt of the information brochure required by  
251 Section 553.996, Florida Statutes.

252 **17. RISK OF LOSS:**

253 (a) If, after the Effective Date and before closing, the Property is damaged by fire or other casualty, Seller will bear  
254 the risk of loss and Buyer may cancel this Contract without liability and the deposit(s) will be returned to Buyer.  
255 Alternatively, Buyer will have the option of purchasing the Property at the agreed upon purchase price and Seller  
256 will credit the deductible, if any and transfer to Buyer at closing any insurance proceeds, or Seller's claim to any  
257 insurance proceeds payable for the damage. Seller will cooperate with and assist Buyer in collecting any such  
258 proceeds. Seller shall not settle any insurance claim for damage caused by casualty without the consent of the  
259 Buyer.

260 (b) If, after the Effective Date and before closing, any part of the Property is taken in condemnation or under the  
261 right of eminent domain, or proceedings for such taking will be pending or threatened, Buyer may cancel this  
262 Contract without liability and the deposit(s) will be returned to Buyer. Alternatively, Buyer will have the option of  
263 purchasing what is left of the Property at the agreed upon purchase price and Seller will transfer to the Buyer at  
264 closing the proceeds of any award, or Seller's claim to any award payable for the taking. Seller will cooperate with  
265 and assist Buyer in collecting any such award.

266 **18. ASSIGNABILITY; PERSONS BOUND:** This Contract may be assigned to a related entity, and otherwise  is  
267 not assignable  is assignable. If this Contract may be assigned, Buyer shall deliver a copy of the assignment  
268 agreement to the Seller at least 5 days prior to Closing. The terms "Buyer," "Seller" and "Broker" may be singular or  
269 plural. This Contract is binding upon Buyer, Seller and their heirs, personal representatives, successors and assigns  
270 (if assignment is permitted).



271 **19. MISCELLANEOUS:** The terms of this Contract constitute the entire agreement between Buyer and Seller.  
272 Modifications of this Contract will not be binding unless in writing, signed and delivered by the party to be bound.  
273 Signatures, initials, documents referenced in this Contract, counterparts and written modifications communicated  
274 electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or  
275 typewritten terms inserted in or attached to this Contract prevail over preprinted terms. If any provision of this Contract  
276 is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective. This Contract will be  
277 construed under Florida law and will not be recorded in any public records.

278 **20. BROKERS:** Neither Seller nor Buyer has used the services of, or for any other reason owes compensation to,  
279 a licensed real estate Broker other than:

280\* (a) **Seller's Broker:** \_\_\_\_\_  
281 (Company Name) (Licensee)  
282\* \_\_\_\_\_  
283 (Address, Telephone, Fax, E-mail)

284\* who  is a single agent  is a transaction broker  has no brokerage relationship and who will be compensated  
285\* by  Seller  Buyer  both parties pursuant to  a listing agreement  other (specify) \_\_\_\_\_

286\* \_\_\_\_\_

287\* Buyer  and Seller  acknowledge receipt of a copy of this page, which is Page 6 of 8 Pages.

Compassion

288\* (b) Buyer's Broker: First Colonial Realty(3%) BARRINGTON G WRIGHT  
 289\* (Company Name) (Licensee)  
 290\* 3837 HOLLYWOOD BLVD SE.A HOLLYW 3054959070 bgarfieldwright@gma  
 291\* (Address, Telephone, Fax, E-mail)

292\* who  is a single agent  is a transaction broker  has no brokerage relationship and who will be compensated  
 293\* by  Seller's Broker  Seller  Buyer  both parties pursuant to  an MLS offer of compensation  other (specify)  
 294\* Seller agrees to pay 3% commission on final sales price at closing to First Colonial Realty

295 (collectively referred to as "Broker") in connection with any act relating to the Property, including but not limited to  
 296 inquiries, introductions, consultations, and negotiations resulting in this transaction. Seller and Buyer agree to  
 297 indemnify and hold Broker harmless from and against losses, damages, costs and expenses of any kind, including  
 298 reasonable attorneys' fees at all levels, and from liability to any person, arising from (1) compensation claimed which is  
 299 inconsistent with the representation in this Paragraph, (2) enforcement action to collect a brokerage fee pursuant to  
 300 Paragraph 10, (3) any duty accepted by Broker at the request of Seller or Buyer, which is beyond the scope of  
 301 services regulated by Chapter 475, Florida Statutes, as amended, or (4) recommendations of or services provided and  
 302 expenses incurred by any third party whom Broker refers, recommends, or retains for or on behalf of Seller or Buyer.

303 21. OPTIONAL CLAUSES: (Check if any of the following clauses are applicable and are attached as an addendum to  
 304 this Contract):

- |  |  |   |
|--|--|---|
| 305* <input type="checkbox"/> Arbitration                    | <input type="checkbox"/> Seller Warranty                   | <input type="checkbox"/> Existing Mortgage          |
| 306* <input type="checkbox"/> Section 1031 Exchange          | <input type="checkbox"/> Coastal Construction Control Line | <input type="checkbox"/> Buyer's Attorney Approval  |
| 307* <input type="checkbox"/> Property Inspection and Repair | <input type="checkbox"/> Flood Area Hazard Zone            | <input type="checkbox"/> Seller's Attorney Approval |
| 308* <input type="checkbox"/> Seller Representations         | <input type="checkbox"/> Seller Financing                  | <input type="checkbox"/> Other _____                |

309 22. ADDITIONAL TERMS:

310\* Seller and buyer agree that the sale of the subject  
 311\* property is contingent upon the Buyer purchase of Lot C-1  
 312\* adjacent to the subject property at 517 N.W 7th Ave.

321 THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE  
 322 ADVICE OF AN ATTORNEY PRIOR TO SIGNING. BROKER ADVISES BUYER AND SELLER TO VERIFY ALL  
 323 FACTS AND REPRESENTATIONS THAT ARE IMPORTANT TO THEM AND TO CONSULT AN APPROPRIATE  
 324 PROFESSIONAL FOR LEGAL ADVICE (FOR EXAMPLE, INTERPRETING CONTRACTS, DETERMINING THE  
 325 EFFECT OF LAWS ON THE PROPERTY AND TRANSACTION, STATUS OF TITLE, FOREIGN INVESTOR  
 326 REPORTING REQUIREMENTS, ETC.) AND FOR TAX, PROPERTY CONDITION, ENVIRONMENTAL AND OTHER  
 327 ADVICE. BUYER ACKNOWLEDGES THAT BROKER DOES NOT OCCUPY THE PROPERTY AND THAT ALL  
 328 REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) BY BROKER ARE BASED ON SELLER  
 329 REPRESENTATIONS OR PUBLIC RECORDS UNLESS BROKER INDICATES PERSONAL VERIFICATION OF  
 330 THE REPRESENTATION. BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS  
 331 AND GOVERNMENTAL AGENCIES FOR VERIFICATION OF THE PROPERTY CONDITION, SQUARE FOOTAGE  
 332 AND FACTS THAT MATERIALLY AFFECT PROPERTY VALUE.

333\* Buyer (Signature) and Seller (Signature) acknowledge receipt of a copy of this page, which is Page 7 of 8 Pages.

334 Each person signing this Contract on behalf of a party that is a business entity represents and warrants to the other  
335 party that such signatory has full power and authority to enter into and perform this Contract in accordance with its  
336 terms and each person executing this Contract and other documents on behalf of such party has been duly authorized  
337 to do so.

338\* Homer Thomas  
339 T & G Group Holdings, LLC-Homer Thomas

Date: 12-27-14

340\* T & G Group Holdings, LLC-Homer Thomas  
341 (Typed or Printed Name of Buyer)

Tax ID No: \_\_\_\_\_

342\* Title: Chief Operating Officer-Homer Thomas

Telephone: \_\_\_\_\_

343\* Ralph Grissett, Jr.  
344 T & Group Holdings, LLC-Ralph Grissett, Jr.

Date: 12-27-14

345\* T & Group Holdings, LLC-Ralph Grissett, Jr.  
346 (Typed or Printed Name of Buyer)

Tax ID No: \_\_\_\_\_

347\* Title: Chief Financial Officer-Ralph Grissett, Jr.

Telephone: \_\_\_\_\_

348\* Buyer's Address for purpose of notice: \_\_\_\_\_

349\* Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

350\* Izhak Halbani  
351

Date: 12-31-2014

352\* Izhak Halbani CEO  
353 (Typed or Printed Name of Seller)

Tax ID No: \_\_\_\_\_

354\* Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

355\* \_\_\_\_\_  
356

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

357\* \_\_\_\_\_  
358 (Typed or Printed Name of Seller)

Tax ID No: \_\_\_\_\_

359\* Title: \_\_\_\_\_

Telephone: \_\_\_\_\_

360\* Seller's Address for purpose of notice: \_\_\_\_\_

361\* Facsimile: \_\_\_\_\_

Email: \_\_\_\_\_

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362\* Buyer (103) (H) and Seller (103) (H) acknowledge receipt of a copy of this page, which is Page 8 of 8 Pages.



<b>Site Address</b>	517 NW 7 AVENUE, FORT LAUDERDALE	<b>ID #</b>	5042 03 01 1370
<b>Property Owner</b>	SOUTHERN REO GROUP LLC	<b>Millage</b>	0312
<b>Mailing Address</b>	4301 S FLAMINGO RD #106 123 DAVIE FL 33330	<b>Use</b>	01

<b>Abbreviated Legal Description</b>	NORTH LAUDERDALE 1-48 D LOT 18 LESS E 15 FOR ST,19 LESS E 15 FOR ST,20 LESS E 15 FOR ST BLK 14
--------------------------------------	--

The just values displayed below were set in compliance with **Sec. 193.011, Fla. Stat.**, and include a reduction for costs of sale and other adjustments required by **Sec. 193.011(8)**.

<b>Property Assessment Values</b>					
Click here to see 2014 Exemptions and Taxable Values as reflected on the Nov. 1, 2014 tax bill.					
Year	Land	Building	Just / Market Value	Assessed / SOH Value	Tax
2015	\$16,880	\$51,130	\$68,010	\$68,010	
2014	\$16,880	\$51,130	\$68,010	\$68,010	\$1,583.65
2013	\$16,880	\$51,130	\$68,010	\$64,060	\$1,549.73

**IMPORTANT:** The 2015 values currently shown are "roll over" values from 2014. These numbers will change frequently online as we make various adjustments until they are finalized on June 1. Please check back here AFTER June 1, 2015, to see the actual proposed 2015 assessments and portability values.

<b>2015 Exemptions and Taxable Values by Taxing Authority</b>				
	County	School Board	Municipal	Independent
<b>Just Value</b>	\$68,010	\$68,010	\$68,010	\$68,010
<b>Portability</b>	0	0	0	0
<b>Assessed/SOH</b>	\$68,010	\$68,010	\$68,010	\$68,010
<b>Homestead</b>	0	0	0	0
<b>Add. Homestead</b>	0	0	0	0
<b>Wid/Vet/Dis</b>	0	0	0	0
<b>Senior</b>	0	0	0	0
<b>Exempt Type</b>	0	0	0	0
<b>Taxable</b>	\$68,010	\$68,010	\$68,010	\$68,010

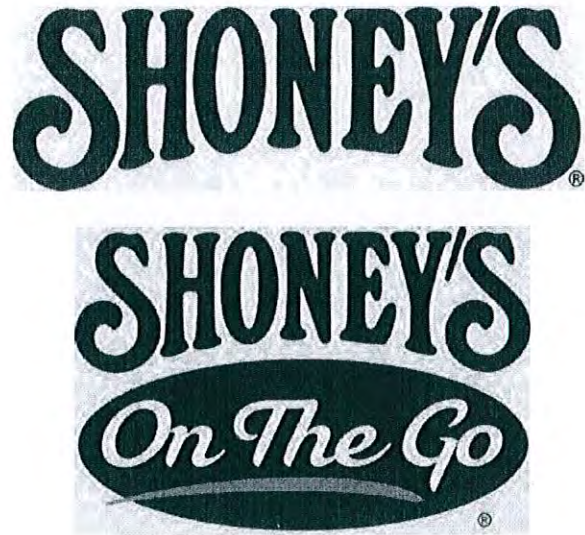
<b>Sales History</b>			
Date	Type	Price	Book/Page or CIN
5/14/2014	WD-Q	\$125,000	112326020
2/9/2011	QCD-D	\$6,100	47842 / 728
1/26/2011	CET-D	\$6,100	47813 / 1009
12/19/2007	WD-D	\$180,000	44935 / 951
6/8/2007	QCD	\$100	44247 / 318

<b>Land Calculations</b>		
Price	Factor	Type
\$2.00	8,438	SF
<b>Adj. Bldg. S.F. (Card, Sketch)</b>		1374
<b>Units</b>		1

<b>Special Assessments</b>								
Fire	Garb	Light	Drain	Impr	Safe	Storm	Clean	Misc
03								

SHONEY'S FRANCHISE AGREEMENT

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**FRANCHISEE:**

Homer J. Thomas  
209 NW 15th Street  
Pompano Beach FL 33060  
(954) 501-4625

**RESTAURANT NO.**

TBD

---

**AUTHORIZED LOCATION:**

TBD

---

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**EFFECTIVE DATE:**

June 27, 2014

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**EXPIRATION DATE:**

June 26, 2034

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## TABLE OF CONTENTS

<b>1.</b>	<b>FRANCHISE AND LICENSE .....</b>	<b>2</b>
1.1	Grant of Franchise and License.....	2
1.2	Acceptance of Franchise .....	2
1.3	Protected Area .....	2
1.4	Catering and Delivery Services .....	2
1.5	Limited Exclusivity/Reservation of Rights.....	2
1.6	Forms of Agreement. ....	3
<b>2.</b>	<b>TERM AND RENEWAL.....</b>	<b>3</b>
2.1	Initial Term .....	3
2.2	Renewal. ....	3
<b>3.</b>	<b>FRANCHISE AND ROYALTY FEES.....</b>	<b>5</b>
3.1	Franchise Fee .....	5
3.2	Royalty Fee.....	5
3.3	Definition of Gross Sales .....	5
<b>4.</b>	<b>PAYMENTS AND CREDIT .....</b>	<b>6</b>
4.1	Payment Method .....	6
4.2	Application of Payments.....	6
4.3	Late Fees and Interest Charges .....	6
<b>5.</b>	<b>RESTAURANT LOCATION AND LEASE .....</b>	<b>6</b>
5.1	Location of Restaurant .....	6
5.2	Site Acceptance .....	7
5.3	No Guaranty of Site Suitability or Success.....	7
5.4	Lease of Premises from Third Party .....	7
<b>6.</b>	<b>CONSTRUCTION AND ALTERATIONS.....</b>	<b>7</b>
6.1	Restaurant Planning .....	7
6.2	Submission of Plans .....	8
6.3	Construction Process.....	8
6.4	Construction Period .....	8
6.5	WARRANTY DISCLAIMER.....	9
6.6	Construction Indemnification.....	9
6.7	No Mechanic's Liens .....	9
<b>7.</b>	<b>TRADEMARKS AND SERVICE MARKS; OTHER INTELLECTUAL PROPERTY. ....</b>	<b>9</b>
7.1	Ownership and Assignment of Intellectual Property .....	9
7.2	Ownership of Marks .....	10

7.3	Use of Marks and Limitations.....	10
7.4	Copyright Symbol.....	11
7.5	Internet Website and Domain Name.....	11
7.6	Notice of Claims.....	11
7.7	Changes in Marks.....	11
<b>8.</b>	<b>CONFIDENTIAL INFORMATION.....</b>	<b>11</b>
8.1	Franchisor’s Confidential Information and Trade Secrets.....	11
8.2	Restrictions on Disclosure and Use of Confidential Information and Trade Secrets.....	13
8.3	Exceptions and Permitted Disclosure.....	13
8.4	New Confidential Information.....	14
<b>9.</b>	<b>SYSTEM OPERATIONS ASSISTANCE AND FRANCHISEE TRAINING.....</b>	<b>14</b>
9.1	Operations Manual and Training Materials.....	14
9.2	Required Training.....	14
9.3	Conferences.....	15
9.4	Expenses.....	15
9.5	Opening Assistance.....	15
9.6	Consultation.....	15
<b>10.</b>	<b>FRANCHISEE OBLIGATIONS.....</b>	<b>16</b>
10.1	Licenses, Permits and Compliance with Laws.....	16
10.2	Compliance with System Standards, Specifications, and Procedures.....	16
10.3	System Revisions.....	17
10.4	Restaurant Management.....	17
10.5	Employee Hiring, Training and Behavior.....	17
10.6	Employee Dress.....	18
10.7	Premises Use and Product Offerings.....	18
10.8	General Maintenance.....	18
10.9	Remodeling and Alterations.....	18
10.10	Inspections.....	19
10.11	System Contracts, Computer Systems, and Gift Card Programs.....	19
10.12	Notice of Litigation.....	20
10.13	Other Obligations.....	20
<b>11.</b>	<b>SYSTEM PRODUCTS AND DISTRIBUTION.....</b>	<b>20</b>
11.1	Proprietary and Non- Proprietary Products.....	20
11.2	Purchase Requirements.....	21
11.3	Authorized Distributors and Suppliers.....	21
11.4	Use of Unauthorized Distributors or Suppliers.....	21

11.5	Inventory, Display Obligations and Packaging.....	22
11.6	WARRANTY DISCLAIMER.....	22
<b>12.</b>	<b>COOPERATIVE PURCHASING GROUP .....</b>	<b>22</b>
<b>13.</b>	<b>ADVERTISING AND MARKETING.....</b>	<b>23</b>
13.1	Advertising Fund .....	23
13.2	Termination of Fund.....	24
13.3	Regional Advertising Co-Operative.....	24
13.4	Local Restaurant Marketing.....	25
13.5	Grand Opening Marketing.....	25
13.6	Approval of Advertising .....	26
13.7	Refrain from Activities that May Harm the Brand.....	26
13.8	Cooperation in Market Research .....	26
<b>14.</b>	<b>FRANCHISE ADVISORY COUNCIL .....</b>	<b>26</b>
<b>15.</b>	<b>FRANCHISEE RELATIONSHIP .....</b>	<b>27</b>
15.1	Independent Contractor.....	27
15.2	No Direct Franchisor Control. ....	27
15.3	Notice of Independence .....	27
<b>16.</b>	<b>ORGANIZATION OF FRANCHISEE; GUARANTY. ....</b>	<b>27</b>
<b>17.</b>	<b>INDEMNIFICATION.....</b>	<b>28</b>
17.1	Duty to Indemnify.....	28
17.2	Losses and Expenses .....	28
17.3	Contributory Negligence.....	29
17.4	Notice and Defense of Claims.....	29
<b>18.</b>	<b>INSURANCE .....</b>	<b>29</b>
18.1	Required Insurance .....	29
18.2	Insurance Obligations .....	30
18.3	Evidence of Insurance.....	30
<b>19.</b>	<b>REPORTS, FINANCIAL STATEMENTS, AND FINANCIAL CONDITION. ....</b>	<b>31</b>
19.1	Books Required .....	31
19.2	Operating Reports.....	31
19.3	Additional Reports Upon Delinquency.....	31
19.4	Point-of-Sale and Computer Systems .....	32
19.5	Franchisor Audit Rights.....	32
<b>20.</b>	<b>TRANSFER OF FRANCHISE .....</b>	<b>32</b>
20.1	Transfer by Franchisor.....	32

20.2	Transfer by Franchisee.....	32
20.3	Right of First Refusal.....	33
20.4	Death or Disability.....	34
20.5	Transfer to a Wholly-Owned Entity.....	34
20.6	Conditions for Approval of Transfer.....	34
20.7	Limited Effect of Consent to Transfer .....	35
20.8	Conditions on Securities Offerings .....	35
20.9	Securities Offering Notices .....	36
20.10	Grant of Security Interest.....	36
<b>21.</b>	<b>CONDEMNATION AND CASUALTY.....</b>	<b>36</b>
21.1	Condemnation and Relocation .....	36
21.2	Damage and Repair.....	37
21.3	Fees and Other Payments.....	37
<b>22.</b>	<b>TERMINATION OF AGREEMENT.....</b>	<b>37</b>
22.1	Immediate Termination by Franchisor.....	37
22.2	Termination by Franchisor With Notice: 24 hour Cure .....	39
22.3	Termination by Franchisor With Notice: 10-Day Cure .....	39
22.4	Termination by Franchisor With Notice: 30-Day Cure .....	40
22.5	Compliance with Applicable Law.....	41
22.6	Assumption of Management.....	41
22.7	No Limitation on Events of Default or Remedies .....	41
<b>23.</b>	<b>RIGHTS AND OBLIGATIONS UPON TERMINATION OR EXPIRATION.....</b>	<b>41</b>
23.1	Payment of Amounts Owed to the Franchisor .....	41
23.2	Other Franchisee Obligations.....	42
23.3	Liquidated Damages .....	43
23.4	Assignment of Franchisee’s Lease and Purchase of Assets .....	43
23.5	Deidentification of Premises.....	44
23.6	Franchisee’s Continuing Obligations.....	44
<b>24.</b>	<b>COVENANTS NOT TO COMPETE .....</b>	<b>44</b>
24.1	Limit on Competition During Term.....	44
24.2	Limit on Post-Term Competition .....	45
24.3	Irreparable Harm.....	45
24.4	Definition of Competitive Business.....	45
24.5	Exceptions .....	45
<b>25.</b>	<b>RESOLUTION OF DISPUTES .....</b>	<b>46</b>
25.1	Agreement to Use Procedure .....	46

25.2	Initial Process .....	46
25.3	Mediation.....	46
25.4	Fees; Disqualification; Confidentiality .....	47
<b>26.</b>	<b>MISCELLANEOUS TERMS.....</b>	<b>47</b>
26.1	Attorneys' Fees .....	47
26.2	Force Majeure.....	47
26.3	Governing Law, Venue and Jurisdiction.....	48
26.4	Injunctive Relief .....	48
26.5	Limitations on Actions.....	48
26.6	Notices and Payments.....	49
26.7	No Waiver of Default .....	49
26.8	Rights of Parties are Cumulative .....	49
26.9	Waiver of Certain Damages.....	49
26.10	Waiver Of Jury Trial and Class Actions .....	50
<b>27.</b>	<b>AGREEMENT.....</b>	<b>50</b>
27.1	Amendment and Binding Effect. ....	50
27.2	Approval. ....	50
27.3	Counterparts .....	50
27.4	Definitions .....	50
27.5	Entire Agreement; Interpretation .....	51
27.6	Severability and Modification of Provisions.....	51
27.7	Time.....	51
<b>28.</b>	<b>ACKNOWLEDGMENTS AND REPRESENTATIONS.....</b>	<b>51</b>
28.1	Multiple Forms of Agreement.....	51
28.2	Franchisee Representations.....	52

**EXHIBITS**

1	Definition of Protected Area
2	Lease Addendum
3	Automated Clearing House Payment Authorization
4	Confidentiality Agreement
5	Certificate of Legal Composition and Designation of Control Person
6	Guaranty
7	Shoney's On The Go® Addendum to Shoney's® Franchise Agreement (where applicable)
8	SBA Addendum to Franchise Agreement (where applicable)

## **FRANCHISE AGREEMENT**

This Franchise Agreement (“Agreement”) is made as of the date identified on the cover page hereof (the “Effective Date”) between Shoney’s North America, LLC, a Georgia limited liability company, with a principal place of business located at 1717 Elm Hill Pike, Suite B-1, Nashville, Tennessee 37210 (“Franchisor”), and Franchisee identified on the cover page hereof. For purposes of simplicity, we will often refer to the Franchisor as “us,” “we,” or “our,” and we will often refer to you, the Franchisee, as “you” or “your.” The cover page is incorporated into this Agreement and made a part hereof.

### **BACKGROUND**

A. The Franchisor, at a substantial expenditure of time, effort and money, has developed a system (the “System” or the “SHONEY’S<sup>®</sup> System”) for developing, opening, operating and promoting distinctive family dining and fast casual service restaurants. The distinguishing features of the SHONEY’S<sup>®</sup> System include but are not limited to the SHONEY’S<sup>®</sup> and SHONEY’S ON THE GO<sup>®</sup> names and trademarks; distinctive interior and exterior building designs, layouts, décor, color schemes, furnishings, fixtures, and equipment; confidential food formulas, recipes and specifications used in the preparation of food products; specialized menus and signs; operations manuals; standards, specifications and procedures for equipment, equipment layouts, products, advertising and marketing and promotional programs, operating procedures, and management programs; and training programs and materials; all of which may be changed, modified, improved and further developed by Franchisor from time to time.

B. The Franchisor identifies the SHONEY’S<sup>®</sup> System in the restaurants operated pursuant to this System, by means of certain distinctive trade names, service marks, trademarks, logos, emblems, and other symbols and indicia of origin, including but not limited to the SHONEY’S<sup>®</sup> name and mark used to identify its family dining restaurants and the SHONEY’S ON THE GO<sup>®</sup> name and mark used to identify its fast casual service restaurants, and other trade names, service marks, trademarks, and trade dress that are now, or may be in the future, designated by the Franchisor for use in connection with the SHONEY’S<sup>®</sup> System (collectively, the “Marks” or the “SHONEY’S<sup>®</sup> Marks”). \_\_\_\_\_

C. The Franchisor has acquired knowledge and experience in the composition, preparation, distribution, advertising and sale of food products by restaurants using the SHONEY’S<sup>®</sup> System and with respect to the style of the facilities and signs used by said restaurants, and has successfully developed a reputation, demand and goodwill for the products sold by such restaurants.

D. The Franchisee recognizes the benefits to be derived from being identified with and licensed by the Franchisor and being able to utilize the SHONEY’S<sup>®</sup> System and the Marks, and desires to be franchised and licensed to own and operate a SHONEY’S<sup>®</sup> or SHONEY’S ON THE GO<sup>®</sup> restaurant using the SHONEY’S<sup>®</sup> System and Marks upon the terms and conditions set forth in this Agreement; and the Franchisee understands that those terms and conditions are reasonably necessary to maintain uniform standards of quality and service and to protect the

goodwill and to enhance the public image of the SHONEY'S® System and the Marks, for the benefit of the Franchisor and all its franchisees.

THEREFORE, in consideration of the terms, promises, and conditions in this Agreement, the Franchisor and the Franchisee agree as follows:

**1. FRANCHISE AND LICENSE.**

1.1 Grant of Franchise and License.

The Franchisor grants to the Franchisee during the term of this Agreement the non-exclusive right and license to operate a SHONEY'S® restaurant (the "Restaurant") only at the Authorized Location identified on the cover page of this Agreement (the "Premises"), and to use the SHONEY'S® System and Marks in connection therewith, in accordance with the terms, promises, and conditions of this Agreement.

1.2 Acceptance of Franchise.

The Franchisee accepts this franchise and license and agrees that it will at all times faithfully, honestly and diligently perform its obligations under this Agreement, and that it will continuously exert its best efforts to promote and enhance the business of the SHONEY'S® System and of the Restaurant, and to enhance and preserve the goodwill of the Marks and the System.

1.3 Protected Area.

We will not operate a SHONEY'S® or SHONEY'S ON THE GO® restaurant, and we will not license any other person or entity to operate a SHONEY'S® or SHONEY'S ON THE GO® restaurant, within your protected area defined in **Exhibit 1** attached to and part of this Agreement. Except as provided in the first sentence of this Section 1.3, the franchise granted under this Agreement is non-exclusive and the Franchisee has no right to exclude, control, or impose conditions on the location or development of SHONEY'S® or SHONEY'S ON THE GO® restaurants or on any sales or distribution of products under the SHONEY'S® Marks through any channel of distribution.

1.4 Catering and Delivery Services.

You may provide food catering and delivery services from the Premises inside or outside your protected area, within a reasonable distance from the Premises. The area in which you offer off-premises catering may overlap with the off-premises catering area of another SHONEY'S® or SHONEY'S ON THE GO® restaurant.

1.5 Limited Exclusivity/Reservation of Rights.

We retain the rights in our sole and absolute discretion to:

- a. establish, operate, and grant to other persons rights to establish and operate, a SHONEY'S® or SHONEY'S ON THE GO® restaurant, or any other business using the Marks,

the System or any variation of them, anywhere outside your protected area on any terms and conditions that we deem appropriate;

b. develop, use, and franchise or license anywhere the rights to any trademarks and other intellectual property not designated by us as SHONEY'S® Marks, for use anywhere with similar or different franchise systems, businesses or products or services, without granting you any rights in them;

c. offer, ship, sell and provide products or services identified by the Marks or otherwise to customers located in your protected area through any distribution channel or method, including retail stores, mail orders, Internet (or any other form of electronic commerce), schools, stadiums and arenas, business or industrial foodservice venues, and delivery services, irrespective of the proximity to your Premises and without compensation to the Franchisee, but those sales will not be made from a SHONEY'S® or SHONEY'S ON THE GO® restaurant located in your protected area;

d. own, operate, franchise, or license anywhere, even in close proximity to your Restaurant, restaurants of any type that do not use the SHONEY'S® Marks;

e. develop, change or modify the System, the Marks, or our franchise programs and operations at any time; and

f. engage in any other activity, action or undertaking that is not expressly prohibited to us under this Agreement.

#### 1.6 Forms of Agreement.

Franchisee acknowledges that Franchisor intends to enter into agreements with other franchisees that may contain provisions, conditions and obligations that differ from those contained in this Agreement. The existence of different forms of agreement and the fact that Franchisor and other franchisees may have different rights and obligations does not affect the duties of the parties to this Agreement to comply with the terms of this Agreement.

## 2. TERM AND RENEWAL.

### 2.1 Initial Term.

This Agreement and the franchise and licenses granted hereunder shall have an initial term of **20 years** beginning on the Effective Date, unless terminated earlier in accordance with the terms and conditions set forth herein.

### 2.2 Renewal.

At the end of the initial term of this Agreement, you shall have an option to renew the franchise using our then current form of franchise agreement for an additional **10 year** term, if all of the following conditions have been satisfied:

a. You have consistently complied with all your material obligations under this Agreement, including timely, accurate, and complete financial reporting of the Gross Sales of your Restaurant and other required financial data; and the operations and financial condition of your Restaurant, and of all the other SHONEY'S<sup>®</sup> or SHONEY'S ON THE GO<sup>®</sup> restaurants you operate, meet our standards under the SHONEY'S<sup>®</sup> System.

b. At the end of the initial term, you are current in all your monetary obligations to us and to all our affiliates and designated suppliers, you have timely and fully met all material monetary payment obligations throughout the term of this Agreement, and you are not otherwise in default under this Agreement or any other agreement with us or our affiliates.

c. At least 9 months before the end of the initial term, you must give us written notice of your decision to apply to renew your franchise.

d. Upon our approval of your renewal, you must execute our then current form of franchise agreement, an appropriate lease (if applicable), and any other agreements required to be executed by franchisees (with appropriate modifications to reflect the fact that the agreements relate to your renewal). Those new agreements will completely supersede this Agreement, any existing Lease, and all other prior agreements. The new agreements may provide for an increase in royalty fees and advertising contributions, and the other terms of those new agreements may differ materially from the terms of this Agreement and the other agreements between us, but they will not grant any additional renewal rights.

e. You must pay our renewal fee in effect on the date of renewal, which is expected to be not less than **50%** of the Franchisor's initial franchise fee in effect on the date of renewal.

f. You must complete to our satisfaction, and at your expense, all maintenance, refurbishing, renovation, modernizing and remodeling of your Restaurant that we require to conform your Restaurant to the then current image and standards of SHONEY'S<sup>®</sup> restaurants.

g. You and your managers must comply with our then current qualification and training requirements as we direct in our complete discretion.

h. You and your affiliates may not be engaged in any litigation against us or any of our affiliates, and you and all guarantors of your obligations under this Agreement must execute, in the form then prescribed by Franchisor, a general release of any and all claims you may have against us and our affiliates, and their managers, members, officers, directors, agents, stockholders, and employees.

The renewal term specified in this Section will not exceed the expiration date of the term of any existing lease for your Premises (plus all extension options and renewal terms of that lease, if any) if you do not own or control the real estate subject to the lease.

### 3. FRANCHISE AND ROYALTY FEES.

#### 3.1 Franchise Fee.

Upon the execution of this Agreement, you will pay to the Franchisor an initial franchise fee of **\$35,000**. You are paying the franchise fee as consideration for our review and approval of your application, our execution of this Agreement, our grant of a franchise giving you the right to develop, open and operate the Restaurant using the System and the Marks, and our assistance provided in connection with your site selection and development of the Restaurant. If a Development Agreement requires the payment of a development fee by you to the Franchisor, there shall be a credit toward payment of the initial franchise fee in the manner and to the extent provided in the Development Agreement. When you execute and deliver this Agreement, the initial franchise fee is fully earned and non-refundable.

#### 3.2 Royalty Fee.

You will pay us a royalty fee in the amount of **4.0%** of the Gross Sales of your Restaurant during the immediately preceding fiscal period. Payment of this royalty fee shall be due on or before the 5th day after the end of each of the 13 fiscal periods that comprise our fiscal year.

#### 3.3 Definition of Gross Sales.

“Gross Sales” means the actual revenue derived from operating the Restaurant, including, but not limited to, all amounts received or receivable, either at or away from, your Restaurant and Premises, including telephone orders and catering services, and sales of all food, beverages, other menu takeaway items, merchandise, goods, and other services (including game fees and internet access fees collected by, or commissions paid to, you), whether sold for use or consumption on or off the Premises, whether on a cash, check, credit card, debit card, barter exchange or any other credit transactions, paid or unpaid, collected or uncollected, and including sales commissions, rents and other fees from vending, amusement, and entertainment machines owned by others, and the gross revenues of vending, amusement, and entertainment machines owned by you. “Gross Sales” do not include:

- a. receipts received directly from the sale of gift cards;
- b. sales taxes or excise taxes collected from customers and paid to the appropriate taxing authority;
- c. refunds, adjustments, or credits provided to customers; or
- d. free food and beverages provided at the Premises.

#### 3.4 Advertising Contributions.

In addition to the royalty fee, Franchisee shall also pay advertising contributions as set forth in Article 13 hereof, at the same time and in the same manner as royalty fees are paid.

#### **4. PAYMENTS AND CREDIT.**

##### **4.1 Payment Method.**

You will pay the royalty fee and other amounts payable under this Agreement, including any interest charges, by electronic funds transfer pursuant to the Automated Clearing House Payment Authorization attached to and part of this Agreement as **Exhibit 3**. You will make all necessary funds available in the account for timely withdrawal by electronic transfer. You may not terminate that authorization or close the specified bank account without our prior written consent and the establishment of a substitute bank account. If we determine at any time that you have underreported Gross Sales, or have otherwise underpaid any royalties or other amounts due the Franchisor under this Agreement, you specifically agree that we have the right to initiate an immediate wire transfer from your account in the appropriate amount, including interest, as provided in this Agreement. Franchisor reserves the right to modify, by giving notice to Franchisee, the method by which Franchisee pays the royalty fee, advertising contributions and other amounts owed under this Agreement.

##### **4.2 Application of Payments.**

We may apply your payments to any of your obligations to us or our affiliates in any order and amounts we choose, notwithstanding any contrary direction by you. No payment made by written instrument shall contain a restrictive endorsement, and any restrictive endorsement has no legal effect, even if we process the instrument for payment and retain the proceeds. Acceptance of a partial or late payment will not constitute a waiver of any rights or remedies. We will credit any overpayment back to your account effective as of the first reporting date after we and you determine that we owe you a credit.

##### **4.3 Late Fees and Interest Charges.**

All royalty fees and other payments required under this Agreement, all purchases, and all other amounts due to us or our affiliates, will bear interest beginning on the first day of the next month following the date the amounts became due at the highest applicable legal rate for open account business credit, but interest will not exceed **1.5%** per month. As an administrative fee in addition to interest, we will charge you **\$175** (but not more than the maximum amount allowed by applicable law) for any payment received more than 5 days late and for any payment not honored due to insufficient funds. We have no obligation to accept late payments, and this Section is not a commitment to extend credit, or to otherwise finance your operations. Your failure to fully pay all amounts on time when due will be grounds for termination of this Agreement, as provided in Article 22.

#### **5. RESTAURANT LOCATION AND LEASE.**

##### **5.1 Location of Restaurant.**

Site selection and financing for the Premises are your exclusive responsibility as the Franchisee. You must locate and lease or purchase a site for your Restaurant. The Franchisor has the right to determine if that site is an acceptable location. We may offer counseling and

advice in site selection, but we are not obligated to loan money, guarantee leases, provide financing, or otherwise become directly involved or obligated to you or to any third party in connection with site selection or development.

#### 5.2 Site Acceptance.

When you select a proposed Restaurant site, you must promptly submit to us all data and demographic and other information concerning the site we reasonably require, in forms acceptable to us. The Franchisor will accept or reject your site in accordance with our then-current site selection policies and procedures. Our acceptance must be in writing and may not be implied by word or action. The Franchisor may reject any proposed site for any reason in its sole discretion, and you may not proceed at the rejected site, but must try to locate an acceptable site. Upon approval of a proposed site, the Franchisee shall proceed promptly to obtain control of the site. Your acquisition or control of any proposed site prior to acceptance by us is at your sole risk and responsibility, and does not in any way obligate the Franchisor to accept the site. If you fail to select an acceptable Restaurant site within 3 months from the Effective Date of this Agreement, without a written extension of time granted by us, we may elect to terminate this Agreement by written notice to you.

#### 5.3 No Guaranty of Site Suitability or Success.

In accepting a proposed site or giving approvals or advice, the Franchisor does not guarantee the suitability of the Premises you select or the success of your Restaurant. **THE FRANCHISOR EXPRESSLY DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE SUITABILITY OF THE PREMISES OR THE BUSINESS POTENTIAL OR SUCCESS OF YOUR RESTAURANT.**

#### 5.4 Lease of Premises from Third Party.

If you lease the Premises from someone other than the Franchisor, the lease or sublease must be in a form satisfactory to the Franchisor. You may not execute a lease or sublease without our prior review and written approval. Any lease you enter into must contain the Lease Addendum attached to this Agreement as **Exhibit 2**. After our approval of your lease, you must deliver a copy of the signed document to us within 5 days of its execution. You may not execute, or agree to any modification of, any lease or sublease affecting the Franchisor's rights without our prior written approval.

### 6. **CONSTRUCTION AND ALTERATIONS.**

#### 6.1 Restaurant Planning.

Upon Franchisor's written acceptance of a proposed site, the Franchisee is responsible for building the Restaurant (if the Franchisee is not moving into an existing building space), decorating the Restaurant, installing equipment, furniture and fixtures in the Restaurant, and building-out and installing signage in and around the Restaurant. The Franchisor shall provide one set of architectural guidelines (layout and specifications) for a prototype SHONEY'S® restaurant. The guidelines are representative only. They are not complete, do not conform to

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Confidential

May 16, 2014

Page 7

Exhibit C  
Shoney's

applicable codes or local conditions at your Premises, and are not, and are not intended to serve as, construction drawings. It is your responsibility, at your sole expense, to employ architects, designers, engineers, contractors, and others as necessary to use the SHONEY'S® restaurant guidelines to prepare a site plan and all required construction documents and specifications to design and construct the Premises. It also is your responsibility to ensure that the construction documents comply with all applicable federal, state and local laws, ordinances, building codes, permit requirements and regulations for the jurisdiction in which your Restaurant is located, including but not limited to the Americans with Disabilities Act of 1990, as amended (the "ADA") and similar laws governing public accommodations for persons with disabilities.

#### 6.2 Submission of Plans.

Before commencing construction of your Restaurant, the Franchisee must, at its sole expense, furnish for the Franchisor's review and acceptance a proposed preliminary site plan for the Restaurant, and a copy of the Franchisee's construction documents and specifications, adopted at the Franchisee's expense from the Franchisor's standard guidelines, for construction of the Restaurant in proposed final form. Our review is limited to reviewing the construction documents for compliance with SHONEY'S® design requirements, and we will not review the construction documents for compliance with federal, state or local laws, ordinances or regulations, which is your sole responsibility. The submitted construction documents, if accepted, may not be changed without our prior written consent. In addition, upon our request, the Franchisee must furnish all other information, including copies of all commitments and plans for construction and permanent financing, the name, address, and contact for each lender, the name and address of the contractor, and a copy of the construction contract.

#### 6.3 Construction Process.

The Franchisee shall proceed promptly to obtain all necessary zoning and building approvals and permits. The Franchisee shall break ground and commence construction of the Restaurant in accordance with the accepted construction documents as soon as possible. The Franchisor and its agents may inspect the construction at any reasonable time. At the Franchisee's expense, you must fully correct, as we direct, any deviation from the accepted site plan or construction documents and specifications. Although we may inspect to assure ourselves that the actual construction appears to conform to the approved construction documents and specifications, the Franchisor and its agents are not licensed contractors or engineers and they assume no responsibility or liability for any construction because of any inspections made by them or any resulting recommendations. The Franchisor is not responsible for delays in the construction, equipping, or decoration of your Restaurant or for any loss or damages to the Franchisee or any third party resulting from the design or construction of your Restaurant.

#### 6.4 Construction Period.

You must complete all construction, including the acquisition and installation of all equipment specified by us, and open the Restaurant within 9 months from the date your plans are accepted by the Franchisor, except for any delay due to unforeseen delays not within the control of the Franchisee. If you fail to complete your Restaurant within that 9 month period, without a written extension of time granted by us, or you commence construction of the Restaurant according to plans and specifications not accepted by the Franchisor, or you alter the accepted

site plan or building plans and specifications without our approval, we may elect to cancel and terminate this Agreement by written notice to the Franchisee.

6.5 WARRANTY DISCLAIMER.

The Franchisor makes no representations or warranties about any of the signs, fixtures, furnishings, décor, equipment, products, supplies, or materials used in connection with the Restaurant or the Premises supplied by the Franchisor, an affiliate, or any designated, approved, or recommended supplier (the “Materials”), or the amount which the Franchisee may be required to expend to acquire the Materials. **THERE ARE NO WARRANTIES, EXPRESSED OR IMPLIED, OF FITNESS OF THE MATERIALS FOR ANY PARTICULAR PURPOSE.** Oral statements made by the Franchisor or its employees or agents, or statements contained in the Franchisor’s Operations Manual or elsewhere, do not constitute warranties.

6.6 Construction Indemnification.

The Franchisor will not be liable for, and the Franchisee indemnifies and holds the Franchisor harmless from, all costs, expenses, claims, liens, and damages to persons or property, including any incidental or consequential damages, which may arise in connection with the construction of the Restaurant, and the purchase, installation, or use of the Materials, or which result from your improvements, alterations, decorations, or additions, whether involving claims of breach of contract, breach of warranty, negligence, willful act, or other claims. **THE FRANCHISOR SHALL NOT IN ANY CASE BE LIABLE FOR CLAIMS BY THE FRANCHISEE OR ANY THIRD PARTIES FOR LOSS OF SALES, REVENUES, OR PROFITS ARISING FROM DESIGN, CONSTRUCTION, EQUIPPING, SUPPLYING, FINISHING, OR MODIFYING THE RESTAURANT OR THE PREMISES.**

6.7 No Mechanic’s Liens.

We are not responsible or liable for any labor or materials furnished to you or your Restaurant site, and no mechanic’s or other lien for any labor or materials shall attach to or affect any interest of the Franchisor in your Restaurant and the Premises. You shall not allow the Restaurant or Premises to be encumbered with a mechanic’s or similar lien. If any lien is filed against the Restaurant or Premises, you must discharge it of record within 10 days after the date of filing. If you fail to discharge any lien, that failure is a material default of this Agreement.

7. TRADEMARKS AND SERVICE MARKS; OTHER INTELLECTUAL PROPERTY.

7.1 Ownership and Assignment of Intellectual Property.

The Franchisee acknowledges that the Franchisor, or its affiliate, owns and will retain ownership of all intellectual property and other rights associated with the Marks, with the System and all its components, and with Confidential Information (as defined in Section 8.1). To the extent the Franchisee creates, improves, modifies, tests, or otherwise originates any mark, trade name, menu copy, slogan, logo, recipe, formula, technique, process, or other idea or thing that relates to the Marks or the SHONEY’S® System, or has, or later obtains, any intellectual property rights in the Marks or the System or the Confidential Information, by operation of law or

otherwise, by signing this Agreement, the Franchisee deliberately and unconditionally assigns all those rights exclusively to the Franchisor, or to a person it designates. The Franchisee will take all further action requested by us at any time to complete and perfect that assignment.

7.2 Ownership of Marks.

The Franchisee acknowledges that the Marks are valid and are the exclusive property of the Franchisor or of an affiliate of the Franchisor. The Franchisee's right to use the Marks is derived solely from this Agreement and is limited to use in connection with operation of your Restaurant in accordance with the terms of this Agreement. All goodwill established by your use of the Marks will inure to the benefit of the Franchisor exclusively.

7.3 Use of Marks and Limitations.

In order to protect the Marks, the SHONEY'S<sup>®</sup> System, and the goodwill associated therewith, Franchisee shall, unless Franchisor otherwise consents in writing:

a. Use only the Marks designated by Franchisor, and only in the manner authorized and permitted by Franchisor. Any unauthorized use of the Marks by the Franchisee will constitute a breach of this Agreement and an infringement of our rights in the Marks.

b. Use the Marks only for the operation of the Restaurant and only at the Premises, or in authorized advertising and marketing materials for the business conducted at or from the Premises.

c. Operate and advertise the Restaurant only under the name SHONEY'S<sup>®</sup> or such other Marks as Franchisor may designate from time to time.

d. You may not use or allow the use of any unauthorized trademark or service mark in connection with your Restaurant. You may not use any of the Marks in any modified form, as part of any corporate or trade name, or with any prefix, suffix or other modifying words, terms, designs or symbols (other than logos and names or marks we license to you). You may not use the Marks in connection with sale or delivery of any products or services not authorized in writing by us.

e. You may not use any of the Marks in signing contracts, applications for licenses or permits, or in any manner that may imply the Franchisor's responsibility for, or result in our liability for, any of your indebtedness or obligations.

f. You must give all notices of trade and service mark registrations (®, <sup>TM</sup>, <sup>SM</sup>) when, and as, we specify, and you must obtain and file all fictitious or assumed name registrations required under applicable law, or as we may direct, at your expense.

g. You may not take any action to interfere with, or contest the validity or our ownership of, the Marks.

7.4 Copyright Symbol.

You must use the copyright symbol and form “© (year) Shoney’s North America, LLC” as directed by us.

7.5 Internet Website and Domain Name.

You may not use the SHONEY’S® Marks or promote your Restaurant on the Internet or on any other online, mobile, or electronic network without our prior approval. This includes any social networking site (such as a Facebook page or Twitter account), URL, domain name, meta-tag, download, application, posting, directory listing, blog, email account, instant messaging account, texting identity, user generated content, or any other electronic identifier. Prior to promoting your Restaurant on the internet, you must submit to us the content for our review and approval. We have established or may establish policies for the use of various types of online media by franchisees. With respect to websites, our current policy is that you may not establish an independent website nor provide any links to our website from any other site or webpage. We will provide pages on our website containing information about your business. We may require you to transfer to us any domain name containing any of our Marks, either in whole or in part.

7.6 Notice of Claims.

You must immediately notify the Franchisor if you become aware of any apparent infringement of, challenge to, or claim of rights in, any of the Marks or any part of the System. You may not communicate with any person, other than us and counsel for you and us, in connection with any infringement, challenge, or claim. We have exclusive right and authority to take any action, and we have the exclusive right to control any settlement, litigation, or U.S. Patent and Trademark Office or other proceeding, arising out of an alleged infringement, challenge, or claim, or otherwise relating to any of the Marks or any part of our System. You must execute all documents, render all assistance, and do all other things that, in our opinion, are necessary or advisable in any litigation or proceeding, or to protect or maintain our interests in the Marks and the System.

7.7 Changes in Marks.

Franchisor shall have the right to change, add, or discontinue use of any of the Marks, or to introduce additional or substitute Marks; and Franchisee, upon a reasonable period of time after receipt of written notice, shall take such action, at its sole expense, as is necessary to comply with such changes, alteration, discontinuation, addition or subtraction.

**8. CONFIDENTIAL INFORMATION.**

8.1 Franchisor’s Confidential Information and Trade Secrets.

The Franchisee and its principals, shareholders, partners, members, managers, officers, and owners and any other person who holds a direct or indirect ownership interest in Franchisee of 5% or more (individually a “Principal” and collectively the “Principals”) acknowledge that over the term of this Agreement they will receive Confidential Information and Trade Secrets, as

defined below, which the Franchisor has developed over time at great expense, including information regarding the System specified in the Operations Manual (as defined in Section 9.1) and in this Section. The Franchisee and its Principals further acknowledge that the Confidential Information and Trade Secrets, including information contained in the Operations Manual, is not generally known in the industry and is beyond their own present skills and experience, and that to develop it themselves would be expensive, time consuming, and difficult. The Franchisee and its Principals further acknowledge that the Confidential Information and Trade Secrets provides a competitive advantage and will be valuable in the development and operation of the Restaurant, and access to it is a primary reason for entering into this Agreement.

a. “Confidential Information” means any information related to the System that we disclose to you that we designate as confidential; or that, by its nature, would reasonably be expected to be held in confidence or kept secret.

b. “Trade Secret” means information that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and that is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

c. The Franchisee and its Principals specifically agree that Franchisor’s Confidential Information and Trade Secrets include, without limitation, the following:

i. methods, techniques, specifications, procedures, information, systems and knowledge of and experience in the development, design, construction, layout, licensing, and operation of SHONEY’S® and SHONEY’S ON THE GO® restaurants, whether contained in the Operations Manual, training materials or otherwise;

ii. recipes, menu analyses, and methods, procedures, and techniques for preparing, packaging, marketing, selling, and delivering products and services offered in SHONEY’S® and SHONEY’S ON THE GO® restaurants;

iii. test programs, concepts, and results relating to the planning, development, and testing of the System, products, and services offered in SHONEY’S® and SHONEY’S ON THE GO® restaurants;

iv. identities of suppliers of food, beverages, ingredients, and other items used by SHONEY’S® and SHONEY’S ON THE GO® restaurants;

v. non-public aspects of marketing programs, brand characteristics, advertising strategies, and image; and

vi. non-public aspects of technology, processes, business plans, business systems, contract terms, knowledge, know-how, drawings, materials, equipment, techniques, procedures for display of products, product formulae, and other data.

d. Confidential Information and Trade Secrets do not include information, processes, or techniques which are or become generally known in the restaurant industry or to the public, other than through disclosure in violation of this Agreement or of any other confidentiality agreement.

8.2 Restrictions on Disclosure and Use of Confidential Information and Trade Secrets.

a. Franchisee and its Principals agree that the Confidential Information and Trade Secrets belong to Franchisor. You will not acquire any interest in the Confidential Information and Trade Secrets, other than the right to use the Confidential Information and Trade Secrets that Franchisor discloses to you solely for the development and operation of your Restaurant during the term of the Agreement.

b. The Franchisee and its Principals acknowledge that any unauthorized use or disclosure of Confidential Information or Trade Secrets would constitute an unfair method of competition and could cause immediate and irreparable harm to the Franchisor and to other SHONEY'S® and SHONEY'S ON THE GO® franchisees. Accordingly, the Franchisee and its Principals agree that during the term of this Agreement they will not, directly or indirectly, disclose, divulge, publish or market to any person, or use in any way, any Confidential Information or Trade Secrets, except as required to operate the Restaurant and perform the Franchisee's obligations under this Agreement, or as the Franchisor approves in writing. The Franchisee and its Principals agree that these restrictions on the disclosure of Confidential Information will remain in effect for two (2) years following termination or expiration of the Agreement, but if the Confidential Information rises to the level of a trade secret, the restrictions shall remain in effect until the information no longer constitutes a Trade Secret.

c. The Franchisee may not make any unauthorized copies of any portion of the Confidential Information or Trade Secrets and must adopt and implement all procedures we prescribe from time to time to help prevent unauthorized use or disclosure of the Confidential Information and Trade Secrets.

d. Franchisee shall have its Restaurant operator, general manager, and managers execute a Confidentiality Agreement in the form attached to this Agreement as **Exhibit 4** or in such other form approved by us. Franchisee shall limit the disclosure of Confidential Information and Trade Secrets to non-managerial employees to such information that each such employee needs to know to perform his or her job. Franchisee shall be responsible for its employees' compliance with the restrictions on disclosure and use of Confidential Information and Trade Secrets that are set forth in this Agreement.

8.3 Exceptions and Permitted Disclosure.

These restrictions on your disclosure of Confidential Information and Trade Secrets will not apply to disclosure of such information in judicial or administrative proceedings, to the extent that you are legally compelled to disclose that information, if you have used your best efforts, and have afforded us the opportunity by giving us reasonable prior notice, to obtain an

appropriate protective order or other assurance satisfactory to us of confidential treatment for the information required to be disclosed.

#### 8.4 New Confidential Information.

Upon our request, you will fully and promptly disclose to us, all ideas, concepts, formulas, recipes, methods, techniques, and other information related to or derived from the Confidential Information and Trade Secrets that are conceived or developed by you or your employees during the term of this Agreement (“New Confidential Information”). You acknowledge and agree that the New Confidential Information is an asset of the Franchisor, and you agree to assign it to the Franchisor or an affiliate pursuant to Section 7.1.

### 9. **SYSTEM OPERATIONS ASSISTANCE AND FRANCHISEE TRAINING.**

#### 9.1 Operations Manual and Training Materials.

The Franchisor has developed a confidential Operations Manual (the “Manual” or “Operations Manual”) that contains mandatory and suggested standards, specifications, and procedures prescribed from time to time for the development and operation of SHONEY’S® and SHONEY’S ON THE GO® restaurants and the SHONEY’S® System. During the term of this Agreement, the Franchisor will loan to the Franchisee one copy of, or provide the Franchisee with electronic access to, the Manual, which may consist of multiple volumes of printed manuals, computerized documents or software, information provided on the internet or an extranet, audiotapes, videotapes, or any other analog or digital format or medium the Franchisor adopts periodically for use with the SHONEY’S® System and designates as part of the Manual. The Franchisor may update and change the Manual periodically to reflect changes in the SHONEY’S® System and the requirements applicable to SHONEY’S® and SHONEY’S ON THE GO® restaurants, and the Franchisee expressly agrees to comply with each mandatory requirement in the Manual, at its own expense, within any reasonable time the Franchisor specifies, or if no time is specified, within 30 days after receiving notification of the requirement. The Manual shall be considered a part of this Agreement. The Franchisee shall at all times ensure that its copy of the Manual and any other confidential materials supplied by the Franchisor to the Franchisee are kept current and up to date. The Franchisee must keep any printed Manual in a secure location at the Restaurant, and must restrict employee access to the Manual on a need to know basis, and take reasonable steps to prevent unauthorized disclosure or copying of any information in any printed or computerized Manual. If the Franchisor and the Franchisee have any disagreement about the most current contents of the Manual, the Franchisor’s master copy of the Manual will control. Upon the expiration or termination of this Agreement for any reason, the Franchisee must return all copies of the Manual to the Franchisor, and upon the Franchisor’s request, certify to the Franchisor that the Franchisee has not kept any copies in any medium. The Manual is confidential, copyrighted, and the Franchisor’s exclusive property. The Franchisor may, in addition to the Manual, provide to the Franchisee other training materials regarding the SHONEY’S® System.

#### 9.2 Required Training.

Prior to beginning the operation of your Restaurant, you and at least two managers, including your general manager and assistant manager (or their operating equivalents), and any other

persons we designate, must complete, to our satisfaction, our training program. The training program will include classroom instruction and field training and will last as long as we consider necessary. Franchisor will authorize the Restaurant to open only after an adequate number of the designated management employees of Franchisee have successfully completed the training program. If we determine, in our absolute discretion, that any person cannot complete the training program satisfactorily, upon our request, as soon as practicable you must hire a replacement who must satisfactorily complete our training program. We may also offer refresher or supplemental training programs to persons we select at locations we choose.

### 9.3 Conferences.

We may require you or your Restaurant managers to attend conferences which may be offered by us from time to time.

### 9.4 Expenses.

No tuition charge will be made for required initial training programs. However, you will be responsible for all travel, local transportation, lodging, and meal expenses, and compensation for you and your Restaurant personnel while attending any training program. We may charge you for training materials and we may require you to purchase certain supplies or equipment to be used in the training. After the initial training has been completed, the Franchisor will charge a fee for providing additional training at the then-prevailing rate.

### 9.5 Opening Assistance.

We will provide you with an opening team to assist in the opening of the Restaurant and the initial training of your employees at your expense, including a per diem charge of \$150 per trainer per day, except for lead trainers who will be provided at a per diem charge of \$200 per trainer per day, and all their travel and local transportation expenses. The opening team will consist of the personnel we select, and they will remain at your Restaurant for the length of time we consider necessary, but no longer than one week. If you need and request additional assistance, and we approve, you will pay the charges for, and the expenses of, the additional Franchisor personnel for as long as those personnel assist your Restaurant.

### 9.6 Consultation.

We may consult with you from time to time, as we deem appropriate in our complete discretion, regarding the operation of the Restaurant. We may provide consultation, advice and guidance with respect to the following: (i) development, preparation, packaging, sale, and delivery of authorized products; (ii) standards, specifications and operating procedures; (iii) approved equipment, furniture, furnishings, signs, food products, operating materials and supplies; (iv) development, implementation, and final approval of local advertising and promotional programs; and (v) general restaurant and System operating and management procedures. The consultation we may provide about the SHONEY'S<sup>®</sup> System will be furnished in telephonic consultations, in consultations at our offices or at your Restaurant, in the Manual, in bulletins, written reports and recommendations, in refresher training programs, or in other materials. If you request, we will furnish specific guidance and assistance, or special training of your personnel, at your Restaurant. You must pay all of our expenses for that special assistance

or training, including a per diem charge, and travel, local transportation, lodging, and meal expenses for our visiting personnel.

## **10. FRANCHISEE OBLIGATIONS.**

### 10.1 Licenses, Permits and Compliance with Laws.

At your expense, you must obtain and maintain in force all required licenses, permits and certificates relating to the Franchisee, the franchised business and the operation of the Restaurant and the Premises. You must always operate the franchise business and maintain the Restaurant and Premises in full compliance with all applicable federal, state, and local laws, ordinances, and regulations, including those relating to consumer protection, dispensing food products and food safety, environmental protection, fictitious name registration, fire, health and sanitation, labor and employment, liability and insurance, occupational health and safety, signage, unemployment insurance, workers' compensation, zoning, and withholding and payment of federal and state income taxes and social security taxes, and sales, excise, use and property taxes. You must also cause the franchised business, the Restaurant and the Premises to be in full compliance with laws affecting disability access such as the ADA. You must keep copies of all health, fire, building occupancy, and similar inspection reports on file and available for our review. You must immediately forward to us any inspection reports or correspondence stating that the Franchisee, the franchised business, the Restaurant or the Premises is not in compliance with any laws, rules, ordinances, or regulations.

### 10.2 Compliance with System Standards, Specifications, and Procedures.

Compliance by all franchisees with System standards and policies provides the basis for the wide public acceptance of the System and creates and preserves the valuable goodwill of the System and its Marks, for the benefit of Franchisor, Franchisee, and all franchisees. Therefore, adherence by franchisees to all the Franchisor's mandatory standards, specification, and policies providing for the uniform operation of all restaurants within the System is a fundamental requirement of the System, this Agreement, and franchises which we will grant to others. The Franchisee understands and acknowledges that every mandatory component of the System, including restaurant design and color schemes, signage, interior décor, equipment systems requirements, recipes, menu design and content, service format, promotions, marketing plans and activities, and mandatory provisions of the Operations Manual, is reasonable, necessary, and essential to the image and success of the SHONEY'S® System, to the success of all franchisees, and to the operation of the Restaurant. Accordingly, the Franchisee shall operate the Restaurant in conformity with those mandatory standards, specifications and procedures as Franchisor may from time to time prescribe in the Manual or as otherwise directed by us. These requirements include, without limitation, the following:

- a. selling only menu items and products which the Franchisor has designated and approved;
- b. using only the Franchisor's prescribed building layout and designs, equipment, signs, interior and exterior décor items, menus, fixtures and furnishings;

c. adhering to the Franchisor's standards and specifications relating to the selection, purchase, storage, recipes, preparation, packaging, promotion, marketing, service and sale of all products being sold at the Restaurant; and

d. satisfying the Franchisor's prescribed standards of quality, service, and cleanliness.

Any failure to adhere to any mandatory standards, specifications, requirements, or instructions contained in this Agreement or in the Manual shall constitute a material breach of, and default under, this Agreement.

### 10.3 System Revisions.

The Franchisor may change or modify the System, the Manual, system contracts, or our franchise programs and operations at any time. We may discontinue or replace any Marks or copyrighted materials, and may direct implementation or installation of new business methods, equipment, computer systems, or products or services. You must, within a reasonable time determined by us, accept and conform to all changes in the System and make all expenditures reasonably required to fully comply. Franchisor has the right, in its sole discretion, to waive, defer or permit variations from the standards of the System or the applicable agreement to any franchisee or prospective franchisee based on the peculiarities of a particular site, existing building configuration or circumstance, density of population, business potential, trade area population or any other condition or circumstance. Franchisor shall have the right, in its sole discretion, to deny any request to waive, defer, or permit variations from the standards of the System. Franchisor's approval of any waiver, deferral, or variation with respect to any SHONEY'S® restaurant or any other franchisee shall not be deemed approval thereof with respect to the Restaurant or Franchisee.

### 10.4 Restaurant Management.

At all times, you will employ a capable individual as restaurant operator (the "Restaurant Operator") who will have principal operational responsibility for your Restaurant and who will have satisfactorily completed our training program. You must also at all times employ full-time a general manager and assistant manager (each a "Restaurant Manager"), each of whom has completed our training program. If the Restaurant is your only franchised SHONEY'S® or SHONEY'S ON THE GO® restaurant, the duties of your Restaurant operator and your general manager may be performed by the same person. Your Restaurant must at all times be under the direct on-premises supervision of a Restaurant Manager.

### 10.5 Employee Hiring, Training and Behavior.

You will hire all the employees of your Restaurant. You will be exclusively responsible for the terms of their employment and compensation and for proper training in the operation of your Restaurant. The Franchisor has no control over your employees, their working hours, wages, benefits, hiring, conduct, or firing. You must require that all your employees conduct themselves at all times in a competent and courteous manner and deliver competent, sober, and courteous service to patrons of the Restaurant. You will not recruit or hire any of our employees, or any employees of any other SHONEY'S® restaurant or franchisee, without obtaining the

written permission of the other employer, until 6 months after that employee's termination of employment with the SHONEY'S® restaurant or franchisee.

#### 10.6 Employee Dress.

You must require all your employees to maintain a neat and clean appearance and dress at all times in accordance with the standards specified by the Franchisor. If the Manual or the Franchisor directs the wearing of uniforms or specifies uniform items, such as aprons, you and all your employees must comply with the prescribed uniform standards. Any uniforms or uniform items may be purchased only from authorized vendors.

#### 10.7 Premises Use and Product Offerings.

You may not use the Premises for any purpose other than the operation of your Restaurant without our prior written approval. Your Restaurant will offer for sale all products and services that we direct from time to time, and you will sell only products and services specified by the Franchisor or that we have approved in writing. The Restaurant may not offer for sale, at the Premises or any other location, any unapproved products or services. The Restaurant will not sell any products or services for resale to any third person. You may not offer or sell alcoholic beverages or tobacco products and you may not maintain or use vending machines, video game machines, sales kiosks, telephone booths, or entertainment devices not included in the System, unless approved in writing by the Franchisor.

#### 10.8 General Maintenance.

You must at all times, at your expense, maintain the Restaurant and its machinery, equipment, fixtures, furnishings, furniture, decor, Premises, parking areas, landscape areas, and interior and exterior signs, in a clean, attractive and safe condition and in conformity with any of our mandatory standards and specifications and the positive public image of our SHONEY'S® brand. The Franchisee must perform all periodic maintenance and repairs and replacement of the decor, equipment, furniture, furnishings, and signs at your Restaurant and the Premises as required to maintain their good condition, appearance, and efficient operation.

#### 10.9 Remodeling and Alterations.

To maintain a proper and updated System image, you must refurbish, remodel, repaint and repair your Restaurant to meet Franchisor's then-current standards, specifications and design criteria for SHONEY'S® restaurants at least every 7 years (unless there are less than 5 years remaining on the term of this Agreement). The required changes may require a substantial investment on your part and **WE DO NOT, AND CANNOT, MAKE ANY GUARANTEE OF ANY PARTICULAR RETURN ON YOUR INVESTMENT.** We have the right at all times to approve in advance the layouts, designs, and new equipment, furniture, and furnishings you use in any remodeling, redecorating, or re-equipping of your Restaurant. The Franchisee may not make any material alterations to the building, its equipment, the Premises, or to the appearance of your Restaurant, without our prior written approval. All permitted modifications must be completed in a good and workmanlike manner in accordance with all applicable laws and requirements.

#### 10.10 Inspections.

The Franchisor or its agents may at any time enter and inspect your Premises and perform a formal evaluation of your compliance with the System, the Manual and this Agreement. Inspections are necessary to protect our System goodwill, to ensure you are properly using our Marks, and to determine whether you are complying with this Agreement, our operating procedures and standards and specifications, and your other franchise obligations. We may observe the manner in which you are delivering products and services, we may confer with your employees and customers, we may inspect and copy your books and records, and at your expense we may select and test products, inventory materials and supplies to make sure they are satisfactory and meet our quality and performance standards. You must fully cooperate with us in those inspections, tests and evaluations. You must at all times meet or exceed the minimally acceptable score in our then current Restaurant Operation Evaluation. If at any time in our judgment, your operations, or the general state of repair or appearance of the Restaurant, or its equipment, fixtures, signs, Premises, or décor does not meet the Franchisor's standards, we shall notify you, specifying the action to be taken to correct all deficiencies and the time within the action must be completed. If you fail to cure any deficiency within the period of time specified in the notice, in addition to all our other remedies, we may enter the Premises and conduct the maintenance, or repairs or other corrective actions on your behalf, and you will be responsible for the cost. Failure to correct any specified deficiency is a material default of this Agreement, and subject to the provisions of Article 22, is grounds for termination of this Agreement.

#### 10.11 System Contracts, Computer Systems, and Gift Card Programs.

a. We and our affiliates have entered or may enter into arrangements with certain vendors for the pricing of goods and services which you are required to purchase and/or in which you are required to participate. These arrangements are subject to addition, amendment, termination, substitution, replacement or non-renewal from time to time. We may, in our sole discretion, require that ingredients, supplies, equipment, or other goods be purchased exclusively from us or from approved suppliers.

b. Franchisee shall procure, install, use and maintain, at its own expense, such computer-based cash registers, point-of-sale ("POS") systems, credit or debit card or other non-cash payment systems, high speed Internet connections, and other computer-related accessory or peripheral equipment, with such software and programs, as Franchisor specifies from time to time in the Manual or otherwise, and which is compatible with any program or system that we use now or in the future. Franchisee grants to Franchisor the right to retrieve any data and information from Franchisee's computers as Franchisor, in its sole discretion, deems appropriate, including electronically polling the daily sales, menu mix and other data of the Restaurant. You will maintain an electronic mail (e-mail) address. All of your POS, card payment, and computer systems must be compliant with all applicable laws, regulations, and commonly accepted industry standards, including without limitation those laws, regulations, and commonly accepted industry standards relating to privacy, data security, and the processing and protection of confidential personal information, including, without limitation, the Payment Card Industry Data Security Standard (also known as the PCI Directive).

c. You must participate in SHONEY'S<sup>®</sup> electronic gift card programs. The programs may require that you invest in additional equipment and that you incur fees from the

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Confidential

May 16, 2014

gift card processing vendors that we designate. You must remit to the proceeds from your sales of gift cards to the gift card administrator we designate. When a gift card is redeemed, the gift card administrator will pay to the redeeming franchisee the amount of the purchase, less the service fees charged by the merchant and the third-party processor, the cost of the gift card and bank processing fee. We will not be obligated to provide to franchisees an accounting of the proceeds and disbursements of the gift card programs.

You are required to participate in our customer survey and market research program. You also are required to participate in a guest feedback/hotline program. The results of your participating in these programs will be available to us.

#### 10.12 Notice of Litigation.

You must notify us by telephone, followed within **5 days** by detailed and accurate written notice, including copies of any pleadings or process received:

- a. within **24 hours** after you are served with process or notified in writing of any action, suit or proceeding relative to your Restaurant or the Premises;
- b. within **6 hours** after the issuance of any order, writ, injunction, award or decree of any court, agency or other governmental instrumentality which may adversely affect the operation or financial condition of your Restaurant or the use of the Premises; and
- c. within **2 hours** after the death or serious injury of any employee or customer at the Restaurant or on the Premises, or major damage to your Restaurant, or you or any Restaurant manager receive any notice of violation of any law, ordinance or regulation relating to health or safety.

YOU ARE NOT AUTHORIZED IN ANY CASE TO ACCEPT SERVICE OF PROCESS OR ANY LEGAL NOTICE FOR SHONEY'S NORTH AMERICA, LLC OR ANY OF ITS AFFILIATES.

#### 10.13 Other Obligations.

You will comply with all of your obligations specified in other articles of the Agreement.

### **11. SYSTEM PRODUCTS AND DISTRIBUTION.**

#### 11.1 Proprietary and Non- Proprietary Products.

The Franchisor has developed various proprietary products prepared by or for us according to our proprietary and secret recipes and formulas. In addition, we have developed standards and specifications for non-proprietary food products, ingredients, seasonings, beverages, materials and supplies incorporated in or used in the preparation, cooking, serving, packaging and delivery of food products authorized for sale at SHONEY'S<sup>®</sup> and SHONEY'S ON THE GO<sup>®</sup> restaurants.

## 11.2 Purchase Requirements.

a. You must purchase any of our proprietary products only from us or a third party approved and designated by us to prepare and sell those products.

b. You may purchase all other designated food products and ingredients, seasonings, beverages, materials and supplies used in the preparation of our products, and all menus, paper, packaging, glassware, china, utensils, plastic products, and uniforms that meet our standards and specifications, from suppliers that we have approved for those items.

c. The Franchisor may designate itself or an affiliate as a supplier, in which event the Franchisor or the affiliate has the right to earn a reasonable profit on any items the Franchisor or its affiliate supplies. The Franchisor and its affiliates may receive payments, discounts, or other consideration from other suppliers in consideration of their dealings with the Franchisee or other franchisees in the SHONEY'S<sup>®</sup> System, and except as otherwise agreed with respect to the operation of a purchasing Co-Operative, we may keep or use all amounts received by us without restriction.

## 11.3 Authorized Distributors and Suppliers.

We have and will periodically approve suppliers and distributors of proprietary and non-proprietary products that meet our standards and requirements, including (without limitation) standards and requirements relating to product safety and quality, prices, consistency, reliability, financial capability, labor relations, and customer relations. We may concentrate purchases with one or more distributors or suppliers to obtain lower prices or better advertising support or services for any group of SHONEY'S<sup>®</sup> restaurants we franchise or operate through affiliates. We may condition approval of a distributor or other supplier on requirements relating to the supplier's facilities and its capacity and ability to supply our System and franchisee needs in the quantities, at the times required, and with the reliability necessary for efficient operations. We may also consider frequency of delivery, standards of service, including prompt and satisfactory attention to complaints or other criteria, and opportunities for concentration of purchases. We may occasionally grant temporary approval, pending our further evaluation of the distributor or other supplier, and we may change the list of authorized distributors or suppliers at any time.

## 11.4 Use of Unauthorized Distributors or Suppliers.

If you want to use any item that you are not required to purchase from Franchisor or a supplier designated by Franchisor from a supplier not yet approved, you must first obtain our approval using the following procedures: (i) you must submit a written request to us for approval of the supplier or item; (ii) the supplier must demonstrate, through submission of sufficient information, specifications and samples, that it is able to supply the items to you according to our standards including our standards as to the artwork and text on the items; (iii) if the supplier is to receive access to any of our Confidential Information, Trade Secrets or logos, the supplier must sign our standard form confidentiality agreement or our standard form license agreement; (iv) you or the supplier pays our then-current supplier or item evaluation fee (which will not be higher than our reasonable expenses in evaluating the proposed supplier or item); and (v) the supplier must demonstrate that it is in good standing in the business community with

respect to its financial soundness and the reliability of its products or services. We have the right to test, at your expense, the product or service of any supplier you propose. We may inspect the facilities and products of any proposed or approved supplier from time to time. We will give you notice of our approval or disapproval within a reasonable time, not to exceed 120 days.

Our specifications, standards, and criteria for non-proprietary products are available to you under the provisions described above; however, our specifications, standards and criteria for proprietary products are not available to you or to any supplier except those that we select and approve.

#### 11.5 Inventory, Display Obligations and Packaging.

You must at all times maintain an inventory of specified food products, beverages, ingredients, promotional items, and other products sufficient in quantity and variety to fully satisfy customer demand and to operate at maximum capacity and efficiency in order to realize the full potential of your Restaurant. In order to maintain the common identity of the SHONEY'S® System, specified products shall be displayed as we direct for resale at the Premises. We may, from time to time, develop and market special promotional items which will be made available to you at our cost, plus a reasonable markup. For carry-out orders, you must serve all products in printed paper containers, boxes, wrappers, trays, soft drink cups and carry-out bags that conform to the standards and specifications in the Manual.

#### 11.6 WARRANTY DISCLAIMER.

ALTHOUGH APPROVED BY US, WE MAKE NO WARRANTY AND EXPRESSLY DISCLAIM ALL WARRANTIES, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR ANY PARTICULAR PURPOSE WITH RESPECT TO THE PRODUCTS (INCLUDING INGREDIENTS), SERVICES, EQUIPMENT, SUPPLIES, FURNITURE, FIXTURES, MERCHANDISE OR OTHER ITEMS REQUIRED OR APPROVED BY US.

### 12. COOPERATIVE PURCHASING GROUP.

The Franchisor may establish a cooperative purchasing group or program designed to focus group buying power through the purchase of products, equipment and services by SHONEY'S® and SHONEY'S ON THE GO® company-operated and franchisee-owned restaurants. Purchased products and services may include communications services and devices, retail merchandise, restaurant food supplies and services, insurance policies, equipment, and business services for our System. If Franchisor establishes such a cooperative purchasing group or program, Franchisee agrees that it will become a member of such group or program; shall remain a member in good standing thereof through the term of this Agreement or for so long as the group or program is maintained; pay all membership fees or fees on purchases that are accessed by such group or program; and purchase your requirements of products, equipment and services included in the group or program only from participating suppliers, and not from any other source.

### 13. ADVERTISING AND MARKETING.

#### 13.1 Advertising Fund.

The Franchisor, in its complete discretion, may maintain and administer an advertising fund (the "Advertising Fund") for the advertising, marketing, promotional and public relations programs we consider necessary or appropriate for the benefit of the SHONEY'S<sup>®</sup> and SHONEY'S ON THE GO<sup>®</sup> brands and the franchised and company-owned restaurants operating under them, and shall in its sole discretion direct all such programs, concepts, materials, and media used therein. You must participate in the Advertising Fund. The Advertising Fund will operate generally as follows:

a. The Franchisee will contribute to the Advertising Fund an amount determined by us from time to time. This required contribution will be at least **0.75%** but not more than **1.5%** of your Gross Sales. This contribution is calculated in the same way and is payable at the same time as your royalty fees.

b. Each SHONEY'S<sup>®</sup> restaurant operated by us or an affiliate will contribute to the Advertising Fund on the same basis as the majority of the unaffiliated franchised SHONEY'S<sup>®</sup> restaurants operating in its Designated Market Area ("DMA") (as defined by the Nielsen Media Research division of The Nielsen Company, or another suitable authority we select from time to time). Franchised and company-owned SHONEY'S ON THE GO<sup>®</sup> restaurants will also contribute to the Advertising Fund (although their contribution percentages may differ from those of SHONEY'S<sup>®</sup> restaurants). In the future, if we determine that the SHONEY'S ON THE GO<sup>®</sup> concept has achieved sufficient scale, we may decide to create a separate advertising fund for the SHONEY'S ON THE GO<sup>®</sup> brand, but we have no obligation to do so.

c. The Franchise Advisory Council described in Article 14 may recommend a current Advertising Fund contribution rate, but we have no obligation to follow the recommendation.

d. Franchisor or its designee shall direct all advertising, marketing, and public relations programs and activities financed by the Advertising Fund, with sole discretion over the creative concepts, materials and endorsements used in those programs and activities, and the geographic, market and media placement and allocation of advertising and marketing materials, and with sole discretion over the allocation of funds to various programs and accounts. Franchisee understands and acknowledges that the Advertising Fund is intended to maximize and support general public recognition, brand identity, sales and patronage of SHONEY'S<sup>®</sup> Restaurants for the benefit of all SHONEY'S<sup>®</sup> Restaurants and that Franchisor undertakes no obligation to ensure that the Advertising Fund benefits each SHONEY'S<sup>®</sup> Restaurant in proportion to its respective contributions. Franchisee agrees that all funds contributed to the Advertising Fund may be used to meet any and all costs (including reasonable salaries and overhead incurred by us) for maintaining, administering, directing and preparing national, regional or local advertising, marketing or promotional materials, programs and public relations activities, including, without limitation, the costs of preparing and conducting television, radio, magazine, billboard, social media, internet and newspaper advertising, direct response literature, direct mailings, brochures, and collateral advertising material; implementing websites for

Franchisor and/or its franchisees; preparing and conducting surveys of advertising effectiveness and other media programs and activities, and employing advertising agencies to assist therewith; and providing promotional brochures, decals and other marketing materials. We also use this fund for designing, preparing, printing or otherwise producing, and distributing menus, gift cards and point of purchase promotional material for the use of the System.

e. We will make available to you, at an additional cost, all collateral video, audio, and written advertising, marketing and promotional materials designed for System use, including point-of-purchase materials.

f. We will account for the Advertising Fund separately from our other funds, and will not use the Advertising Fund to defray any of our general operating expenses, except for salaries, administrative costs and overhead of activities related to the personnel assigned to perform and manage advertising functions and the administration of the Advertising Fund and its programs. In any fiscal year, we may spend more or less than the aggregate contribution of all SHONEY'S® and SHONEY'S ON THE GO® restaurants to the Advertising Fund in that year. The Advertising Fund may borrow from us or others to cover operating deficits, and the Advertising Fund may retain any surplus for future activities. All interest earned on monies contributed to the Advertising Fund will be used first to pay its administrative expenses and taxes on any surplus and interest earned. We have no obligation to make advertising expenditures for your benefit equivalent or proportionate to your contributions to the Advertising Fund. The Franchisor has no fiduciary obligations with respect to the Advertising Fund and the contributions made to the Fund. Franchisor will not be liable for any act or omission with respect to the Advertising Fund that is consistent with this Agreement and done in good faith. Except as provided in this Section 13.1(f), Franchisor assumes no direct or indirect liability or obligation to Franchisee with respect to the maintenance, direction or administration of the Advertising Fund.

g. We will prepare an annual statement of monies collected and costs incurred by the Advertising Fund within 120 days after the end of each fiscal year and we will furnish that statement to the Franchisee upon written request as Confidential Information.

### 13.2 Termination of Fund.

All contributions to the Advertising Fund are non-refundable. The Franchisor has the right to terminate or suspend the Advertising Fund at any time. Advertising Fund activities shall not end until all monies in the Advertising Fund have been expended for advertising or promotional purposes, or returned to franchisees, as we consider fair and reasonable in our complete discretion.

### 13.3 Regional Advertising Co-Operative.

You must participate in any regional advertising and marketing Co-Operative (the "Co-Op") established for your Restaurant from time to time. Any such Co-Op will include all SHONEY'S® restaurants, including those franchised and those operated by us, in a geographic area specified by us, and we may base the Co-Op area for your Restaurant on a DMA. A Co-Op may include both SHONEY'S® and SHONEY'S ON THE GO® restaurants. We may change the

Co-Op area or its borders from time to time in our complete discretion. The Co-Op will operate as follows:

- a. The Franchisor or the members of the Co-Op will determine the amount of your contributions to the Co-Op after considering recommendations by the members of the Co-Op. You will contribute at least **1.5%** but not more than **3.0%** of the Gross Sales of your Restaurant to the Co-Op on an annual basis, based on our fiscal year, in accordance with the provisions of the then current Bylaws for the Co-Op. Contributions to the Co-Op will be in addition to the contributions made to the Advertising Fund and expenditures you must make for local restaurant marketing. If you become delinquent in payments to the Co-Op, that delinquency shall be considered a failure to participate in the Co-Op, and that is a material breach of this Agreement.
- b. The Co-Op will be organized and governed in a form and manner and pursuant to Bylaws approved in advance by the Franchisor in writing. We may modify, cancel or replace the Bylaws of any Co-Op at any time at our complete discretion.
- c. The Co-Op will use its funds for approved advertising, marketing and promotional spending within its defined geographic area to include television, radio, print and outdoor billboards. All advertising, marketing and promotional activities of the Co-Op will be subject to our prior approval.
- d. Upon written notice to the Franchisee, the Franchisor may form, change, suspend, merge, dissolve or terminate an Co-Op or its activities at any time.
- e. The Co-Op in which you are required to participate may take different forms. We will designate the Co-Op in our sole discretion. These Co-Ops are subject to addition, amendment, termination, substitution or replacement from time to time.

#### 13.4 Local Restaurant Marketing.

During each fiscal year, in addition to amounts you spend on an Co-Op and the Advertising Fund, you must spend an amount not less than **1.0%** of the Gross Sales of your Restaurant for local advertising and marketing of your Restaurant (including classified telephone directory advertising). You must submit to us verification of all expenditures made pursuant to this Section quarterly, based on our fiscal year, on or before dates we specify. We will not credit the costs of products sold at a reduced price or given away towards fulfillment of the local marketing obligation.

#### 13.5 Grand Opening Marketing.

Not less than 60 days prior to the opening of your Restaurant, you must submit your "grand opening" local advertising and marketing program to us for our approval. Subject to our review and approval, the Franchisee must spend not less than **\$10,000** for its grand opening promotion or event. We will work with you to coordinate those expenditures.

### 13.6 Approval of Advertising.

All advertising material not prepared or previously approved by the Franchisor must be approved by us prior to use. “Advertising material” means all advertising, marketing, or promotional programs and materials and media, including billboards, newspapers, other print media, radio, television and other electronic media, internet website content, banner advertising, metatags and paid searches with search engine providers, specialty and novelty items, signs, boxes, containers, point-of-sale materials, napkins, bags, and wrapping papers, and all other communications or tangible items employed to publicize or market SHONEY’S® products or services or your Restaurant. You may not use any advertising or promotional materials that we have disapproved or have not approved in advance. All advertising and marketing materials not prepared or previously approved by the Franchisor shall be submitted to us for approval at least 2 weeks prior to any final submission to the advertising producer, publisher, broadcaster or distributor. The Franchisor may grant or withhold its approval in its complete discretion. The Franchisor will provide you with written notification of approval or disapproval within a reasonable time. If we do not notify you of our approval or disapproval within 2 weeks of our receipt of the materials, those materials may be considered approved. We may withdraw our approval at any time, and we may require you to stop using any advertising material that we consider unacceptable or detrimental to the System. No advertising or promotion by the Franchisee may be conducted on or through the Internet or world wide web, or other electronic means, without our specific prior written approval.

### 13.7 Refrain from Activities that May Harm the Brand.

You will refrain from any business or advertising or other practice which may injure the SHONEY’S® brand or the System, or the goodwill associated with the Marks and SHONEY’S® and SHONEY’S ON THE GO® restaurants.

### 13.8 Cooperation in Market Research.

We may, from time to time, conduct market research and testing to determine consumer trends and the marketability of new products and services. You must cooperate and assist us by participating in our customer surveys and market research programs, test marketing new food products and services in your Restaurant, and providing us with timely reports and other relevant information regarding those customer surveys and that market research.

## 14. FRANCHISE ADVISORY COUNCIL.

The Franchisor has established a Franchise Advisory Council (the “FAC”). The FAC is a body including representatives of our franchisees, selected in a manner approved from time to time by the then current FAC and by us, whose duties consist of giving advice to the Franchisor on marketing, menu, operational, and other business matters. We will reimburse all members of the FAC for their reasonable travel, lodging, and meal expenses incurred in connection with any formal FAC meeting they attend at our request. The Franchisor reserves the right to modify the Charter of the FAC or to terminate the FAC, or replace it with an independent organization in the future.

## **15. FRANCHISEE RELATIONSHIP.**

### **15.1 Independent Contractor.**

It is the express intention of the parties hereto that the Franchisee is and shall be an independent contractor of Franchisor. The Franchisee is not and shall not be considered a legal representative or agent of the Franchisor. The Franchisor and the Franchisee have a business relationship based entirely on and defined by this Agreement. No partnership, joint venture, agency, fiduciary or employment relationship shall exist between Franchisor and Franchisee. Nothing in this Agreement is intended to grant either you or us the right to direct or supervise the daily affairs of the other. The Franchisee will exercise complete control over, and have full responsibility for, its contracts, daily operations, labor relations, employment practices and policies, and management and operation of the Restaurant, including the recruitment, selection, hiring, disciplining, firing, compensation, work rules and schedules of its employees.

### **15.2 No Direct Franchisor Control.**

The Franchisor has no right to, and will not, directly control or direct the operations of the Franchisee's Restaurant or its Premises. Any required standards and specifications in this Agreement (and those in the Operations Manual) exist to protect the Franchisor's interests in the System and the Marks, and the goodwill established in them, and not for the purpose of establishing any control, or duty to take control, over the Franchisee's business.

### **15.3 Notice of Independence.**

During the term of this Agreement and any renewal term, the Franchisee shall hold itself out to the public as an independent contractor operating the business pursuant to a franchise from the Franchisor. The Franchisee shall take all appropriate action to make it clear to the public that it is an independent business that is not operated or controlled by us, including exhibiting signs or notices approved by the Franchisor in conspicuous places in the Restaurant.

## **16. ORGANIZATION OF FRANCHISEE; GUARANTY.**

### **16.1 Organization of Franchisee and Business Limits.**

Franchisee represents and warrants to Franchisor that Franchisee is duly organized or incorporated and validly existing under the laws of the state of its formation, and qualified to do business in the state in which the Restaurant is located. Your certificate of incorporation, partnership agreement, operating agreement, or other similar organizational documents must provide that the Franchisee's only purpose will be the development, ownership, operation and maintenance of SHONEY'S® or SHONEY'S ON THE GO® restaurants. In addition, your organizational documents must provide that you will not issue any additional ownership interests without our written consent; that no Principal may transfer, assign or pledge any issued ownership interest in the Franchisee without our written consent; and that each certificate or document issued to evidence ownership interests will contain a legend disclosing that restriction. Prior to our execution of this Agreement, you must deliver to us complete and accurate copies of documents demonstrating compliance with the provisions of this Article.

## 16.2 Guaranty

If the Franchisee is a business entity, each Principal, as defined in Section 8.1, must execute this Agreement to adopt and agree to the provisions of this Agreement that are applicable to the Principals, must complete the Certificate of Legal Composition and Designation of Control Person attached to and part of this Agreement as **Exhibit 5**, and must execute the Guaranty attached to and part of this Agreement as **Exhibit 6**.

## 17. INDEMNIFICATION.

### 17.1 Duty to Indemnify.

To the full extent permitted by law, the Franchisee indemnifies and will defend and hold harmless the Franchisor, our affiliates, successors and assigns, and all their owners, shareholders, members, partners, officers, managers, employees, agents, and representatives (the "Indemnitees") from all losses and expenses, as defined in Section 17.2, incurred in connection with any action, suit, proceeding, claim, demand, judgment, formal or informal investigation or inquiry ("Claims"), or any settlement (whether or not a formal proceeding or action is instituted), which arises out of, or relates in any way to, either in whole or in part, this Agreement, or to the condition, construction, staffing, operation, use, equipping, decorating, or maintenance of your Restaurant or the Premises, including but not limited to any of the following:

a. the infringement, alleged infringement, or any other violation or alleged violation by you of any patent, trademark, copyright or other proprietary right owned or controlled by third parties, unless the violation or infringement relates to the use of the Marks in accordance with this Agreement;

b. the violation, breach or asserted violation or breach by you of any federal, state or local law, regulation, ruling, standard, or directive, or any industry standard;

c. acts, errors or omissions of the Franchisee, or its affiliates, and their principals, owners, shareholders, members, partners, officers, managers, employees, agents, representatives or contractors, whether negligent or not, in connection with or in relation to this Agreement or the establishment, construction, operation, or condition of the Restaurant or the Premises, including any acts or omissions in the operation of any motor vehicle.

This duty to indemnify will continue in effect after the expiration or termination of this Agreement.

### 17.2 Losses and Expenses.

In this Article, "losses and expenses" mean all damages, liability, losses, compensatory, exemplary, or punitive damages, fines, charges, costs, expenses, lost profits, attorneys' fees incurred whether or not a lawsuit is filed, court costs, settlement amounts, judgments, compensation for damages to reputation and goodwill, costs resulting from delays, financing costs, and all other costs or payments of money applicable to or incurred in connection with Claims.

17.3 Contributory Negligence.

You must defend, indemnify and hold harmless the Indemnitees as set forth herein without limitation and without regard to the cause or causes of the Claim or the losses and expenses or the negligence (whether sole, joint, concurrent, active, or passive), or strict liability of us or any other person arising in connection with a Claim; provided, that you shall not be required to indemnify the Indemnitees for any liability arising out of the sole gross negligence or willful misconduct of the Indemnitees.

17.4 Notice and Defense of Claims.

You must give us immediate notice of any Claims. At your expense and risk, we may assume (but we are not obligated to undertake) defense of any Claim, or associate counsel of our own choosing with respect to the defense or settlement of any Claim. Any defense undertaking by us shall not in any way diminish your obligation to indemnify and defend the Indemnitees.

**18. INSURANCE.**

18.1 Required Insurance.

During the term of this Agreement, you will comply with all insurance requirements related to your Restaurant's lease or mortgage. You must also maintain in force at all times, under policies of insurance issued by carriers we have approved and subject to our rights in Section 18.2:

- a. statutory workers' compensation and employer's liability insurance for the greater of **\$500,000** or the minimum otherwise prescribed by applicable law;
- b. comprehensive general liability insurance (with products, personal and advertising injury, completed operations, and contractual liability and independent contractors coverage) against claims for personal injury, death, and property damage at your Premises or occurring in relation to the operation of your Restaurant (or otherwise involving your business operations) under one or more policies of insurance, each on an occurrence basis, with a minimum limit of **\$2,000,000** per occurrence, and a general aggregate limit of not less than **\$3,000,000**;
- c. comprehensive motor vehicle liability insurance (for owned and non-owned vehicles) against claims for bodily and personal injury, death and property damage under one or more policies of insurance, each on an occurrence basis, having a combined single limit of **\$1,000,000** per accident;
- d. all-risk building and contents insurance, including vandalism and theft insurance, as well as flood and earthquake insurance, when appropriate and available (unless you provide evidence to our satisfaction that you have sufficient capital reserves to self-insure for flood and earthquake damage), for the replacement value of your Restaurant and its contents;
- e. builder's risk insurance on a completed value non-reporting basis during the period of any construction or remodeling of your Restaurant; and

- f. business interruption insurance for a period adequate to re-establish normal business operations, and for not less than nine (9) months, which covers your obligations with respect to leases, royalty fees, Advertising Fund contributions, fixed costs and other recurring expenses, and profits; and
- g. employment practice liability insurance coverage with minimum limits of \$500,000.

#### 18.2 Insurance Obligations.

We may periodically increase the amounts of insurance you must maintain, and we may require different or additional kinds of insurance at any time, including excess liability insurance, to reflect inflation, identification of new risks, experience with your business operations, changes in law or standards of liability, higher damage awards, or other relevant changes in circumstances. In addition:

- a. each policy may provide only for a reasonable deductible, acceptable to us;
- b. your policies must constitute primary policies of insurance with regard to other insurance, must insure your indemnity obligations under Article 17 of this Agreement, and must waive the insurance carrier's rights of subrogation against us;
- c. each policy must name us as an additional insured and must provide for thirty (30) days prior written notice to us of any material modification, cancellation, termination, or expiration of the policy;
- d. a current certificate of insurance reflecting full compliance with the requirements of this Section must be on file with us at all times; and
- e. your obligations to maintain the required insurance coverage are not affected by any separate insurance we maintain, and the maintenance of insurance does not affect your indemnification obligations under Article 17.

#### 18.3 Evidence of Insurance.

Prior to the commencement of Restaurant construction and opening, as applicable, and then prior to the expiration of each insurance policy, you must furnish us with evidence of premium payment and a certificate of insurance or a certified copy of each renewal or replacement insurance policy for the immediately following term. If you fail or refuse to maintain any required insurance coverage, or to furnish the required evidence of coverage, at our option and in addition to our other rights, we may obtain the required insurance coverage on your behalf. You must cooperate fully with us in our effort to obtain that insurance, you must promptly execute all forms or instruments required to obtain or maintain that insurance, you must allow any inspections of your Restaurant appropriate to obtain or maintain that insurance, and you must pay to us, on demand, all costs and premiums we incur.

**19. REPORTS, FINANCIAL STATEMENTS, AND FINANCIAL CONDITION.**

19.1 Books Required.

You must maintain accurate and complete books of account and business records, including register tapes (or their electronic equivalent), guest checks, and daily reports. You must also keep complete copies of all governmental reports, federal and state income, property, sales, excise, and use tax returns. Those records, reports and returns must be preserved for reasonable periods of time, but not less than the minimum time prescribed by applicable law, and in no case less than 3 years after the end of the tax year to which they relate.

19.2 Operating Reports.

You must furnish us, in the form and manner we direct from time to time, regular reports about the operation and financial condition of your Restaurant. At a minimum you must deliver:

- a every Monday morning, a report of the previous week's Gross Sales;
- b within 30 days following the end of each quarter, a report certified by you or your chief financial officer containing a quarterly profit and loss statement for your Restaurant, prepared in accordance with generally accepted accounting principles, showing quarterly and year-to-date income and expenses;
- c within 90 days after the end of each calendar year, a report certified by you or your chief financial officer containing a year-end balance sheet, income statement, statement of changes in financial position, and statement of cash flow of your Restaurant for the previous fiscal year, prepared in accordance with generally accepted accounting principles (and audited if available), reflecting all year-end adjustments, together with a statement of annual Gross Sales, certifying that they have been calculated and reported in compliance with this Agreement; and
- d any other relevant data, information, and supporting records we request.

19.3 Additional Reports Upon Delinquency.

If you are delinquent at any time in the payment of any amount owed to the Franchisor or our affiliates, the Franchisee agrees that:

- a you will immediately furnish us all income statements and balance sheets we request, in the detail we require;
- b we may directly contact any lender, lessor, or vendor to obtain information relating to your Restaurant and any lease or financial arrangements, and you will immediately authorize those persons to disclose all of that information to us, and if you are an entity, we may contact any of your officers, directors, owners, or partners concerning this Agreement; and
- c you will immediately furnish us accurate and complete copies of all books of account, government reports, register tapes (or their electronic equivalent), guest checks, daily

reports, other business records and information, federal, state and local income, property, sales, excise, and use tax records or returns and all other business information we request, in the detail we require.

#### 19.4 Point-of-Sale and Computer Systems.

We require you to purchase or license, at your expense, and to use POS cash register software and a compatible computer meeting the specifications that we require, and compatible with any program or system that we use now or in the future. You must faithfully record all sales information on that designated equipment simultaneously with the occurrence of each transaction and the Franchisor has the right to access all of your sales data by direct or remote electronic means.

#### 19.5 Franchisor Audit Rights.

We have the right at any time during business hours, upon 3 days prior notice, to inspect and audit your business records, bookkeeping and accounting records, sales and income tax records and returns, and other records relating to your Restaurant and its operations. You must fully cooperate with our representatives and any independent accountants that we hire to conduct any inspection or audit. In addition to other rights under this Agreement or applicable law, we have the following rights, and you have the following obligations:

a. If any inspection or audit discloses an understatement of Gross Sales, within 5 days after receipt of the inspection or audit report you must pay us the Royalty Fees and all other amounts due with respect to the unreported amount, plus interest as specified in this Agreement from the date your payment was originally due until the date of payment.

b. If the inspection or audit is made necessary because of your failure to timely deliver to us required reports, supporting records, information, or financial statements, or if the understatement of Gross Sales exceeds **2.0%** of the amount reported, you must also reimburse us immediately upon notice for the cost of the inspection or audit, including the charges of attorneys and independent accountants, and the auditors' travel, lodging, and meal expenses.

### 20. TRANSFER OF FRANCHISE.

#### 20.1 Transfer by Franchisor.

This Agreement is freely and unconditionally transferable by us as the Franchisor pursuant to a sale of assets, sale of stock, merger, consolidation, reorganization, acquisition, or other transaction. If we assign this Agreement, we will be released from all liability of the Franchisor arising after the assignment, if and when this Agreement is assumed by our successor in interest, and no consent or release from the Franchisee is required to effect that release.

#### 20.2 Transfer by Franchisee.

The Franchisee's rights and duties created by this Agreement are personal to the Franchisee and its Principals. We have granted the franchise to you in reliance upon the individual and collective character, skill, aptitude, attitude, and business ability of the persons

who will be engaged in the ownership and management of your Restaurant, your financial capacity, the representations and warranties made to us in your application, and the representations, warranties, and promises contained in this Agreement. You may not transfer or assign by voluntary, involuntary, direct or indirect assignment, sale, gift, pledge, grant of a security interest, encumbrance, or any other method, this Agreement or any related agreement, your franchise license, your Restaurant, the Premises, the Franchisee, or any interest in any of them (each a "Transfer"), without our prior written approval. We may grant or deny approval in our absolute discretion. Any attempted Transfer without our prior written approval is a breach of this Agreement and will convey no rights to, or interests in, this Agreement or your franchise license.

### 20.3 Right of First Refusal.

If any interest in this Agreement, your franchise, the Restaurant, the Premises, or any interest in the Franchisee is ever proposed to be sold, the seller must obtain a bona fide, executed, written offer setting forth all material terms and conditions from a responsible and fully disclosed purchaser. The seller will then submit an exact copy of the offer to the Franchisor along with any other information that we may request to evaluate the offer and the quality of the proposed purchaser. After receipt of that written proposal, we will proceed as follows:

a. We have the right to purchase the specified interest for the price and on the terms and conditions contained in the offer. We may exercise our right to purchase by giving you written notice within 30 days after the date we receive the offer and all other requested information.

b. Regardless of the terms of the offer, we may structure the transaction as an asset purchase, rather than a stock purchase, and we may substitute cash for securities or other property as consideration, unless it causes a negative tax consequence for the seller. In that case, we may in our complete discretion adjust the transaction price to cover the amount of the negative tax consequence attributable to our changes to the deal structure or consideration. Our credit will be deemed equal to the credit of any proposed purchaser and we will have not less than 90 days to prepare for closing. We will be entitled to all representations and warranties customarily given by the seller of assets of a business.

c. We will not be obligated to pay any finder's or broker's fee or commission.

d. If we do not exercise our right of first refusal, the sale or other transfer may be completed pursuant to and on the terms of the offer, but always subject to our approval of the transferee as otherwise provided in this Agreement.

e. If the proposed sale or other transfer is not completed within 120 days after delivery of the offer to us, or if there is any change in the terms of the proposed transaction, we will have an additional right of first refusal for an a new term of 30 days.

f. Our right of first refusal will not apply to the sale or transfer of this Agreement, your franchise, the Franchisee, the Premises, or your Restaurant to a family member, or if you are an entity, among your existing owners, but always subject to our approval of the transferee as otherwise provided in this Agreement.

g. You may not at any time advertise or market the sale of your Restaurant or your franchise as the sale of a “SHONEY’S®” restaurant without our prior written consent.

20.4 Death or Disability.

Upon the death or permanent disability (the inability to perform one or more material obligations under this Agreement for 6 or more months because of injury or sickness) of an individual Franchisee, or upon the death or permanent disability of the owner of a controlling interest in an entity Franchisee, we may require that the executor or other personal representative transfer the affected person’s interest in this Agreement, the franchise, the Restaurant, or the Franchisee, to a third party who meets our then-current qualifications for franchisees that we approve. The transfer of the affected Franchisee’s interest, including any transfer by bequest or inheritance, will be subject to all of the terms and conditions applicable to transfers contained in this Agreement, and must be completed within a reasonable time, not to exceed 6 months after the date of death or permanent disability. A failure to transfer the interest within that 6-month period is a breach of this Agreement. In a dispute as to the existence of any permanent disability, the affected person will submit to an examination by a medical doctor selected by us. That doctor’s determination of the existence of a permanent disability will bind you and us. If the affected person refuses or fails to submit to an examination within 30 days after our written request, we have the right to conclude that a permanent disability exists.

20.5 Transfer to a Wholly-Owned Entity.

If you are in full compliance with this Agreement, we will not unreasonably withhold approval of a transfer to an entity which conducts no business other than your Restaurant (or other SHONEY’S® restaurants), and in which the Franchisee maintains management control and owns and controls 100% of the equity and voting power of all issued and outstanding securities. In that case, you must complete the Certificate of Legal Composition and Designation of Control Person, **Exhibit 5**, and you must execute the Guaranty, **Exhibit 6**. Your existing partners or owners, if any, must have the same proportionate ownership in the transferee entity, or the transfer will be subject to the other provisions of this Article. Any subsequent transfers of any interest in that entity also will be subject to the other provisions of this Article.

20.6 Conditions for Approval of Transfer.

Franchisor’s approval of any transfer is, in all cases, contingent upon all of the following conditions being met prior to or on the effective date of the transfer:

a. the transferee must meet our then current business experience and financial qualification requirements and have sufficient business experience, aptitude, good character, and financial resources, as determined by us in our absolute discretion, to properly and effectively operate the Restaurant;

b. we must approve the material terms and conditions of the transfer, and conclude that the price and terms of payment are not so burdensome as to adversely affect the subsequent operation or financial results of the Restaurant;

c. prior to the effective date of the transfer, all royalty fees, and all other amounts owed to the Franchisor and our affiliates, must be fully paid, and you must cure all defaults under this Agreement or any other agreement between you and us to our satisfaction;

d. the transferee must, at Franchisor's option, either take an assignment of the Franchisee's interest in and obligations under this Agreement for the remaining term of this Agreement, at the royalty and advertising contribution rates of this Agreement, or apply for a new franchise agreement in accordance with our then current standards for a full term at the then current royalty and advertising contribution rates;

e. you or the transferee must pay us the then current transfer fee, which may change, but as of the date of this Agreement is **\$7,500** per restaurant to defray the expenses incurred by us in connection with the transfer;

f. the Franchisee, and if an entity, its Principals, must execute a general release, in a form satisfactory to us, of all existing claims against the Franchisor and our affiliates, and their owners, officers, directors, partners, employees, and agents;

g. you and your transferring Principals must execute our form of a non-competition covenant in favor of us and the transferee;

h. the landlord and lender, if any, of the Premises must give you their advance written consent to the transfer of the Premises, and you must provide us with a copy of that consent;

i. you or the transferee must renovate or agree to renovate your Restaurant, on terms and conditions acceptable to us in our absolute discretion, to bring your Restaurant into compliance with the then current image and operating standards for SHONEY'S® or SHONEY'S ON THE GO® restaurants; and

j. the transferee, and at our complete discretion, the transferee's management personnel, must have completed our training program to our satisfaction.

#### 20.7 Limited Effect of Consent to Transfer.

Our consent to transfer this Agreement, the franchise, your Restaurant, or an interest in the Franchisee will not constitute a waiver of any claims we may have against you (or your Principals), nor is it a waiver of our right to demand exact compliance with any of the terms or conditions of this Agreement by the transferee.

#### 20.8 Conditions on Securities Offerings.

If you (or any of your owners) attempt to offer or sell securities (including common or preferred stock, bonds, debentures, limited liability entity interests, or general or limited partnership interests) in any public or private investment offering, the written information that you provide concerning the Franchisor, our System, this Agreement, or our relationship may affect us. No information about the Franchisor may be included in any securities filing or disclosure document unless the information has been furnished to us with a statement of the

specific purpose for which the information is to be used, and has been approved by us, in writing. Therefore, you must provide all proposed securities disclosure information to the Franchisor, and we, and our advisors, may review it in detail prior to its inclusion in any registration statement, prospectus, or offering circular or memorandum. If we object to any reference made about the Franchisor or our business in the offering literature, the literature will not be used unless and until our objections are withdrawn. You must promptly reimburse us on request for any out-of-pocket expenses incurred in the review of your documents, including our attorneys' and accountants' fees. Our written acknowledgment that we have completed our review will not imply or constitute our approval with respect to the sale of the securities, the offering literature submitted to us, or any other aspect of the offering, and we assume absolutely no responsibility for the offering. You and each of your owners shall indemnify, defend and hold harmless the Franchisor and all our owners, officers, directors, partners, employees, and agents from all claims, demands, liabilities, and all costs and expenses (including attorneys' fees) incurred in the defense of any claims, demands or liabilities, arising from your offer or sale of any securities, whether asserted by a purchaser of a security or by a government agency. We have the right (but no obligation) to defend any of those claims, demands, or liabilities or to participate in the defense of any action to which we are named as a party with counsel of our own choosing, and all of the fees and expenses incurred will be subject to indemnification by you under this Section.

#### 20.9 Securities Offering Notices.

The prospectus, offering memorandum, or other literature utilized in any securities offering must contain the following language in bold-face type on its first textual page:

“SHONEY’S NORTH AMERICA, LLC IS NOT DIRECTLY OR INDIRECTLY THE ISSUER OF THE SECURITIES OFFERED HEREBY AND ASSUMES NO RESPONSIBILITY WITH RESPECT TO THIS OFFERING OR THE ADEQUACY OR ACCURACY OF THE INFORMATION SET FORTH HEREIN, INCLUDING ANY STATEMENTS MADE WITH RESPECT TO IT. SHONEY’S NORTH AMERICA, LLC DOES NOT ENDORSE OR MAKE ANY RECOMMENDATION WITH RESPECT TO THE INVESTMENT CONTEMPLATED BY THIS OFFERING.”

#### 20.10 Grant of Security Interest.

Franchisee shall not grant any security interest in the Restaurant or the Premises, or in the assets of Franchisee, without Franchisor's prior approval which shall not be unreasonably withheld.

### **21. CONDEMNATION AND CASUALTY.**

#### 21.1 Condemnation and Relocation.

You must immediately notify us in writing of any proposed taking of your Restaurant or the Premises by eminent domain. If we agree that all or substantial parts of your Restaurant or the Premises will be taken, we will consider transferring your franchise rights to a nearby location which you select within 3 months after you receive notice of the potential taking. If we approve the new location and authorize the transfer, and if you open a new restaurant at the new

location in accordance with our specifications within 9 months after you closed your Restaurant due to the taking, the new restaurant will become your Restaurant under this Agreement. If a condemnation takes place and the new restaurant does not or cannot, for any reason, become your Restaurant under this Agreement, we may terminate this Agreement as of the date the Restaurant closes.

#### 21.2 Damage and Repair.

If wind, rain, fire, flood, or other casualty damages your Restaurant, you will expeditiously repair the damage. If the damage or repair requires closing your Restaurant, you will immediately notify us and you must as soon as possible repair or rebuild your Restaurant in accordance with our System standards. Within 3 months after the fire or other casualty, you must have begun significant construction activities (the purchase of appropriate construction materials and actual construction activities beyond the mere completion of required planning and permitting), and have spent a minimum in hard costs of \$15,000. You must reopen your Restaurant for continuous business operations as soon as practicable, but not later than 9 months after closing your Restaurant. You must also give us reasonable advance written notice of the date of reopening. If your Restaurant is not reopened in accordance with this Article, we may terminate this Agreement as of the date the Restaurant closes.

#### 21.3 Fees and Other Payments.

Nothing in this Article will extend the term of this Agreement, and you will be required to pay us royalty fees and Advertising Fund contributions during the time your Restaurant is closed because of condemnation or casualty. Periodic royalty fees and Advertising Fund contributions due during the period that the Restaurant is closed due to condemnation or casualty shall equal the average periodic royalty fees and Advertising Fund contributions paid to the Franchisor during the 13 fiscal periods immediately preceding the closure and, if the Restaurant has been open for less than 13 fiscal periods prior to the closure, the royalty fees and Advertising Fund contributions due shall be the average periodic royalty fees and Advertising Fund contributions paid over such shorter period. Royalty fees and Advertising Fund contributions will be prorated per diem in the event that the Restaurant reopens at any time other than the beginning of a fiscal period. You must, however, timely rebuild and reopen as required in this Article, and you must fully and timely satisfy all payment and other obligations of any lease or other contracts affecting your Premises.

### 22. TERMINATION OF AGREEMENT.

#### 22.1 Immediate Termination by Franchisor.

The Franchisor may immediately terminate this Agreement, upon delivery of written notice to the Franchisee, **without an opportunity to cure** the default, if the Franchisee, or as applicable, any of its Principals:

a. has made any material misrepresentations to the Franchisor before or after the granting of the franchise;

b. fails to select an approved site within 3 months of the effective date of this Agreement, unless the Franchisor extends the 3-month period in writing to address unforeseen delays not within the control of the Franchisee;

c. fails to complete construction and building-out of the Premises and to open the Restaurant for business within 9 months of the date the Franchisor approved the plans, unless the Franchisor extends the 9-month period in writing to address unforeseen delays not within the control of the Franchisee;

d. ceases to do business, discontinues operating as a SHONEY'S® or SHONEY'S ON THE GO® restaurant, or remains closed, for more than one day without the Franchisor's prior written consent, or loses the right to possess or occupy the Premises, or a substantial part of the Premises, or the Franchisee abandons, surrenders, or transfers control of the Restaurant, the Premises, or this Agreement without the Franchisor's prior approval;

e. knowingly maintains false books or records, or knowingly submits any false reports to the Franchisor, or denies the Franchisor's representatives the right to enter and inspect the Restaurant or to examine or audit its books and records;

f. within any period of 12 consecutive months, fails to comply with this Agreement on 3 or more separate occasions for which notices of default were given (or fails on 2 or more separate noticed occasions to comply with the same obligation), whether or not those failures to comply are corrected;

g. makes any unauthorized use of the Marks or contests or opposes in any court or proceeding the Franchisor's ownership of all or any part of the Marks or the System;

h. makes any unauthorized use or disclosure of any Confidential Information or Trade Secrets, or any portion of the Operations Manual or training materials, or duplicates any part of the System at another restaurant or business, or makes any other unauthorized use of any part of the System;

i. makes or attempts an unauthorized transfer of rights or obligations under this Agreement or any interest in the Franchisee in violation of Article 20, or takes any action toward dissolving or liquidating the entity owning the franchise, or any similar action is taken against the Franchisee, without providing the Franchisor advance written notice and complying with Article 20;

j. is convicted of, or pleads no contest to, a felony or other crime or offense that the Franchisor believes may adversely affect the Franchisee's reputation, or the reputation of the Franchisor, the Restaurant, the Marks, or the System;

k. becomes insolvent or is unable to pay its debts as they mature; makes an assignment for the benefit of creditors or an admission of inability to pay obligations as they become due; files a voluntary petition in bankruptcy or any pleading seeking any reorganization, liquidation, dissolution, composition or other settlement with creditors under any law; admits or fails to contest the material allegations of any pleading filed against it related to any insolvency action; is adjudicated bankrupt or insolvent; has a receiver or other custodian appointed for a

substantial part of its assets or its Restaurant; has a final judgment remain unsatisfied or of record for 90 days or longer; has an execution levied against any substantial part of its assets; has a tax levy made; has a suit to foreclose any lien or mortgage against it or its Restaurant instituted and not dismissed within 90 days; has a substantial part of its real or personal property sold after levy of judgment by any sheriff, marshal or constable; or has the claims of its creditors abated or subjected to a moratorium under any law; or

1. breaches a material obligation, representation, or warranty contained in this Agreement, and by its nature the breach cannot be cured.

22.2 Termination by Franchisor With Notice: 24 hour Cure.

If any of the following Franchisee defaults occur, the Franchisor may terminate this Agreement by giving the Franchisee written notice stating the nature of the default 24 hours prior to a specified termination date. You may avoid termination by curing the default to the Franchisor's satisfaction within the 24 hour cure period. If the specified default is not timely cured, this Agreement will terminate without further notice, effective upon expiration of the 24 hour period. The Franchisee defaults to which this 24 hour termination provision applies are the following:

- a. conducting Restaurant operations in a manner that, in the opinion of local authority or the Franchisor, constitutes an imminent danger to public health or safety; or
- b. failing to faithfully observe appropriate food-borne illness prevention techniques.

22.3 Termination by Franchisor With Notice: 10-Day Cure.

If any of the following Franchisee defaults occur, the Franchisor may terminate this Agreement by giving the Franchisee written notice stating the nature of the default 10 days prior to a specified termination date. You may avoid termination by curing the default to the Franchisor's satisfaction within the 10-day cure period. If the specified default is not timely cured, this Agreement will terminate without further notice, effective upon expiration of the 10-day period. The Franchisee defaults to which this 10-day termination provision applies are the following:

- a. failure to accurately report all Gross Sales;
- b. failure to timely pay any amounts due for royalty fees, advertising or regional Co-Op fund contributions, or any other amounts due the Franchisor or its affiliates;
- c. failure to pay any debts, obligations, assessments and taxes due and payable to vendors, suppliers, lessors, federal, state or local governments or creditor's in connection with Franchisee's business;
- d. failure to employ a full-time Restaurant Operator or Restaurant managers;
- e. failure to timely discharge or bond around any mechanic's or material lien or failure to fully pay when due all taxes, accounts, liabilities, and indebtedness of any kind

imposed on, or incurred in the operations of, the Restaurant or the Premises, unless there is a bona fide dispute and the Franchisee is properly, and without further risk of loss of the restaurant or the Premises, contesting the matter;

f. violation of any law, ordinance, rule, or regulation of a government agency in connection with the Premises or the operations of the Restaurant, or failure to correct the violation after notice, unless there is a bona fide dispute as to the violation or the legality of the law, ordinance, rule, or regulation, and the Franchisee has properly resorted to appropriate courts or forums to contest that violation or legality;

g. failure to obtain or maintain in force any insurance, license, permit, or bond required by local authority, or by this Agreement, or that is necessary for the Premises or the operations of the Restaurant; or

h. any breach of this Agreement that materially impairs the goodwill associated with any of the SHONEY'S<sup>®</sup> Marks.

#### 22.4 Termination by Franchisor With Notice: 30-Day Cure.

If any of the following Franchisee defaults occur, the Franchisor may terminate this Agreement by giving the Franchisee written notice stating the nature of the default 30 days prior to a specified termination date. You may avoid termination by curing the default to the Franchisor's satisfaction within the 30-day cure period. If the specified default is not timely cured, this Agreement will terminate without further notice, effective upon expiration of the 30-day period. The Franchisee defaults to which this 30-day termination provision applies are the following:

a. failure to comply with any provision of this Agreement other than the provisions allowing the Franchisor to terminate this Agreement immediately, with a 24 hour cure period or with a 10-day cure period, as set forth in Sections 22.1, 22.2 and 22.3;

b. failure to comply with any mandatory provision in the Operations Manual or any mandatory standards, specifications, or operating procedure prescribed by the Franchisor (including but not limited to a requirement to implement new menu items), other than those provisions or standards, specifications or procedures for which the non-compliance allows the Franchisor to terminate the Agreement immediately or with a 24 hour or 10 day cure period, as set forth in Sections 22.1, 22.2 and 22.3;

c. failure to commence or properly and in a workmanlike manner complete any required maintenance or repairs;

d. failure to satisfactorily pass any inspection of the Restaurant or the Premises by the Franchisor or local authority, other than those failures which allow the Franchisor to terminate the Agreement with a 24 hour cure period as set forth in Section 22.2; or

e. default by the Franchisee, or any of its Principals or any affiliate, under the terms of any other agreement with the Franchisor, including, without limitation, any Development Agreement, any lease or other franchise agreement, with the Franchisor.

## 22.5 Compliance with Applicable Law.

If any provisions of this Agreement provide for periods of notice less than those required by applicable law, or provide for termination, cancellation or non-renewal other than in accordance with applicable law, those particular provisions shall not be followed to the extent they are not in accordance with applicable law. The Franchisor shall in that case comply with applicable law governing the notice period or grounds for termination, cancellation, or non-renewal.

## 22.6 Assumption of Management.

We have the right, but not the obligation, under the circumstances described in this Section, to enter the Premises and assume the Restaurant's management for any period of time we deem appropriate in our sole discretion. During any management period, you shall pay to us, in addition to the Royalty, Advertising Fund and Co-Op contributions, and other amounts due under this Agreement, Four Hundred Dollars (\$400) per day, plus our direct out-of-pocket costs and expenses.

a. We may assume the Restaurant's management if: (1) you abandon or otherwise fail to continuously operate the Restaurant; (2) you fail to comply with any provision of this Agreement and do not cure the failure within the time period we specify in our notice to you, but only for as long as it takes us, using reasonable commercial efforts, to correct the failure that you failed to cure; or (3) this Agreement expires or is terminated and we are deciding whether to exercise our option to purchase the assets of the Restaurant under Section 23.4 below.

b. If we assume the Restaurant's management, you acknowledge that we will not be liable to you or your Principals for any debts, losses, or obligations the Restaurant incurs, or to any of your creditors for any supplies, products, or other assets or services the Restaurant purchases, in the normal course of business, while we manage it.

c. If we exercise our rights under this Section, that will not affect our right to terminate this Agreement under this Article 22.

## 22.7 No Limitation on Events of Default or Remedies.

In any judicial proceeding in which the validity of Franchisor's termination is at issue, the Franchisor will not be limited to relying on the reasons for termination which are set forth in this Article 22 or in any notice sent to the Franchisee in accordance with this Article. The Franchisor's specified rights to terminate this Agreement are in addition to all rights or remedies available at law or in equity in case of any actual or threatened Franchisee breach, failure, or default. All of the Franchisor's rights and remedies are cumulative and not alternative.

## **23. RIGHTS AND OBLIGATIONS UPON TERMINATION OR EXPIRATION.**

### 23.1 Payment of Amounts Owed to the Franchisor.

The Franchisee must pay to the Franchisor within 15 days after the effective date of termination or expiration of this Agreement, or any later date that the amounts due are

determined, all royalty fees, all Advertising Fund and Co-Op contributions, all amounts owed for purchases from us or our affiliates, successors, and assigns, all other amounts (including liquidated damages) owed to us or our affiliates, and all interest due on any of those amounts under this Agreement.

23.2 Other Franchisee Obligations.

Upon the termination or expiration of this Agreement for any reason, the Franchisee shall cease to be an authorized franchisee, and Franchisee and its Principals must immediately:

a. stop directly or indirectly identifying itself or any business as a current or former SHONEY'S® or restaurant, as a franchisee or licensee of the Franchisor, or as otherwise associated with the Franchisor;

b. stop all use of the SHONEY'S® and SHONEY'S ON THE GO® name and of the Marks, and every colorable imitation of any of the Marks, in any manner and for any purpose, and all use of any trade name, trade or service mark, trade dress, or other commercial symbol that suggests or indicates a connection or association with the Franchisor;

c. remove from the Premises, stop using for any purpose, and return to the Franchisor (or with our consent, permanently cover or destroy) all on-site signs and all off-site billboard, directional or other signs, all menus, fixtures, furniture, furnishings, equipment, advertising materials, containers, paper products, stationery, supplies, forms, and all other articles that display or contain any of the Marks or that otherwise identify or relate to a SHONEY'S® or SHONEY'S ON THE GO® restaurant (unless Franchisor exercises its rights to acquire the lease and Premises as provided in Section 23.4);

d. remove all Marks that are affixed to employee uniforms and, at our direction, cease to use all uniform items that have been used in your Restaurant;

e. change the telephone number of your Restaurant, direct the telephone company to provide a recorded message advising callers that the prior number is no longer in service, and instruct all telephone directory publishers to modify all telephone directory listings of your Restaurant associated with any Marks when the directories are next published, or at the Franchisor's option, assign the number to us;

f. terminate or assign to us, if we direct, any website, and all domain names for the website, that identifies the Franchisee as currently or formerly associated with us or that displays any of the Marks;

g. stop all use of and return all copies of the Operations Manual and training materials and all other Confidential Information and Trade Secrets which we have loaned or made available to you or which is otherwise in your possession, retain no copy or record of any of those materials, and delete all those documents and information from all your computers and your Principal's computers;

h. refrain from use of identical or virtually identical imitations of Franchisor's recipes, proprietary menu items, and proprietary methods of food preparation;

i. maintain all financial books, records, and reports required by this Agreement for not less than 18 months after termination or expiration, and allow the Franchisor to make a final inspection and audit of them within that period to verify that all fees and other appropriate amounts have been fully paid; and

j. furnish to the Franchisor, within 30 days after the effective date of termination or expiration, satisfactory evidence of the Franchisee's compliance with all these obligations.

### 23.3 Liquidated Damages.

The Franchisee acknowledges that the Franchisor will suffer damages in the event of early termination of this Agreement (including but not limited to a loss of future royalty fees and Advertising Fund contributions and loss of market penetration and goodwill), but that the amount of actual damages caused by the termination of the Agreement would be extremely difficult, if not impossible, to quantify. If the Franchisor terminates this Agreement under any of the provisions of Article 22, or if the Franchisee terminates this Agreement except due to Franchisor's material default that is not cured within a reasonable time after notice, the Franchisee will, within 15 days after termination, pay the Franchisor, as liquidated damages, and not as a penalty, a lump sum determined as follows:

a. The liquidated damages will equal the royalty fees and Advertising Fund contributions payable to the Franchisor during the 39 fiscal periods immediately preceding the termination. If your Restaurant has not been open for 39 periods prior to termination, then the period average of those payments during the shorter term will be multiplied by 39 to calculate liquidated damages. If fewer than 39 fiscal periods remain in the effective term of this Agreement, then the fiscal period average of those payments during the 39 fiscal periods immediately preceding termination will be multiplied by the number of periods remaining in the effective term of this Agreement to calculate liquidated damages.

b. If the Franchisor cannot determine the amount payable to it by the Franchisee under this Article because of your failure to submit some or all of the required Gross Sales reports, the Franchisor may estimate the Gross Sales for the applicable periods using any reasonable method.

The Franchisee agrees that the liquidated damages specified in this Section represent a fair and reasonable estimate of damages the Franchisor would sustain as a result of early termination of this Agreement, given that actual damages are uncertain and not susceptible of exact measurement as of the Effective Date.

### 23.4 Assignment of Franchisee's Lease and Purchase of Assets.

a. If the Premises are leased to the Franchisee, upon early termination of this Agreement, and at the option of and upon request by the Franchisor made in our complete discretion within 30 days from the effective date of termination, you shall immediately assign and transfer the lease, the Premises, and all improvements to the Franchisor. Any lease entered into by you shall contain a clause demonstrating the landlord's consent to assign the lease to us or our assignee if this Agreement is terminated before its normal expiration date.

b. The Franchisor has the right, but not the obligation, exercised by written notice within 30 days after early termination of this Agreement, identifying the items to be purchased, to buy all or any part of the assets of the Restaurant, including but not limited to any improvements, furniture, fixtures and equipment, advertising and promotional materials, ingredients, products, materials, supplies, paper goods, and any items bearing the Marks at your Restaurant, at fair market value. If we cannot agree on fair market value within a reasonable time, an independent appraiser shall be designated by the Franchisor, and his or her determination of fair market value shall be binding. If the Franchisor exercises this option to purchase, we may set-off all amounts due from the Franchisee under this Agreement, including the cost of any appraisal, against any payments from us to you.

c. If Franchisor exercises its rights to obtain an assignment of Franchisee's lease and to purchase the assets of the Restaurant so that Franchisor or its affiliate or assignee may resume and continue to operate a SHONEY'S® restaurant at the Premises, then Franchisee's obligations to pay liquidated damages for early termination of the Agreement shall be modified so that the liquidated damages will be paid only for the period of time between the termination of the Agreement and the resumption of operation of the SHONEY'S® restaurant at the Premises by the Franchisor or its affiliate or assignee. In that case, the amount of liquidated damages payable shall equal the royalty fees and Advertising Fund contributions payable to the Franchisor during the length of time immediately preceding the termination that is the same as the length of time from the termination of the Agreement to the resumption of operation of the SHONEY'S® restaurant.

#### 23.5 Deidentification of Premises.

If Franchisee fails to modify the exterior and interior décor of the Restaurant and the Premises as Franchisor requires to eliminate its identification as a SHONEY'S® restaurant (including the removal of all signs bearing the Marks), Franchisor has the right, but not the obligation, to modify the exterior and interior décor of the Restaurant and the Premises, at Franchisee's expense.

#### 23.6 Franchisee's Continuing Obligations.

The obligations of Articles 7, 8, 17, 18, 23, 24 and 26 through 28 shall survive the expiration or termination of this Agreement. All of the Franchisee's obligations which expressly or by their nature survive the expiration or termination of this Agreement will continue in full force until they are satisfied in full or by their nature expire.

### **24. COVENANTS NOT TO COMPETE.**

#### 24.1 Limit on Competition During Term.

In addition to and not in limitation of any other restrictions on Franchisee contained herein, Franchisee and its Principals agree that they will not, during the term of this Agreement, directly or indirectly, for and on behalf of itself, himself, herself or any other person or entity, (unless they obtain the prior written consent of Franchisor): (a) have any direct or indirect interest as a disclosed or beneficial owner in, or lend money to or guarantee obligations of, a

Competitive Business (as defined below), regardless of location or (b) perform services as a director, officer, manager, or consultant for a Competitive Business, regardless of location.

24.2 Limit on Post-Term Competition.

In addition to and not in limitation of any other restrictions on Franchisee contained herein, Franchisee and its Principals agree that they will not, for two (2) years following the effective date of termination or expiration of this Agreement for any reason, or following the date of a Transfer by Franchisee, directly or indirectly, for and on behalf of itself, himself, herself or any other person or entity: (a) have any direct or indirect interest as a disclosed or beneficial owner in, or lend money to or guarantee obligations of, a Competitive Business or (b) perform services as a director, officer, manager, or consultant for a Competitive Business which, in either case, is located or operating at the Premises or within a five mile radius of the Premises or of any SHONEY'S® or SHONEY'S ON THE GO® restaurant in operation at the time of termination or expiration of the Agreement.

24.3 Irreparable Harm.

The parties acknowledge that the covenants contained in this Article 24 are based on the reason and understanding that Franchisee and Principals will possess knowledge of Franchisor's System, business and operating methods, and Confidential Information and Trade Secrets, disclosure and use of which would prejudice the interest of Franchisor and its franchisees. Franchisee further understands and acknowledges the difficulty of ascertaining monetary damages and the irreparable harm that would result from breach of these covenants. If any part of this restriction is found to be unreasonable in time or distance or scope, such time or distance or scope may be reduced by appropriate order of the court to that deemed reasonable. Franchisor shall, as a matter of course, be entitled to obtain injunctive relief to enforce such covenants in addition to any other relief to which it may be entitled at law or in equity.

24.4 Definition of Competitive Business.

The term "Competitive Business" shall mean a casual or family dining restaurant that provides table service, serves moderately priced food in a casual atmosphere, and either offers or sells menu items substantially similar to menu items served in SHONEY'S® or SHONEY'S ON THE GO® restaurants, or has a method of operation or trade dress substantially similar to that employed in the System.

24.5 Exceptions.

a. The restrictions of this Article will not apply to the ownership of a SHONEY'S® or SHONEY'S ON THE GO® restaurant operated pursuant to another franchise agreement with us, or to the passive ownership of a restaurant or restaurant chain through shares of a class of securities listed on a stock exchange or traded on the over-the-counter market that represent 5% or less of the number of shares of that class of securities issued and outstanding.

b. If any part of the restrictions in this Article is found to be unreasonable in time, scope or distance by a court, the restriction may be reduced by appropriate order of the court to that deemed reasonable.

## 25. RESOLUTION OF DISPUTES.

### 25.1 Agreement to Use Procedure.

Except to the extent the Franchisor seeks injunctive or other equitable relief or specific performance to enforce provisions of this Agreement, the provisions of this Article 25 shall apply to all disputes between the Franchisor (including our affiliates, owners, officers, directors, and employees) and the Franchisee and/or its Principals, arising out of or relating to this Agreement (including any claim that any part of this Agreement is invalid, illegal, or otherwise ineffective), to disclosures made or other actions or omissions occurring prior to execution of the Agreement, and/or to any business relationship that exists, or activities that are conducted, as a result of this Agreement (each, a “Dispute”); provided, that the provisions of this Article 25 shall not apply after Franchisor has terminated this Agreement under Article 22, even if the Franchisee disputes the validity of the termination. We will use these procedures to attempt to resolve amicably any Dispute without the necessity of litigation and before commencing any legal action, except as permitted in this Article or in Section 26.4. If a party commences any legal action without first using these procedures, the other party will be entitled, upon appropriate motion, to abate the legal action pending compliance with this Article.

### 25.2 Initial Process.

The person initiating the process must give initial written notice to the other party describing the Dispute and identifying one or more authorized individuals with power to resolve the Dispute. The date of receipt of the initial notice is the “Start Date.” Within 10 days after the Start Date, the other party must designate in writing its authorized individuals with power to resolve the Dispute. The authorized individuals will meet in good faith no later than 20 days after the Start Date to discuss resolution of the Dispute. If the Dispute has not been resolved within 45 days after the Start Date, any party may cease direct negotiations and submit the Dispute to mediation in accordance with the procedure in Section 25.3.

### 25.3 Mediation.

a. Selection of Location and Mediator. Within 10 days after the parties cease direct negotiations under Section 25.2, they will attempt to select a location for the mediation. If they cannot agree within 10 days, the mediation will be held in the city in which the Franchisor then has its principal business office. The parties must then select a person to mediate the Dispute. If the parties cannot agree on a mediator within 10 days after the location for mediation has been determined, any party may request the **International Institute for Conflict Prevention and Resolution (CPR), 366 Madison Avenue, New York, New York**, to supply a list within 5 business days of 5 potential qualified mediators, who are either an attorney experienced in the field of franchising or a retired or former judge of a court of record. Within 10 days after receipt of the list, the parties must rank the proposed mediators in numerical order of preference, exchange their lists, and select the individual receiving the highest combined ranking as the mediator. If that individual is not available to serve, the parties will proceed to contact the individual who was the next highest in ranking until a mediator is selected.

b. Conduct of Mediation. The parties and the mediator will determine a date for the mediation. Both parties will deliver a summary of its position on the Dispute to the mediator at least 7 days before the first scheduled mediation session. The mediator will determine the meeting format and the mediation session will be private. The mediator will keep confidential all information learned in private discussion with any party unless that party authorizes disclosure. The mediation will be governed by other rules the mediator prescribes.

c. End of Mediation. The mediator will end the mediation if the process fails to resolve the Dispute at the conclusion of 10 hours of mediation sessions, unless the parties agree to continue the sessions. In addition, any party may terminate the mediation process if any other party fails to take any action when required in order to further the mediation process. The parties may not commence any legal action or seek other remedies until 7 days following the end of the mediation process. However, any party may commence litigation within that 7-day period if litigation could be barred by an applicable statute of limitations or to seek an injunction to prevent irreparable harm, or other equitable relief or specific performance.

25.4 Fees; Disqualification; Confidentiality.

We will both share the fees and expenses of the mediator equally. Each party will pay their own other costs of the mediation. The mediator will be disqualified as a witness, expert, or counsel for any party with respect to the Dispute and any related matters. All negotiation and mediation pursuant to this Article will constitute settlement discussions for purposes of federal and state rules of evidence. The entire mediation process is confidential, and all conduct, statements, promises, offers, and opinions will not be discoverable or admissible in any legal proceeding for any purpose. Evidence which is otherwise discoverable or admissible will not be excluded from discovery or admission solely because of its use in the mediation.

**26. MISCELLANEOUS TERMS.**

26.1 Attorneys' Fees.

In any proceeding to enforce or interpret this Agreement, the prevailing party may recover its costs and expenses, including accounting and attorneys' fees, legal and expert witness fees, costs of investigation, court costs, other litigation expenses, and reasonable travel and living expenses. In any proceeding involving more than one allegation or issue, where neither party prevails on all allegations or issues, the presiding court or other authority may apportion fees, costs and expenses between the parties.

26.2 Force Majeure.

The Franchisor or the Franchisee will not be liable for loss or damage or be in breach of this Agreement if their failure to perform an obligation results from a force majeure not within the control of the affected party and which cannot be overcome by use of normal commercial measures. Force majeure includes transportation shortages, inadequate supply or unavailability from the manufacturers or suppliers of equipment, merchandise, supplies, labor, material, or energy, mandatory or voluntary compliance with the requests, recommendations or instructions, or with any law, ruling, order, regulation, or requirement of any federal, state or municipal government, department, or agency. It also includes acts of God, fires, strikes, embargoes, wars,

riots, or any other similar cause not within the control of the affected party. Any delay resulting from force majeure will extend the time for performance or excuse performance, in whole or in part, as is reasonable, but it will not excuse payments of amounts owed at the time of the occurrence or payment of any amounts that properly become due thereafter.

### 26.3 Governing Law, Venue and Jurisdiction.

The Franchisor may grant franchises throughout the United States on terms and conditions similar to those set forth in this Agreement, and it is of mutual benefit to the Franchisor and all of its franchisees that the terms and conditions be uniformly interpreted. Therefore, unless the applicable law in the state in which the Franchisee has its principal place of business requires otherwise, this Agreement will be governed by and interpreted in accordance with Tennessee law, without regard to any conflict of law rules. Furthermore, unless the applicable law in the state in which the Franchisee has its principal place of business requires otherwise, the Franchisee also specifically and deliberately agrees that all litigation of controversies, claims or disputes between the Franchisor and the Franchisee (or the Franchisee's Principals) which arise out of or relate to this Agreement or any other agreement between the Franchisor and the Franchisee, or the relationship between the Franchisor and the Franchisee, may be brought only in a state or federal court of competent jurisdiction in the county and state where we then have our principal executive office. The Franchisee irrevocably submits to the jurisdiction and venue of those courts and waives any objection to the jurisdiction and venue of those courts.

### 26.4 Injunctive Relief.

If the Franchisee or any of its Principals breaches any provisions of this Agreement regarding the System, the Marks, Confidential Information or Trade Secrets, restrictive covenants, or limits on competition, or engages in other conduct that could materially damage the goodwill associated with the Marks, SHONEY'S<sup>®</sup> or SHONEY'S ON THE GO<sup>®</sup> restaurants, or the System, or violates the terms of Section 23.4, the Franchisee and its Principals agree that the Franchisor will have no adequate remedy at law. Therefore, the Franchisee and its Principals expressly agree that, in addition to all other available remedies, the Franchisor will be entitled to commence a legal action and obtain an injunction or other form of equitable relief or specific performance (including a preliminary injunction or temporary restraining order) to prevent or eliminate the occurrence or continuation of any actual or threatened breach, default, violation, or conduct. We will not be required to post a bond to obtain preliminary or temporary injunctive relief. The only remedy, if an injunction is wrongfully entered against you or your Principals, will be the dissolution of that injunction, and you and your Principals do not have any right to recover damages for wrongful entry of an injunction. The Franchisor is not required to pursue the dispute resolution procedures of Article 25 before filing a lawsuit to seek injunctive or other equitable relief or specific performance.

### 26.5 Limitations on Actions.

You specifically agree that you may not assert any legal claims or causes of action against the Franchisor if they are not commenced by a properly filed civil action within the earlier of:

- a. 2 years after the accrual of the claim or cause of action, or
- b. one year after the discovery of the facts giving rise to the claim or cause of action plus the amount of time actually spent in formally using the dispute resolution process set forth in Article 25 of this Agreement, but in no case more than 18 months after discovery of the facts giving rise to the claim or cause of action.

26.6 Notices and Payments.

All written notices and other communications permitted or required to be delivered under this Agreement will be considered received at the time delivered or refused if sent by a commercial courier service for overnight delivery, or by registered or certified United States Mail, return receipt requested, postage prepaid, and addressed to the recipient at its most current principal business address of which the sending party has notice. Notices will be considered received on the day of transmission by facsimile or other electronic system upon system confirmation of receipt. Notwithstanding the foregoing, Franchisor may amend the Manual, give binding notice of changes to the System, and deliver notices of default by electronic mail to the address set forth on the cover page of this Agreement.

All payments and reports required by this Agreement must be directed to the Franchisor at the address and to the persons specified by our notice from time to time. Any required payment or report not actually received by us by the close of regular business hours on the date due is delinquent. **EXCEPT TO THE EXTENT PROHIBITED BY THE LAW OF THE JURISDICTION IN WHICH YOU THEN HAVE YOUR PRINCIPAL PLACE OF BUSINESS, YOU WAIVE ANY RIGHT YOU MAY HAVE TO OFFSET ANY CLAIMS AGAINST US, OR AMOUNTS WE MAY OWE YOU, AGAINST ANY PAYMENTS YOU OWE US.**

26.7 No Waiver of Default.

The waiver by any party to this Agreement of any breach or default of any term, covenant, or condition of this Agreement, or the failure by any party to strictly enforce any term, covenant or condition on any occasion, shall not be deemed a waiver of any subsequent or continuing breach or default of the same or any other term, covenant, or condition in this Agreement.

26.8 Rights of Parties are Cumulative.

All rights and remedies of the parties under this Agreement are cumulative, and no exercise or enforcement by either party of any right or remedy will preclude the exercise or enforcement of any other right or remedy under this Agreement or under the law or in equity, except as otherwise set forth in this Agreement.

26.9 Waiver of Certain Damages.

Except for your obligations to indemnify us under this Agreement and claims we bring against you for your unauthorized use of the Marks, for unauthorized use or disclosure of any Confidential Information or Trade Secrets, for breach of your non-competition covenants, or for

liquidated damages, THE FRANCHISOR, THE FRANCHISEE, THE GUARANTORS, AND THE FRANCHISEE'S PRINCIPALS EACH WAIVE ANY RIGHT TO OR CLAIM FOR PUNITIVE, CONSEQUENTIAL, MULTIPLE, INCIDENTAL OR OTHER DAMAGES IN EXCESS OF THE ECONOMIC DAMAGES ACTUALLY SUSTAINED, whether

asserted as a related or independent tort, as a breach of contract, or as any other claim or cause of action based on statutory or common law.

26.10 Waiver Of Jury Trial and Class Actions

We and you (and your Principals) waive, to the extent permitted by law, trial by jury in any action, proceeding, or counterclaim, whether at law or in equity, brought by either of us, and the right to bring, or be a class member in, any class action lawsuits.

27. **AGREEMENT.**

27.1 Amendment and Binding Effect.

This Agreement may be modified only by a writing signed by you and us. However, Franchisor may modify the Manual at any time without your consent, and you will comply with all mandatory provisions of the Manual. Nothing in this Agreement is intended, nor will be deemed, to confer any rights or remedies upon any person or legal entity not a party to this Agreement. This Agreement is binding upon the parties to it and their respective executors, administrators, heirs, permitted assigns, and successors in interest.

27.2 Approval.

We have the absolute right to refuse any request or to withhold our approval of any action or omission, except where this Agreement expressly obligates us to reasonably approve or not unreasonably withhold our approval.

27.3 Counterparts.

This Agreement may be executed in counterparts, each of which will be deemed an original.

27.4 Definitions.

The term "affiliate" in this Agreement means any person or entity that directly or indirectly owns or controls, is owned or controlled by, or is under common control with, another person or entity. Reference to a "controlling interest" or "control" means 50% or more of the voting control, or any lesser percentage that may have the power to control the management and affairs of your Restaurant or the Franchisee. The term "family member" refers to parents, spouses, offspring, siblings, and the spouses of parents and siblings. If the Franchisee consists of two or more persons, whether or not as partners or joint venturers, their obligations and liabilities to us are joint and several.

27.5 Entire Agreement; Interpretation.

This Agreement, including its background recitals, and any attached addendum, schedule, or exhibit, and the Operations Manual, contains the entire agreement between the parties relating to the operation of the Restaurant and the franchised business, and no representations, inducements, promises, agreements, arrangements or undertakings, oral or written, have been made or relied upon by the parties other than as set forth herein or in the Franchise Disclosure Document. Nothing in this Agreement or any related agreement is intended to disclaim the representations we made in the Franchise Disclosure Document. The provisions of this Agreement shall be interpreted to provide that the Franchisee at all times operates the Restaurant in conformity with the System, through strict adherence to the Franchisor's mandatory standards, specifications, and policies as they now exist and as they may be modified by the Franchisor from time to time. There are no other oral or written understandings or agreements between you and us relating to the subject matter of this Agreement, except for any Development Agreement, if applicable, and a Lease, if applicable. If there is a conflict between this Agreement and any Development Agreement or Lease, the provisions of this Agreement will control.

27.6 Severability and Modification of Provisions.

If any provision of this Agreement is invalid or unenforceable as written, it shall be modified or limited as necessary to make the provision valid and enforceable to the greatest extent possible under applicable law. If any provision of this Agreement is finally declared invalid, or unenforceable, the remaining provisions shall remain in full force as if the Agreement had never contained the invalid provision. If any part of this Agreement relating to the payment of fees to the Franchisor, or the preservation of any of the Franchisor's Marks, trade names, service marks, trademarks, Confidential Information, Trade Secrets or secret formulae is declared invalid or unenforceable, then the Franchisor shall have the right to immediately terminate this Agreement and to recover all its Marks and other intellectual property, upon written notice to the Franchisee.

27.7 Time.

Time is of the essence of this Agreement.

**28. ACKNOWLEDGMENTS AND REPRESENTATIONS.**

28.1 Multiple Forms of Agreement.

You acknowledge that there is more than one form of franchise or license agreement in effect between us and our various SHONEY'S<sup>®</sup> and SHONEY'S ON THE GO<sup>®</sup> restaurant franchisees and licensees. Those previous agreements contain provisions that may be materially different from the provisions contained in this Agreement, and you are not entitled to rely on any provision of any other agreement with other SHONEY'S<sup>®</sup> or SHONEY'S ON THE GO<sup>®</sup> franchisees or licensees, whether to establish course of dealing, waiver, or estoppel, or for any other purpose.

28.2 Franchisee Representations.

You acknowledge and represent to us as follows:

a. THE FRANCHISEE AND EACH OF ITS PRINCIPALS HAVE CONDUCTED AN INDEPENDENT INVESTIGATION OF THE RESTAURANT BUSINESS CONTEMPLATED BY THIS AGREEMENT AND OF THE FRANCHISOR'S BUSINESS OPERATIONS, AND EACH RECOGNIZES THAT IT INVOLVES SUBSTANTIAL BUSINESS RISKS THAT COULD RESULT IN THE LOSS OF A SIGNIFICANT PORTION OR ALL OF THE FRANCHISEE'S INVESTMENT.

Franchisee Initials

b. THE FRANCHISEE'S BUSINESS ABILITIES AND EFFORTS ARE ESSENTIAL TO THE SUCCESS OF THE RESTAURANT BUSINESS. THE FRANCHISEE IS REQUIRED TO MAINTAIN A HIGH QUALITY LEVEL OF CUSTOMER SERVICE AND TO ADHERE TO THE SYSTEM.

Franchisee Initials

c. THE FRANCHISOR, ITS REPRESENTATIVES, AND ITS AFFILIATES HAVE NOT MADE, AND THE FRANCHISEE HAS NOT RELIED UPON, ANY REPRESENTATIONS OR PROMISES WHICH ARE NOT CONTAINED IN THIS AGREEMENT OR IN THE FRANCHISE DISCLOSURE DOCUMENT.

Franchisee Initials

d. THE FRANCHISEE HAS NOT RECEIVED FROM US, OUR REPRESENTATIVES, OR OUR AFFILIATES, AND IS NOT RELYING ON, ANY EXPRESS OR IMPLIED WARRANTY, GUARANTY, OR REPRESENTATION REGARDING THE POTENTIAL TRAFFIC OR SALES VOLUME, PROFITS, OR SUCCESS OF THE RESTAURANT BUSINESS CONTEMPLATED BY THIS AGREEMENT.

Franchisee Initials

e. THE FRANCHISEE RECEIVED THE FRANCHISOR'S MOST CURRENT FRANCHISE DISCLOSURE DOCUMENT AT LEAST 14 DAYS PRIOR TO THE EXECUTION OF THIS AGREEMENT OR THE FRANCHISEE'S PAYMENT OF ANY MONIES TO THE FRANCHISOR.

Franchisee Initials

f. THE FRANCHISOR, ITS REPRESENTATIVES, AND ITS AFFILIATES MAY MAKE RECOMMENDATIONS FOR APPROVED VENDORS, SUPPLIERS, CONTRACTORS, LENDERS OR PROVIDERS OF OTHER GOODS AND/OR SERVICES, AND THE FRANCHISOR, ITS REPRESENTATIVES AND ITS AFFILIATES MAY PROVIDE OTHER ADVISORY SERVICES, BUT THE FRANCHISOR, ITS REPRESENTATIVES AND ITS AFFILIATES DO NOT MAKE ANY WARRANTIES OR REPRESENTATIONS REGARDING THOSE GOODS AND SERVICES, AND ARE NOT LIABLE FOR THOSE GOODS AND SERVICES.

Franchisee Initials

g. THE FRANCHISEE AND EACH OF ITS PRINCIPALS HAVE READ, UNDERSTANDS, AND AGREES TO ALL THE PROVISIONS OF THIS AGREEMENT. THE FRANCHISEE HAS HAD A FULL AND ADEQUATE OPPORTUNITY TO BE THOROUGHLY ADVISED OF THE TERMS AND CONDITIONS OF THIS AGREEMENT BY COUNSEL OF ITS OWN CHOOSING PRIOR TO ITS EXECUTION.

Franchisee Initials

(the remainder of this page is blank)

IN WITNESS WHEREOF, the Franchisee and the Franchisor have each executed and delivered this Agreement at the locations specified, as of the Effective Date.

FRANCHISOR:

SHONEY'S NORTH AMERICA, LLC  
a Georgia limited liability company

Date Signed: June 01, 2014

By:

THOMAS GORMAN

Its:

Director of Franchise Development

FRANCHISEE: (Name of Company or Individual)



Date Signed: June 01, 2014

By:


Homer J. Thomas

Its:

Chief Executive Officer

IN CONSIDERATION OF the execution of the Franchise Agreement by Franchisor and based on the benefit received from the Franchise Agreement by the undersigned, each of the following persons who each owns a 5% or more direct or indirect ownership interest in the Franchisee hereby adopts and agrees to comply with the terms and provisions of Sections 7, 8, 16, 20, 24, 25, 26, 27 and 28 of the Franchise Agreement.

PRINCIPAL(S):

  
Homer J. Thomas

Signed at: Pompano Beach, Florida

Date Signed: June 01, 2014

PRINCIPAL(S):

Signed at:

Date Signed:

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Confidential  
May 16, 2014

Page 55

## **EXHIBIT 1 – DEFINITION OF SHONEY’S® RESTAURANT PROTECTED AREA**

The “Protected Area” for your Restaurant is the smaller circle centered on the front door of your Restaurant (a) with a radius of 2 miles, or (b) containing a population of 50,000 people. See attached map.

## EXHIBIT 2 – LEASE ADDENDUM

This Lease Addendum, by and between \_\_\_\_\_ (“Landlord”), and, \_\_\_\_\_ (“Tenant”), modifies the Lease dated \_\_\_\_\_, for the premises known as, \_\_\_\_\_ (“Premises”). Landlord and Tenant, for Ten dollars (\$10.00) and other good and valuable consideration, agree to amend and make part of the Lease the following:

1. Assignment and Subletting: Notwithstanding anything contained in the Lease to the contrary, Landlord’s consent shall not be required for any of the following transfers: (i) an assignment to a bona fide franchisee of Shoney’s North America, LLC (“Franchisor”), provided that such franchisee has been approved by Franchisor and shall continue to operate the Premises as a Shoney’s restaurant, or (ii) a transfer to Franchisor in the event of a sale of the Tenant’s business to Franchisor, a Lease default by the Tenant, or termination of the Franchise Agreement between Franchisor and Tenant. Any assignment or transfer of the Lease must first be approved by Franchisor, which Franchisor may withhold in its sole and absolute discretion, and by Landlord in accordance with the terms and conditions of the Lease and Addendum.

2. Franchisor’s Option of Assumption: Landlord hereby grants Franchisor the right to assume all of Tenant’s rights and obligations under the Lease upon the occurrence of either of the following events or under the terms and conditions set forth herein:

a. Upon default of Tenant under the Lease: Landlord shall concurrently send to Franchisor copies of all notices of default it sends to Tenant. If Tenant fails to cure the default within the period specified within the Lease agreement, then Landlord shall promptly give Franchisor written notice thereof, specifying default Tenant has failed to cure, and shall offer Franchisor the option to assume Tenant’s interest in the Lease (the “Offer”). Landlord shall attach a complete copy of the Lease and any amendments thereto to the Offer, and Franchisor shall exercise the Offer, if at all, by written notice to Landlord and Tenant (the “Acceptance”) within 15 business days after receipt of the Offer from Landlord, and Franchisor shall begin the payment of rent from the date of Franchisor’s opening for business until the expiration of the lease term or until further assignment of the Lease to another franchisee.

b. Upon Termination of the Franchise Agreement: If, during the term of the Lease or any extensions thereof, Franchisor notifies Landlord, in writing, that Tenant’s Franchise Agreement with Franchisor has been terminated, then Landlord shall promptly give Franchisor written notice specifying any defaults of the Tenant under the Lease, and shall offer Franchisor the option to assume all of Tenant’s interest in the Lease (the “Offer”). Landlord shall attach a complete copy of the Lease and any amendments thereto to the Offer, and Franchisor shall exercise the Offer, if at all, by written notice to Landlord within 15 business days after receipt of the Offer from Landlord. Franchisor’s obligations under the Lease shall begin as stated above.

3. Assignment to Franchisor: In the event Franchisor elects to assume Tenant’s interest in the Lease in accordance with the terms set forth in subparagraph 2a. or 2b. above, Tenant shall promptly vacate the premises and Landlord shall promptly deliver possession of the same to Franchisor provided that Franchisor has executed and delivered an assignment and

assumption agreement to Landlord. Tenant agrees that Landlord is not liable and shall indemnify and hold Landlord harmless in the event that Landlord transfers interest in the Lease to Franchisor in accordance with either 2a. or 2b. above. After Franchisor assumes Tenant's interest under the Lease, Franchisor may, at any time, assign such interest or sublet the Premises to one of its franchisees upon written notice to Landlord, and upon such transfer, Franchisor will have no further liability or obligation to Landlord under the Lease.

4. Amendment of Lease: Landlord and Tenant agree not to amend this Lease without the prior express written consent of Franchisor, which consent shall not be unreasonably withheld.

5. Landlord's representation regarding the condition of the Premises: Landlord warrants that the Premises are free from any easement, restriction, zoning, use agreement, or arrangement that will adversely affect the Tenant's use and enjoyment of the Premises. Landlord warrants and represents to Tenant that as of the Lease Commencement Date, the Premises and all Appurtenances thereto, shall be in compliance with all applicable government laws, rules and regulations pertaining to hazardous materials, zoning (including, without limitation, as to the use permitted hereunder), and the American Disabilities Act, and that any HVAC, electrical, plumbing, or any other systems in or serving the premises, or to be installed therein by the Landlord, shall be in good working order and that the Landlord shall remove from the Premises and any area in which Tenant's work may be performed, any hazardous materials or installation, including, without limitation, all asbestos, prior to the Lease Commencement Date.

6. Permitted use: Tenant shall be permitted to use the Premises for the operation of a family dining restaurant providing seating not greater than the maximum amount allowed by local government authority having jurisdiction over the premises.

7. Exclusive Use: Provided that Tenant is not in default beyond any applicable cure period, Tenant shall have the exclusive right within the center to operate a family dining restaurant as defined by Tenant's use clause. Additionally, Landlord warrants that it will not lease space to, or allow the operation of, a competing family dining restaurant in the center. As used herein, "family dining restaurant" shall mean a casual dining restaurant that provides table service, serves moderately priced food in a casual atmosphere, does not have a bar, and offers or sells any menu items of a type similar to menu items served in SHONEY'S® restaurants. In the event that Landlord either violates or fails to enforce this provision, then Tenant, in addition to any other right or remedy it may have, shall have the right, after written notice of the violation, to a reduction of fifty percent (50%) of its Minimum Rent from the date in which the violation occurs.

8. Addendum Prevails: This Addendum shall supersede and prevail over any clause or condition to the contrary contained within the Lease. In the event of a dispute between the parties, each party will look to the Addendum (if it applies) for resolution of the dispute.

9. Notices: All notices provided for in this lease shall be concurrently sent to Franchisor at the following address: **Shoney's North America, LLC, 1717 Elm Hill Pike, Suite B-1, Nashville, Tennessee 37210**, or such other address as notified by Franchisor in writing to Landlord. Notwithstanding anything contained in the lease to the contrary, notice will be sent via certified mail or overnight courier and will be effective on its receipt or refusal.

**IN WITNESS WHEREOF**, the parties hereto have duly executed this instrument, individually or through their authorized officers, agents, or attorney-in-fact, as the case may be or required, causing their respective seals to be affixed hereto this \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_.

Witness: \_\_\_\_\_

Landlord: \_\_\_\_\_

\_\_\_\_\_

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

Its: \_\_\_\_\_

Attest: \_\_\_\_\_

Witness: \_\_\_\_\_

Tenant: \_\_\_\_\_

\_\_\_\_\_

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

Its: \_\_\_\_\_

Attest: \_\_\_\_\_

Witness: \_\_\_\_\_

Franchisor: \_\_\_\_\_

\_\_\_\_\_

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

Its: \_\_\_\_\_

Attest: \_\_\_\_\_

**EXHIBIT 3 - AUTOMATED CLEARING HOUSE PAYMENT AUTHORIZATION**

**AUTHORIZATION AGREEMENT  
FOR PRE-AUTHORIZED PAYMENTS TO  
SHONEY'S NORTH AMERICA, LLC  
(DEBITS)**

The undersigned authorize Shoney's North America, LLC, a Georgia limited liability company, and its successors and assigns (the "Company") and \_\_\_\_\_ (the "Bank") to electronically debit the specified \_\_\_\_\_ checking \_\_\_\_\_ savings account:

\_\_\_\_\_  
CUSTOMER'S BANK NAME

\_\_\_\_\_  
CUSTOMER'S BANK NUMBER

\_\_\_\_\_  
ACCOUNT NUMBER

\_\_\_\_\_  
BRANCH LOCATION

\_\_\_\_\_  
CITY

\_\_\_\_\_  
STATE

\_\_\_\_\_  
ZIP CODE

This authority will remain in full force until the Company and the Bank have received written notification from the undersigned of termination of this authority. That notice must be delivered in enough time and in a manner that affords the Company and the Bank a reasonable opportunity to act on it. The Company will provide a copy of this Authorization Agreement to the undersigned and to the Bank upon request.

DATE: \_\_\_\_\_

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

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

## EXHIBIT 4 - CONFIDENTIALITY AGREEMENT

In consideration of his or her employment with \_\_\_\_\_ (the "Employer"), a FRANCHISEE of Shoney's North America, LLC ("Shoney's") operating a SHONEY'S<sup>®</sup> restaurant, the undersigned employee (the "Employee") agrees as follows:

1. For purposes of this Agreement, the following terms shall have the following meanings:

"Confidential Information" means data or information which is either: (1) marked "Confidential" or with some similar designation; or (2) proprietary or confidential data, documents, materials or information relating to Shoney's or Employer's business that, by its nature, would reasonably be expected to be held in confidence or kept secret. Confidential Information includes, but is not limited to, Trade Secrets.

"Trade Secret" means data or information of Shoney's or its affiliates or subsidiaries or Employer, that: (1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

"Manuals" means all of the manuals developed by Shoney's that contain mandatory and/or suggested standards, specifications and procedures prescribed from time to time for the design, development, and operation of a SHONEY'S<sup>®</sup> restaurant, which may consist of printed manuals, computerized documents or software, information provided on the Internet or an Extranet, audiotapes, videotapes, written directives or memoranda, or any other medium Shoney's adopts periodically for use with the System and designates as part of the Manuals, including Shoney's Operations Manual and any other manuals that Shoney's or its subsidiaries or affiliates may develop or prescribe from time to time for use in Employer's restaurant business, which may consist of more than one volume, as the same may be changed, modified, revised and supplemented from time to time.

2. Confidential Information and/or Trade Secrets include, without limitation, the following:

- A. the Manuals;
- B. non-public aspects of methods, techniques, specifications, procedures, information, systems, knowledge and experience involved in the site selection, development, design, construction, layout, licensing, and operation of SHONEY'S<sup>®</sup> restaurants, whether contained in the Manuals, training materials or otherwise;
- C. recipes, menu analyses, and non-public methods, procedures, and techniques for preparing products offered in SHONEY'S<sup>®</sup> restaurants;

- D. test programs, concepts, and results relating to the planning, development, analysis, selection and testing of components of the SHONEY'S<sup>®</sup> system of operating restaurants and of products offered in SHONEY'S<sup>®</sup> restaurants;
- E. identities of suppliers of food, beverages, ingredients, equipment and other items required and/or used by SHONEY'S<sup>®</sup> restaurants;
- F. non-public aspects of marketing programs, brand characteristics, advertising strategies, and image; and
- G. non-public aspects of technology, processes, business plans, business systems, contract terms, knowledge, know-how, drawings, materials, equipment, techniques, procedures for display of products, product formulae, and other data.

Confidential Information and Trade Secrets do not include data, information, processes, or techniques: (1) which have been voluntarily disclosed to the public by Shoney's, except where such disclosure has been made by an employee or franchisee of Shoney's without authorization from Shoney's; (2) which has been independently developed and disclosed by others, other than through disclosure in violation of this Agreement or other confidentiality agreements; or (3) which has otherwise entered the public domain through lawful means.

3. During Employee's employment with Employer, Employee shall not, directly or indirectly, publish, communicate, disclose, divulge, copy, appropriate or otherwise use any of the Confidential Information or Trade Secrets to or for the benefit of Employee or any other person or entity, except as required to carry out Employee's duties and obligations in the Employer's SHONEY'S<sup>®</sup> restaurant business.

4. For so long after the date that Employee's employment with Employer ends for any reason (including leaving voluntarily or termination) that any Confidential Information remains confidential or Trade Secret remains a Trade Secret under applicable law, Employee shall not, directly or indirectly, publish, communicate, disclose, divulge, copy, appropriate or otherwise use any of such Confidential Information or Trade Secrets to or for the benefit of Employee or any other person or entity.

5. During Employee's employment with Employer, Employee hereby agrees not to borrow or remove any of the Confidential Information or Trade Secrets from the premises of the Employer's restaurant without the express written approval of the Employer.

6. Employee further agrees that a breach of this Agreement would cause immediate, irreparable competitive injury and incalculable harm to Employer and Shoney's. Therefore, the undersigned agrees that Employer and/or Shoney's shall be entitled to equitable relief by any court of competent jurisdiction, including, without limitation, specific performance and/or an order restraining and enjoining any breach or further breach of this Agreement by Employee. Such right is in addition to and not in lieu of any and all other remedies available to Employer or Shoney's at law or in equity. The undersigned expressly waives any requirement for the posting of a bond in an action for specific performance or injunction.

7. Employee agrees to pay all of Employer's and Shoney's costs and expenses, including reasonable attorneys' fees and court costs, in enforcing their rights under this Agreement.

8. Employee agrees that Shoney's is an intended third-party beneficiary of this Agreement and that this Agreement is intended for the benefit of Shoney's in addition to Employer. Shoney's and/or Employer, and their respective successors and assigns, shall have the right to enforce the terms hereof.

9. This Agreement contains the entire agreement between the parties concerning the subject matter hereof, and supersedes any and all prior agreements, written or oral, between the parties.

10. No right or remedy conferred upon or reserved to Employer or Shoney's by this Agreement is intended to be, nor shall be deemed, exclusive of any other right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy.

11. This Agreement may not be amended, changed or modified except in writing signed by Shoney's and all of the parties hereto.

12. In the event that any paragraph in this Agreement or any portion thereof is found to be unenforceable by a court of competent jurisdiction, the remainder of this Agreement shall not be affected thereby and shall remain in full force and effect.

13. The failure of any party to exercise any power given any party hereunder or to insist upon strict compliance by any party of its obligations hereunder shall not constitute a waiver of any party's right to demand exact compliance with the terms hereof.

14. This Agreement has been entered into and shall be governed by, and construed, interpreted and enforced in accordance with the laws of the State of Tennessee, which laws shall prevail in the event of any conflict of law.

[signatures appear on next page]

The undersigned Employee understands and accepts the obligations set forth in this Agreement and agrees to be bound by them effective as of the date set forth this \_\_\_ day of \_\_\_\_\_, 20\_\_ .

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Print Name

ACCEPTED BY:

\_\_\_\_\_  
Employer's Authorized Representative

\_\_\_\_\_  
Print Name

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

**EXHIBIT 5 - CERTIFICATE OF LEGAL COMPOSITION  
AND DESIGNATION OF CONTROL PERSON  
(CORPORATE FORM)**

\_\_\_\_\_ (the “Corporation”) hereby certifies to Shoney’s North America, LLC (“Shoney’s”) as follows:

1. The Corporation is duly incorporated and in good standing under the laws of the State of \_\_\_\_\_, with all taxes paid.
2. Attached hereto as Exhibit A is a true and correct copy of the Articles of Incorporation of the Corporation.
3. Attached hereto as Exhibit B is a true and correct copy of the By-Laws of the Corporation.
4. Attached hereto as Exhibit C is a true and correct copy of a Certificate of Good Standing of the Corporation issued by the Secretary of State of \_\_\_\_\_.
5. The execution, delivery, and performance by the Corporation of the Franchise Agreement with Shoney’s, has been duly authorized by all necessary corporate action.
6. The following individuals are officers of the Corporation as of the date hereof in the capacities indicated, and the signatures executed below are the true and correct signatures of such officers executing closing documents in connection with the resolutions attached hereto:

<u>Name</u>	<u>Office</u>	<u>Signature</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

7. The following individuals or entities are the shareholders of the Corporation, with the percentage of outstanding voting shares and the number and type of shares set forth below, and each agrees that he, she or it shall not transfer, assign or pledge any direct or indirect equity interest in the Corporation to any person without the prior, written consent of Franchisor and compliance with the provisions of the Franchise Agreement:

<u>Name</u>	<u>Percentage of Voting Shares</u>	<u>Number and Type of Shares</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. The Corporation authorizes one person to act for the Corporation as its Control Person for all transactions with the Franchisor. The Franchisor may transact all business between it and the Corporation by communicating with and accepting communications from, or otherwise conducting the mutual affairs of the Franchisor/Franchisee relationship with the Control Person for the Corporation.

Corporation's Control Person is: \_\_\_\_\_

**IN WITNESS WHEREOF**, the undersigned has duly executed and delivered this Certificate of Legal Composition and Designation of Control Person as of the day and year set forth below.

\_\_\_\_\_  
 By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

**EXHIBIT 5 - CERTIFICATE OF LEGAL COMPOSITION  
AND DESIGNATION OF CONTROL PERSON  
(LIMITED LIABILITY COMPANY FORM)**

\_\_\_\_\_ (the "Company") hereby certifies to Shoney's North America, LLC ("Shoney's") as follows:

1. The Company is duly organized and in good standing under the laws of the State of \_\_\_\_\_, with all taxes paid.
2. Attached hereto as Exhibit A is a true and correct copy of the Articles of Organization of the Company.
3. Attached hereto as Exhibit B is a true and correct copy of the Operating Agreement of the Company.
4. Attached hereto as Exhibit C is a true and correct copy of a Certificate of Good Standing of the Company issued by the Secretary of State of \_\_\_\_\_.
5. The execution, delivery, and performance by the Company of the Franchise Agreement with Shoney's, has been duly authorized by all necessary company action.
6. The following individuals are officers of the Company as of the date hereof in the capacities indicated, and the signatures executed below are the true and correct signatures of such officers executing closing documents in connection with the resolutions attached hereto:

<u>Name</u>	<u>Office</u>	<u>Signature</u>
_____	_____	_____
_____	_____	_____

7. The following individuals or entities are the members of the Company, with the percentage of outstanding voting interests and the number and type of interests (if applicable) set forth below and each agrees that he, she or it shall not transfer, assign or pledge any direct or indirect equity interest in the Company to any person without the prior, written consent of Franchisor and compliance with the provisions of the Franchise Agreement:

<u>Name</u>	<u>Percentage of Voting Interests</u>	<u>Number and Type of Interests</u>
_____	_____	_____

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

8. The Company authorizes one person to act for the Company as its Control Person for all transactions with the Franchisor. The Franchisor may transact all business between it and the Company by communicating with and accepting communications from, or otherwise conducting the mutual affairs of the Franchisor/Franchisee relationship with the Control Person for the Company.

Company's Control Person is: \_\_\_\_\_

**IN WITNESS WHEREOF**, the undersigned has duly executed and delivered this Certificate of Legal Composition and Designation of Control Person as of the day and year set forth below.

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**EXHIBIT 5 - CERTIFICATE OF LEGAL COMPOSITION  
AND DESIGNATION OF CONTROL PERSON  
(LIMITED PARTNERSHIP FORM)**

\_\_\_\_\_ (the "Partnership") hereby certifies to Shoney's North America, LLC ("Shoney's") as follows:

1. The Partnership is duly formed and in good standing under the laws of the State of \_\_\_\_\_, with all taxes paid.
2. Attached hereto as Exhibit A is a true and correct copy of the Certificate of Formation of the Partnership.
3. Attached hereto as Exhibit B is a true and correct copy of the Agreement of Limited Partnership of the Partnership.
4. Attached hereto as Exhibit C is a true and correct copy of a Certificate of Good Standing of the Partnership issued by the Secretary of State of \_\_\_\_\_.
5. If the General Partner is a corporation or limited liability company, attached as Exhibit D is a true and correct copy of the Articles of Incorporation (or Articles of Organization) and By-Laws (or Operating Agreement) of the General Partner.
6. The execution, delivery, and performance by the Partnership of the Franchise Agreement with Shoney's, has been duly authorized by all necessary partnership action.
7. The following individuals are officers of the Partnership (or of the General Partner of the Partnership) as of the date hereof in the capacities indicated, and the signatures executed below are the true and correct signatures of such officers executing closing documents in connection with the resolutions attached hereto:

<u>Name</u>	<u>Office</u>	<u>Signature</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

8. The following individuals or entities are the members of the Partnership, with the percentage of outstanding voting interests and the number and type of interests (if applicable) set forth below and each agrees that he, she or it shall not transfer, assign or pledge any direct or indirect equity interest in the Partnership to any person without the prior, written consent of Franchisor and compliance with the provisions of the Franchise Agreement:

<u>Name</u>	<u>Percentage of Voting Interests</u>	<u>Number and Type of Interests</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

9. The Partnership authorizes one person to act for the Partnership as its Control Person for all transactions with the Franchisor. The Franchisor may transact all business between it and the Partnership by communicating with and accepting communications from, or otherwise conducting the mutual affairs of the Franchisor/Franchisee relationship with the Control Person for the Partnership.

Partnership's Control Person is: \_\_\_\_\_

**IN WITNESS WHEREOF**, the undersigned has duly executed and delivered this Certificate of Legal Composition and Designation of Control Person as of the day and year set forth below.

\_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

## EXHIBIT 6 – GUARANTY

1. In consideration of, and as an inducement to, the execution by Shoney's North America, LLC, its successors and assigns (the "Franchisor") of that certain SHONEY'S® Restaurant Franchise Agreement, dated the date identified on the cover page hereof (the "Effective Date") (as amended, assigned, modified, extended, or renewed from time to time, the "Franchise Agreement"), between Homer J. Thomas

(the "Franchisee") and the Franchisor, the undersigned, jointly and severally, for the term of the Franchise Agreement and any amendment, assignment, extension or renewal of it, and until all obligations of the Franchisee to the Franchisor have been fully satisfied, hereby personally, absolutely, and unconditionally guarantee that the Franchisee shall punctually pay and perform every undertaking, condition, and covenant set forth in the Franchise Agreement, including, without limitation, the obligations to make prompt payment in full when due of all royalty fees, Advertising Fund and Co-Op contributions, and all other payments owed under the Franchise Agreement to the Franchisor, its affiliates, and other parties.

2. Each of the undersigned further waives acceptance and notice of acceptance of the foregoing obligations of Franchisee, notice of demand for payment of any indebtedness or for performance of any guaranteed obligations, and any right the undersigned may have to require that an action be brought against the Franchisee or any other person as a condition to the liability of the undersigned.

3. This Guaranty constitutes an absolute, unconditional, irrevocable, and continuing guaranty and it shall remain in full force as to all obligations under the Franchise Agreement until the complete satisfaction of all those obligations.

4. The death or dissolution of any Guarantor shall not terminate this Guaranty as to that Guarantor. This Guaranty shall continue and remain in force against all remaining Guarantors.

5. The Guarantors freely and deliberately authorize the Franchisor to make any forbearance, extensions, renewals, compromises, settlements, releases, or dispositions of all or any part of the obligations affected by this Guaranty from time to time and without notice. Those actions shall not in any way affect, diminish, or impair the liability of the Guarantors. Any failure, neglect or omission by the Franchisor to make any demand or protest, or to give any notice of dishonor or default, shall not in any way affect, diminish, or impair the liability of the Guarantors. The Franchisor has no obligation at any time, to resort first to, to make demand on, to make claim against, or to exhaust its remedies against, the Franchisee, any of the other Guarantors, or any other person, or to resort to or exhaust its remedies against any collateral security or any other rights.

6. The Franchisor may demand payment by, or may bring suit against, the Guarantors at any time, jointly or severally. The Franchisor may release any of the Guarantors from all further liability to the Franchisor under this Agreement without limiting or impairing the Franchisor's rights in any respect to demand and receive the satisfaction of the balance of any outstanding obligations from any Guarantors that were not released.

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May 16, 2014

7. At the death, incompetency, dissolution, liquidation, insolvency of, or institution of bankruptcy or receivership proceedings by or against the Franchisee, all of the existing obligations of the Franchisee to the Franchisor (including any obligations that arise from the termination of the Franchise Agreement) shall become immediately due and payable at the Franchisor's option.

8. This Guaranty binds the Guarantors, jointly and severally, and their respective heirs, legal representatives and successors. The Guarantors may not assign this Guaranty. The Franchisor may assign this Guaranty and upon any assignment by Franchisor the Guaranty shall inure to the benefit of and be fully enforceable by Franchisor's successor or assigns.

9. The failure, omission or delay by the Franchisor to exercise its rights under this Guaranty upon a default by the Franchisee shall not constitute a waiver of the default or of any other rights or remedies under the Franchise Agreement, this Guaranty, or any other instrument.


10. This Guaranty will be governed by and interpreted in accordance with Tennessee law, unless the applicable law in the state in which the Franchisee has its principal place of business requires otherwise.

11. Unless the applicable law in the state in which Franchisee has its principal place of business provides otherwise, Guarantors irrevocably submit to personal jurisdiction and venue in a state or federal court of competent jurisdiction in the county and state where Franchisor has its principal executive office. The Guarantors irrevocably submit to the jurisdiction and venue of those courts and waive any objection to the jurisdiction and venue of those courts.

Executed and delivered as of the day and year stated on the first page of this Agreement.

GUARANTORS: HOMER J. THOMAS

Date: June 01, 2014

Signature: 

**EXHIBIT 7 - SHONEY'S ON THE GO® ADDENDUM  
TO SHONEY'S® FRANCHISE AGREEMENT**

This SHONEY'S ON THE GO® ADDENDUM TO SHONEY'S® FRANCHISE AGREEMENT (this "Addendum") is made as of the Effective Date between Shoney's North America, LLC, a Georgia limited liability company, with a principal place of business located at 1717 Elm Hill Pike, Suite B-1, Nashville, TN 37210 ("Franchisor"), and Franchisee stated on the cover page.

WHEREAS, Franchisor and Franchisee entered into a Franchise Agreement on June 01, 2014 for Restaurant No. 00345 (including all exhibits and addenda to the Franchise Agreement, the "Franchise Agreement");

WHEREAS, Franchisor and Franchisee wish to amend the Franchise Agreement to reflect the agreements made between the parties to franchise a SHONEY'S ON THE GO® Restaurant, as more particularly set forth herein.

NOW, THEREFORE, for and in consideration of the terms, promises, and conditions set forth herein and in the Franchise Agreement, it is mutually agreed as follows:

**1. FRANCHISE AND LICENSE.**

**1.1** Section 1.1 of the Franchise Agreement is amended to substitute "SHONEY'S ON THE GO® restaurant" for the definition of "Restaurant." All other references in the Franchise Agreement to the term "Restaurant" shall mean the "SHONEY'S ON THE GO® restaurant" to be developed and operated by Franchisee at the Premises. In addition, the Franchisor's grant of the right and license to Franchisee to use the SHONEY'S® System and Marks in connection with the Franchise Agreement shall mean the SHONEY'S® System and SHONEY'S® Marks as modified and approved by Franchisor from time to time for use in connection with the development and operation of SHONEY'S ON THE GO® restaurants.

**2. TERM AND RENEWAL.**

**2.2(f)** Section 2.2(f) of the Franchise Agreement is amended to substitute the phrase "SHONEY'S ON THE GO® restaurants" for the phrase "SHONEY'S® restaurants."

**3. FRANCHISE AND ROYALTY FEES.**

**3.1** Section 3.1 of the Franchise Agreement is amended to provide that the initial franchise fee is \$25,000.

**3.2** Section 3.2 of the Franchise Agreement is amended to provide that the royalty fee is the amount of 5.0% of the Gross Sales of your Restaurant during the immediately preceding fiscal period.

**4. CONSTRUCTION AND ALTERATIONS**

6.1 Section 6.1 of the Franchise Agreement is amended to substitute “SHONEY’S ON THE GO® restaurant” for the phrases “SHONEY’S® restaurant.”

**5. TRADEMARKS AND SERVICE MARKS**

7.3(c) Section 7.3(c) of the Franchise Agreement is amended to substitute “SHONEY’S ON THE GO®” for the term “SHONEY’S®.”

**13. ADVERTISING AND MARKETING**

13.1(a) Section 13.1(a) of the Franchise Agreement is amended to provide that the Franchisee’s required contribution to the Advertising Fund will be at least 1% but not more than 5% of your Gross Sales.

**14. FRANCHISEE ADVISORY COUNCIL**

Section 14 of the Franchise Agreement is deleted from the Agreement. However, Franchisor reserves the right to establish a Franchise Advisory Council made up of representatives of SHONEY’S ON THE GO® franchisees, or to appoint SHONEY’S ON THE GO® franchisees to the current Franchise Advisory Council.

**24. COVENANTS NOT TO COMPETE**

24.4 Section 24.4 of the Franchise Agreement is amended to substitute the following for the definition of “Competitive Business”: “The term ‘Competitive Business’ shall mean a fast casual restaurant, or a casual or family dining restaurant that provides table service, and which also serves moderately priced food in a casual atmosphere and either offers or sells menu items substantially similar to menu items served in SHONEY’S® or SHONEY’S ON THE GO® restaurants or has a method of operation or trade dress substantially similar to that employed in the System.

Unless otherwise indicated, all defined terms have the meaning set forth in the Franchise Agreement. To the extent there is any inconsistency between the terms of this Addendum and the Franchise Agreement, the terms of the Addendum shall govern.

a. Franchisor will not unreasonably withhold, delay or condition its consent to any proposed transfer or assignment by Franchisee which requires Franchisor's consent under Sections 16.1, 20.2 and 20.3 of the Franchise Agreement.

a. Franchisor's right of first refusal under Section 20.3 of the Franchise Agreement shall not apply to the proposed sale or transfer of only a partial interest in the Franchise Agreement, the franchise, the Restaurant, the Premises or the Franchisee.

a. The second sentence of Section 20.3(b) shall be deleted and the following sentence inserted in lieu thereof: In that case, we may with the consent of the seller, which shall not be unreasonably withheld, conditioned or delayed, adjust the transaction price in order to remedy any negative tax consequences for the seller attributable to our changes to the deal structure or consideration.

a. With respect to Section 20.3(g) of the Franchise Agreement, the Franchisor shall not unreasonably withhold its consent to Franchisee's request to advertise or market the sale of the Restaurant or the franchise as the sale of a "SHONEY'S<sup>®</sup>" restaurant.

a. In the event that there is a dispute as to the existence of any permanent disability referenced in Section 20.4 of the Franchise Agreement, then the existence of a permanent disability shall be determined by three physicians chosen in the following manner. Franchisee shall select one physician and Franchisor shall select one physician, and the two physicians so chosen shall select a third physician. The three physicians shall each examine the affected person and the decision of the majority of the physicians so chosen shall be conclusive. The cost of the third physician shall be shared equally by the parties.

a. In the event that Franchisor exercises its rights under Section 22.6 of the Franchise Agreement, Franchisor shall assume management of the Restaurant for an initial management period not to exceed ninety (90) days, which Franchisor may renew for additional successive ninety (90) day management periods, but the consecutive management periods shall not exceed one (1) year. During the management period, Franchisor shall periodically discuss the status of the Restaurant with Franchisee.

a. In the event that Franchisor exercises its rights under Section 23.4 b. of the Franchise Agreement and the parties are unable to agree as to a purchase price and terms, the fair market value of such premises and property shall be determined by three appraisers chosen in the following manner. Franchisee shall select one appraiser and Franchisor shall select one appraiser, and the two appraisers so chosen shall select a third appraiser. The decision of the majority of the appraisers so chosen shall be conclusive. The cost of the third appraiser shall be shared equally by the parties.

a. Notwithstanding anything to the contrary in the Franchise Agreement, the Franchise Agreement and all documents required for SBA approval must be executed and in effect at the time of the execution of the SBA loan documents.

3. This Addendum automatically terminates on the earliest to occur of the following: (i) the Franchise Agreement is terminated; (ii) the Loan is paid; or (iii) SBA no longer has any interest in the Loan.

4. Except as amended or modified hereby, all other terms of the Franchise Agreement shall remain unaltered and in full force and effect.

IN WITNESS WHEREOF, the Franchisee and the Franchisor have each executed and delivered this SBA Addendum at the locations specified, as of the Effective Date.

FRANCHISOR:

SHONEY'S NORTH AMERICA, LLC  
a Georgia limited liability company

Signed at: 11:00a.m.

By: THOMAS GORMAN

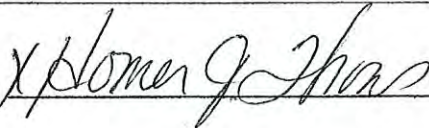
Date Signed: June 01, 2014

Printed: Thomas Gorman

Its: Director of Franchise Development

FRANCHISEE:

Signed at: 9:00a.m.

By: 

Date Signed: June 01, 2014

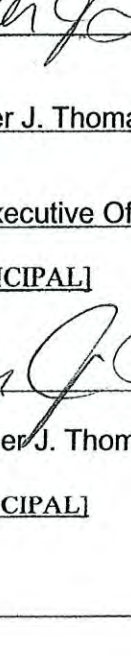
Printed: Homer J. Thomas

Its: Chief Executive Officer

PRINCIPAL(S):

[NAME OF PRINCIPAL]

Signed at: 9:00a.m.



Date Signed: June 01, 2014

Homer J. Thomas

PRINCIPAL(S):

[NAME OF PRINCIPAL]

Signed at: \_\_\_\_\_

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

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May 16, 2014

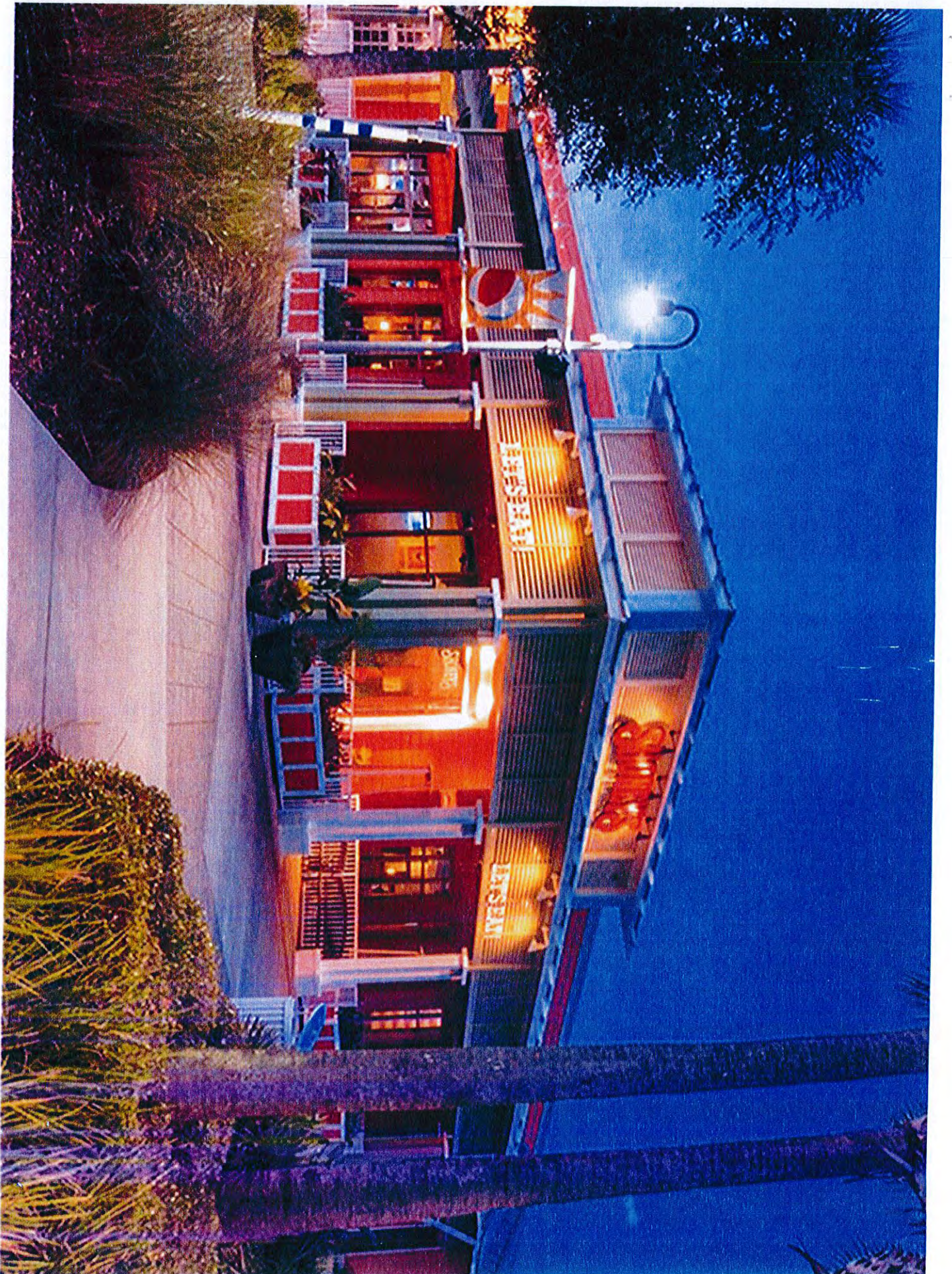
# SHONEY'S<sup>®</sup>

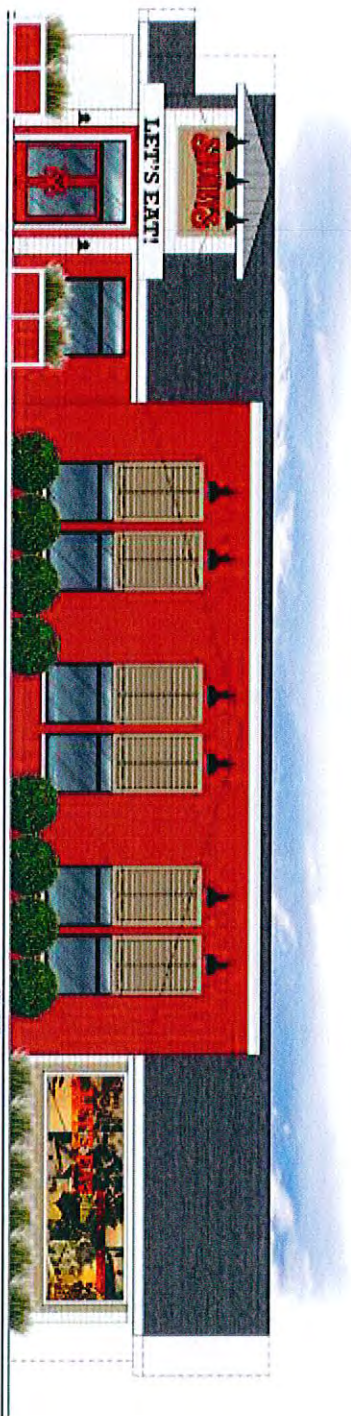
Interior and Exterior Artist Renderings

2014

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EXHIBIT D  
SHONEY'S





CONCEPTUAL  
EXTERIOR ELEVATION  
SCALE: 3/8"=1'-0"

3

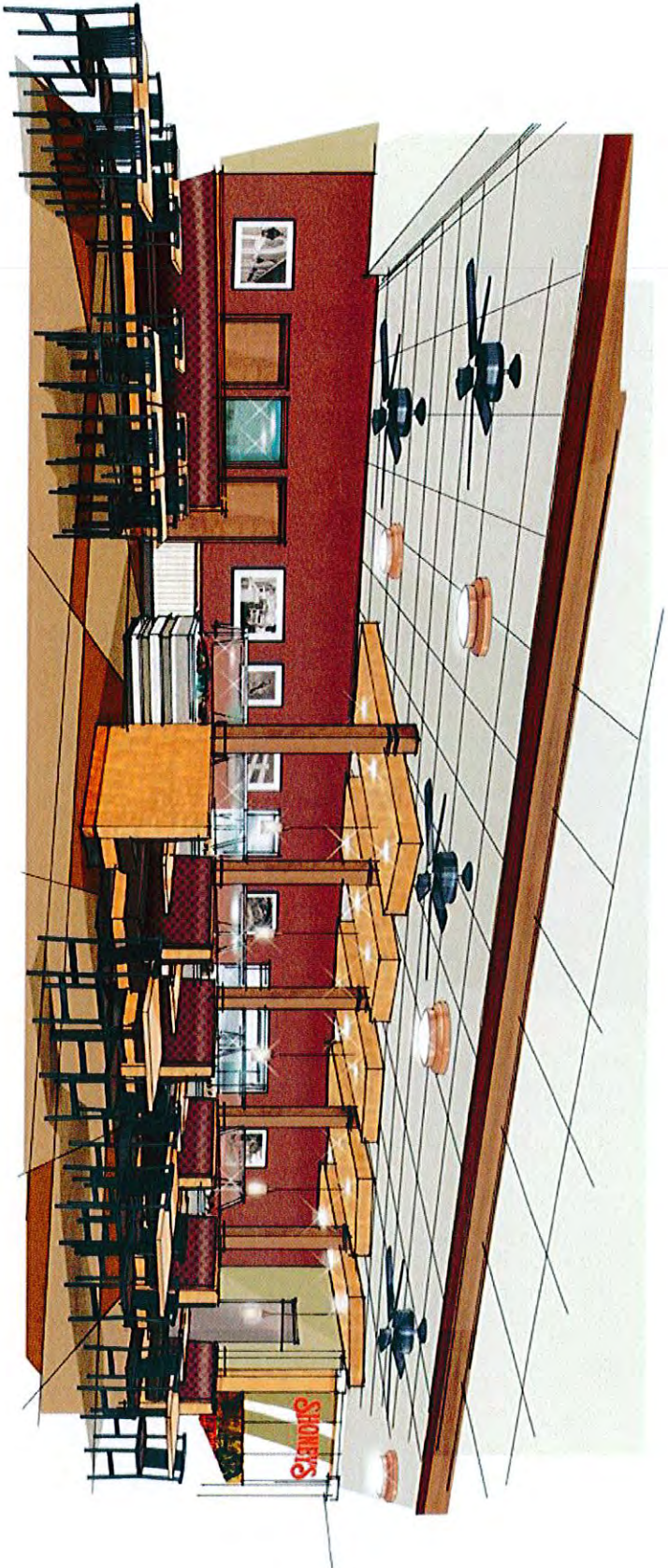


CONCEPTUAL  
EXTERIOR ELEVATION  
SCALE: 3/8"=1'-0"

2



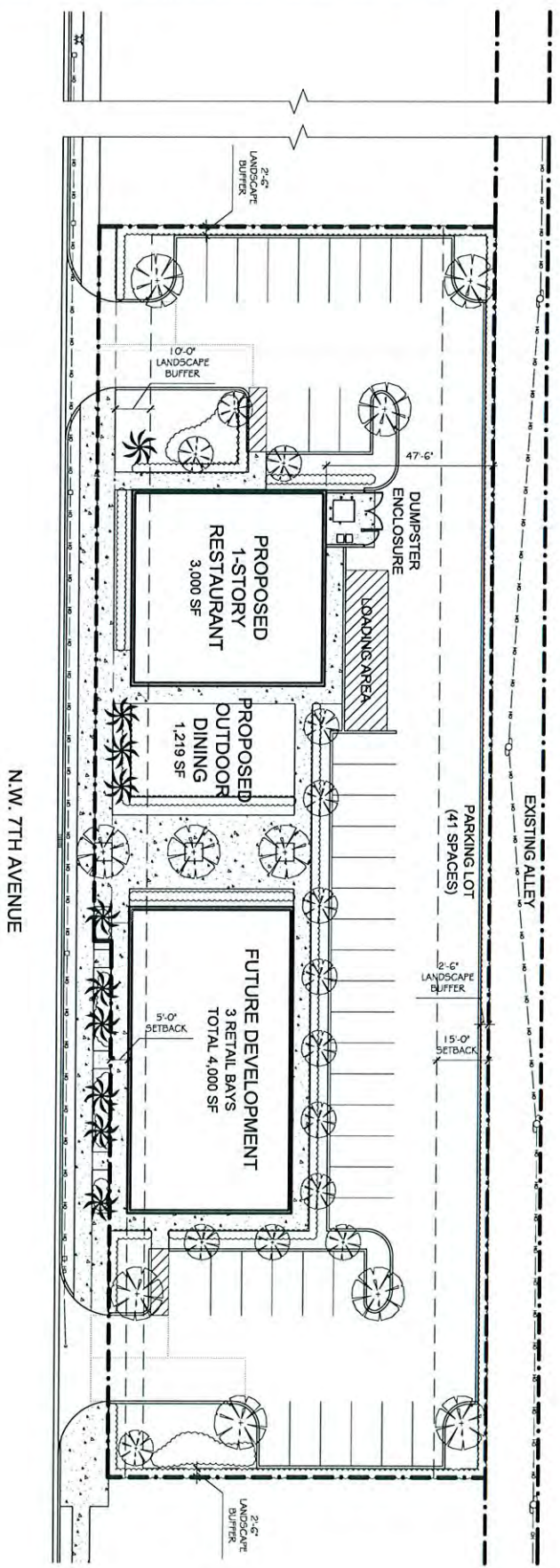
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# SHONEY'S RESTAURANT

517 NW 7th Avenue  
Fort Lauderdale, Florida 33311



N.W. 7TH AVENUE



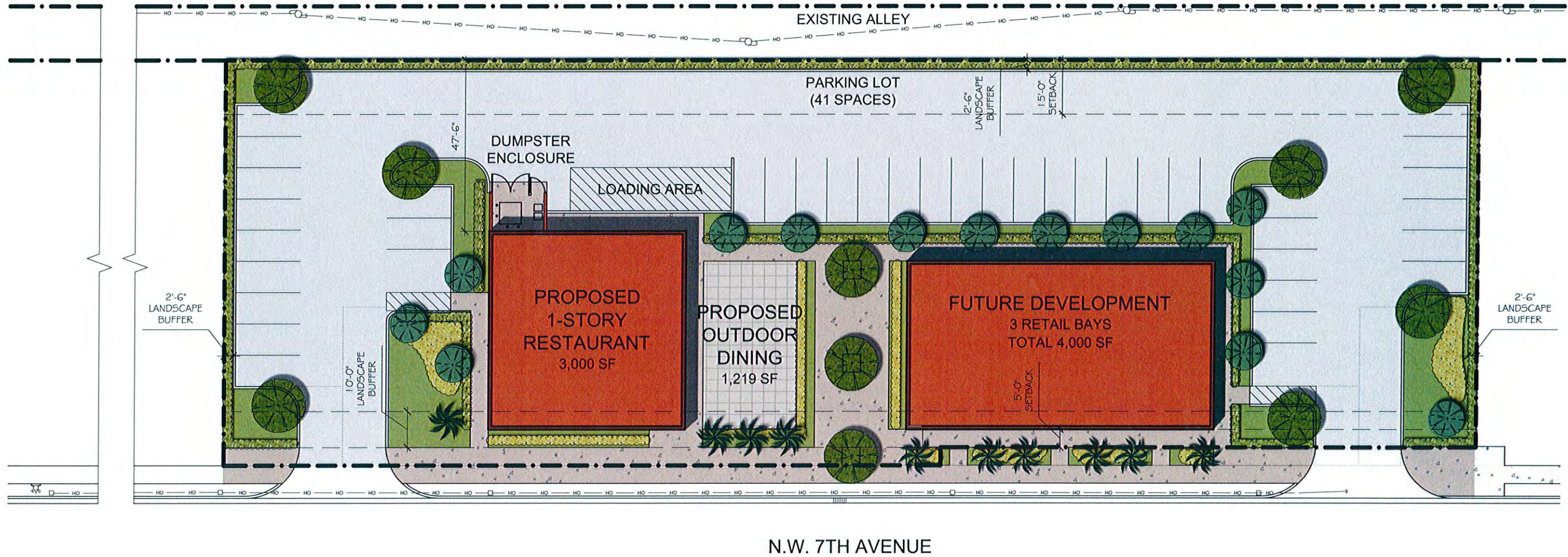
PROPOSED SITE PLAN  
SHEET 1 OF 2

Design2Form

04.01.15

# SHONEY'S RESTAURANT

517 NW 7th Avenue  
Fort Lauderdale, Florida 33311



N.W. 7TH AVENUE

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PROPOSED SITE PLAN

SCALE: 1" = 30'

Design2Form

T&G Group Holdings, LLC

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# **BUSINESS PLAN**

**T & G Group Holdings, LLC**

**Created on April 13, 2015**

## **1. EXECUTIVE SUMMARY**

### **1.1 Product**

Shoney's Restaurant of North America, LLC (Franchisor) was established in 1947 in Charleston, West Virginia. Even then, Shoney's was well known for its breakfast buffet that still continues till this day. Since the company became a private corporation, the world famous buffet breakfast still continues. But now, lunch and dinner is served in menu style sit-down fashion. The restaurant will be open sixteen hours a day, seven days a week. Additionally, alcoholic beverages are available to be purchased. The concept has changed, but the family oriented closeness of both employees and guests will still be maintained by T&G Group Holdings, LLC.

### **1.2 Customer**

The customers that T&G Group Holdings will focus on are "blue-collared" and "white collared" workers, including government and state employees working in the downtown Fort Lauderdale area. Additionally, T&G will focus on the local residents in and throughout the local community with special interests being the newer residents that has moved and relocated into the downtown areas.

### **1.3 What Drives US**

What drives us is the opportunity that is present in owning a Shoney's franchise. The process is very selective. It is our plan to be the very best in the company and everyday that we open the doors at the restaurant, this idea is in our minds both as owners and employees. The goal is to effectively capitalize on this under-served markets in Central Broward County. Once T&G has established our Shoney's brand here in the Fort Lauderdale area, our plan is to expand to other locations that would strongly support our concept throughout the South Florida area.

## **2. COMPANY DESCRIPTION**

### **2.1 Mission Statement**

Our mission at T&G Group Holdings, LLC is to build our franchise brand to the point of leading all franchises in the Shoney's operation. The course of action to achieve our goals consist of first providing to our guests the quality of meals that would allow our guests to encourage others to join them at our establishment on future visits.

1. To develop a pattern of outstanding maintenance and appearance inside and out of our restaurant location, followed by the open arm policy of delivering to every guest a feeling of warmth and friendliness, which makes them feel like a friend, more than a customer.
2. To market our brand as a key element in increasing our revenue on an hour by hour, week by week, month by month basis. Marketing is an essential element that must be undertaken in our everyday operation using many of the business networks available to us, such as Facebook, Twitter, Linked In, Constant Contact, Instagram and our business website. We plan to aggressively market our brand to the South Florida community.
3. We plan to outperform the competition at every point in our operations, from product preparedness and presentation to delivery. We plan to aggressively compete for every guest dollar.

## **2.2 Principal Members**

### Homer J. Thomas, CEO & CFO.

Homer J. Thomas has well over a decade of proven restaurant ownership. Previous multi-franchise owner of Sub-Way Restaurants, previous business history with several fortune 100 companies, which includes a financial advisor with Morgan Stanley & Company and Insurance Advisor with Mutual of Omaha as an Insurance Executive.

### Ralph Grissett, Jr., President & COO.

Ralph Grissett, Jr. brings with him extensive business operation experience, and is the owner of several grocery stores and real estate holdings. Ralph Grissett, Jr. has worked in the grocery business at every level from management to staff for over three decades.

## **2.3 Legal Structure**

T&G Group Holdings is a Limited Liability Company based in the State of Florida. The current board consists of Homer J. Thomas, Chief Executive Officer and Chief Financial Officer, Ralph Grissett, Jr., President and Chief Operating Officer, Reggie Robinson, Sr., a prominent Auto Executive in North Carolina and Alfonso Carracker, a Former NFL Athlete and currently Chief Executive Officer of one of the largest maintenance companies based in Atlanta, GA.

## **3. MARKET RESEARCH**

### **3.1 Industry**

The Buffet-Style Family Oriented Environment involves guests preparing their own individual meals. It has in the past been considered as an informal form of dining. T&G Group Holdings will enter the Buffet-Style dining industry in the

South Florida Market. The industry allows each individual the opportunity to receive a reasonable amount of food at each serving. Since 1947, Shoneys has been the industry leader in the Buffet-Style Dining Atmosphere. Fort Lauderdale is a well-known hub for tourism. The location which we selected is in the middle of the Fort Lauderdale Downtown Business District. Based on a report from the National Association of Restaurant Owners, the Restaurant industry sales are expected to hit a record high of \$709.2 billion this year.

### **3.2 Customers**

Our customer base will be widely diverse. They will come from every level of the work environment. They will consist of government workers such as state, federal, city and county employees. Additionally, community based local individuals, mainly from numerous churches within a five mile radius of our location. The All Aboard Florida Facility will be located within a few blocks of the restaurant location, which will add the potential frequent tourist visits since the train will run 32 stops a day traveling in and out of the area as it ventures north and south from Miami to Orlando.

### **3.3 Competitors**

Golden Corral is considered a mid-level competitor since they are also involved in the Buffet-Style restaurant arena. Golden Corral's main strength is that they have several different locations in South Florida. However, their major weakness is their employee customer service, food products, and bland appearance of their facilities. Our indirect competitors would be Denny's, Waffle House and Ihop. These would be minor competitors based on the pricing or their menu in comparison to Shoneys pricing structure.

### **3.4 Competitive Advantage**

Shoney's was one of the original sit-down buffet style restaurants, which has allowed Shoneys to develop their marketing and product knowledge. The

## T&G Group Holdings, LLC

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Shoneys brand is well known throughout North America. Anyone that has traveled the highways of North America would have seen a Shoneys brand restaurant in their travels. The advantage that T&G Group Holdings see Shoneys provide over the competition is brand exposure, brand experience, management knowledge of company product, proven track history of operating buffet style dining operations and the overall customer service of its employees along with a very loyal customer base.

### **3.5 Regulations**

T&G Group Holdings is regulated by the standards set by Shoneys of North America, LLC and operating a company brand franchise. T&G Group Holdings is also regulated by the State of Florida regarding the operation of the corporation and the registration, licensing & training of the food handlers of the franchise.

Broward County regulates the quality control of the restaurant and the City of Fort Lauderdale regulates the food quality and the maintenance of the restaurant's interior and exterior.

## **4. PRODUCT/SERVICE LINE**

### **4.1 Product or Service**

T&G Group Holding through the operation of the Shoneys franchise will provide to its customer base a full line of drinks which includes: coffee, tea, soft drinks, lemonade, fruit punch and water. A new feature at our location is adult beverages: beer, wine and cocktails. Our desserts include but not limited to cakes, pies, ice cream, assorted fruits and other desserts. T&G Group Holdings would provide a variety of breakfast, lunch and dinner menus. Shoneys features our world famous buffet breakfast. Our lunch and dinner features menu style sit-down dining. This restaurant will be opened during the hours of 6:00am to 10:00pm, seven days a week, except for major holidays such as Thanksgiving,

Christmas and New Years. Because of the special ethnic blend of the community, plans are to introduce special ethnic days and meals as an additional feature at this location.

## **4.2 Pricing Structure**

T&G Group Holdings's pricing structure will be as follows:

"Breakfast Only" Buffet Style will be \$10. The buffet style pricing structure includes all you can eat for one price, which includes the entree' and desserts. Coffee, tea, milk and juice are included with the meal. Sodas and alcoholic beverages are an additional cost.

Lunch prices will start at \$11. Dinners prices will start at \$12 and will include sit-down menu style dining. Soft drinks will be \$1.00. Adult beverages and cocktails will be \$5.00 and up.

## **4.3 Product/Service Life Cycle**

All food will be freshly prepared and ready to be offered to customers on a daily basis.

## **4.4 Intellectual Property Rights**

T&G Group Holdings Intellectual Property Rights are held by Shoneys Restaurant North America, LLC. Shoneys Franchises are held by individual owners, and Shoneys Franchise Rights are purchased from Shoneys Restaurant North America, LLC by individual franchisees or corporations.

## **4.5 Research & Development**

We are reviewing and researching the statistical information provided by the National Association of Restaurants, along with the disclosure document provided by Shoneys Restaurant of North America, LLC, since there is proven franchise

## T&G Group Holdings, LLC

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experience, the business knowledge of operating multi-restaurant franchises is also strongly taken into account. T&G Group Holdings, LLC will aggressively seek to carve its niche in the marketplace.

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## **5. MARKETING & SALES**

### **5.1 Growth Strategy**

T & G Group Holdings will sell products to our everyday guest, since our location is in the downtown business district of Fort Lauderdale, we will tailor our company webpage that contains pictures and descriptions of our business environment. Along with the trolley transportation in the Broward downtown business district, we will seek to become a destination stop with the assistance of Broward County Economic Development Department. The company will also use social media such as twitter, facebook, linkedin, constant contact as ways to improve our guest base. As the business grows, advertise in target markets, especially in advance of the holiday seasons. Additionally adding local meeting rooms and entertainment to increase our evening guest base.

### **5.2 Communication**

The company will communicate with our customers through social media, such as facebook twitter, linked in, and constant contact along with brand franchise commercial provided by Shoney's Restaurant North America LLC. The company will also provide a news letter with the company website.

### **5.3 Prospects**

The company will sell its products to every guest that enters the restaurant location 16/7. Every employee of the company would be required to assist in selling the restaurant products to its guest. This will be provided by the employees through a cheerful attitude, friendly smile, and outstanding customer service. The company plans to win over guest, one customer at a time.

**TnG Group Holding LLC**  
**Projected Balance Sheet**  
**Opening Day of the Shoney's Restaurant Project**

**Assets**

Current Assets

Cash in bank	155,000
Accounts Receivable	-
Inventory	40,000
Prepaid Expenses	<u>36,000</u>
Total Current Assets	231,000

Fixed Assets

Land	668,000
Building	568,000
Furniture & Equipment	<u>106,000</u>
Total Fixed Assets	1,342,000
Accumulated Depreciation	-
Fixed Assets net of depreciation	<u>1,342,000</u>

**Total Assets** 1,573,000

**Liabilities & Equity**

Current Liabilities

Accounts Payable	-
Interest Payable	-
Taxes Payable	-
Short-term Loan Payable	<u>106,000</u>
Total Current Liabilities	106,000

Long-Term Debt

Loans payable	<u>1,267,000</u>
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Total Liabilities 1,373,000

Equity

Equity Contributions	<u>200,000</u>
Total Equity	<u>200,000</u>

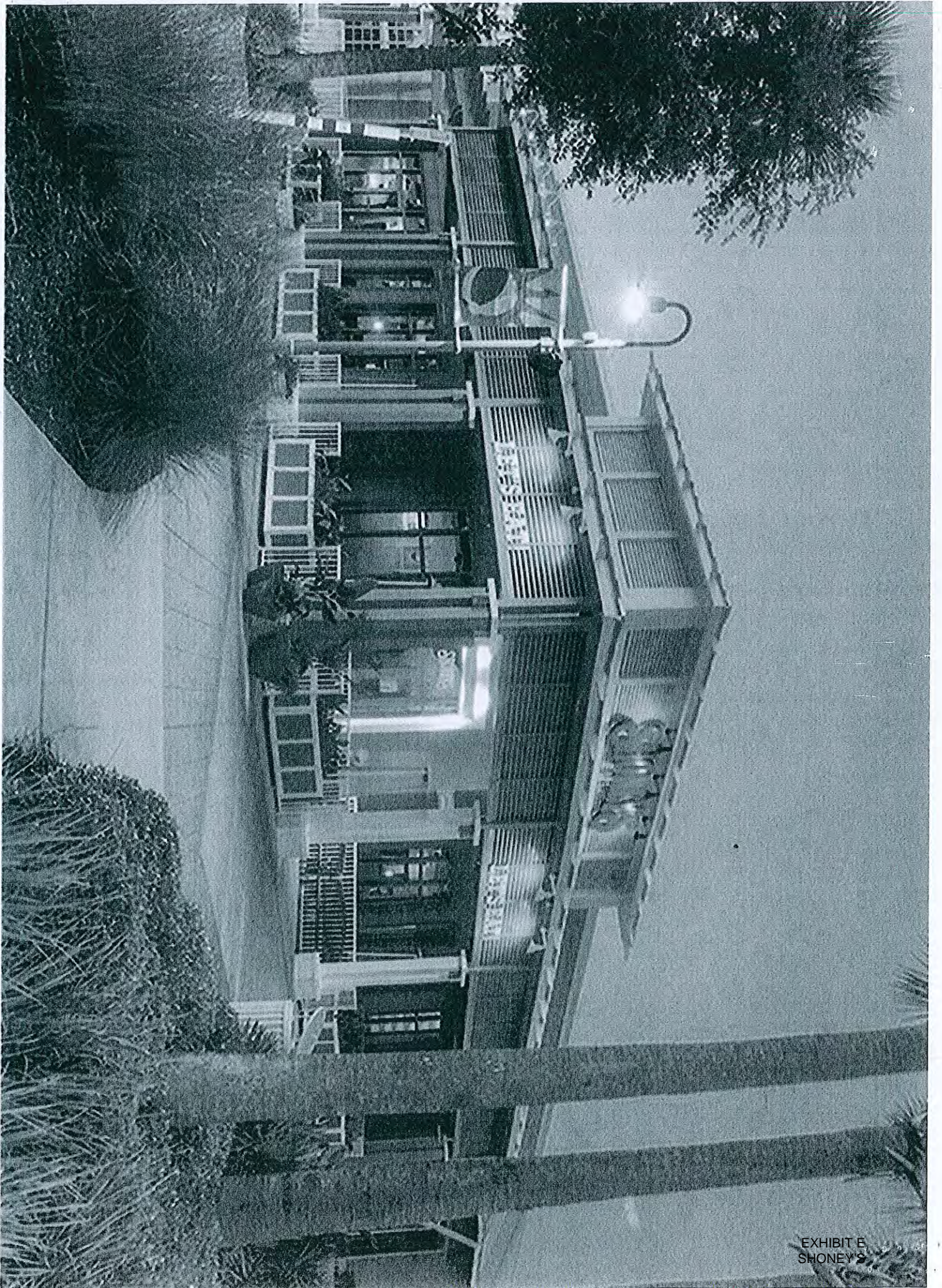
**Total Liabilities & Equity** 1,573,000

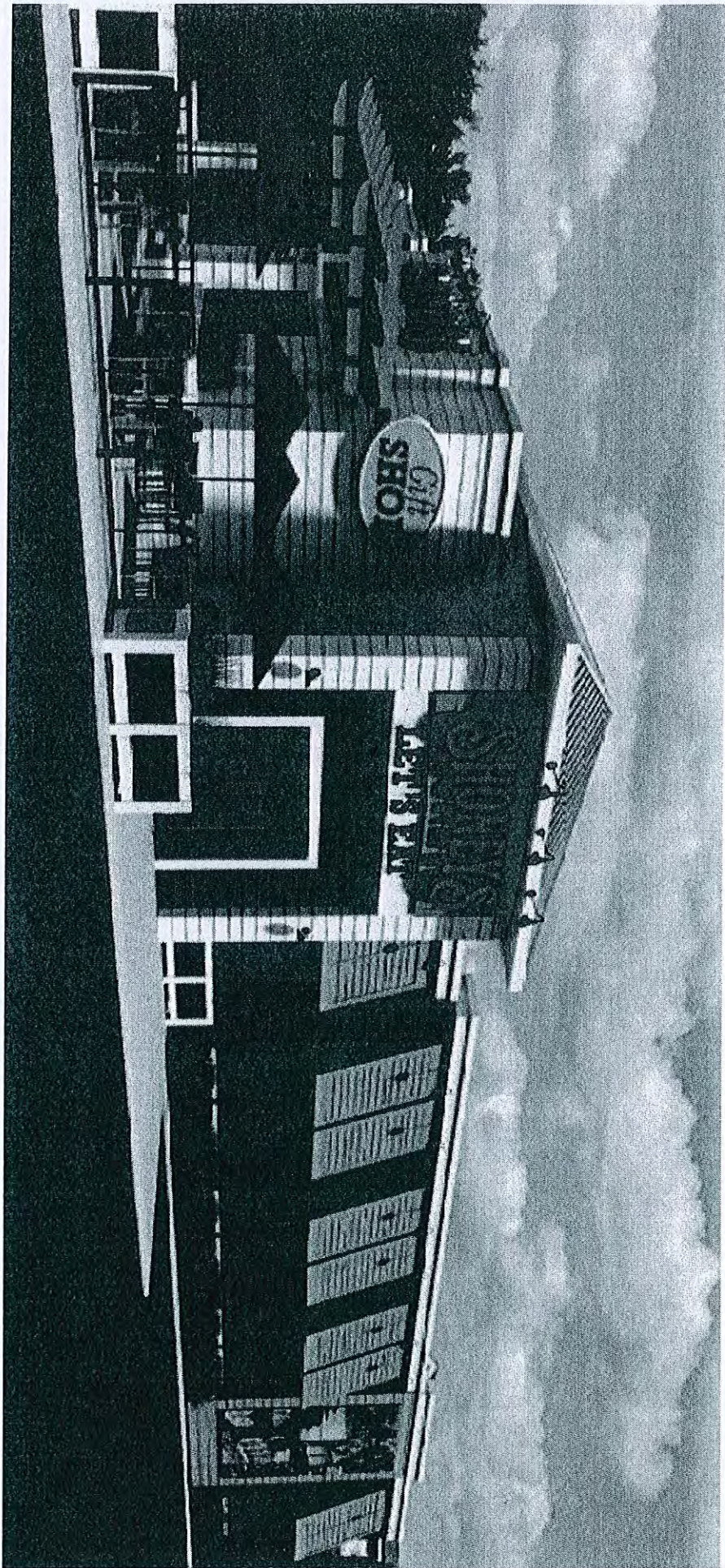
TNG Group Holding LLC  
 Projected Profit and Loss by Month  
 For Year 1 of the Shoney's Restaurant Project

	January	February	March	April	May	June	July	August	September	October	November	December	Total
<b>Revenues</b>													
Food Sales	50,400	50,400	50,400	50,400	50,400	50,400	50,400	50,400	50,400	50,400	50,400	50,400	604,800
Drink Sales	33,600	33,600	33,600	33,600	33,600	33,600	33,600	33,600	33,600	33,600	33,600	33,600	403,200
<b>Total Revenues</b>	<b>84,000</b>	<b>84,000</b>	<b>84,000</b>	<b>84,000</b>	<b>84,000</b>	<b>84,000</b>	<b>84,000</b>	<b>84,000</b>	<b>84,000</b>	<b>84,000</b>	<b>84,000</b>	<b>84,000</b>	<b>1,008,000</b>
<b>Expenses</b>													
Food Cost	16,632	16,632	16,632	16,632	16,632	16,632	16,632	16,632	16,632	16,632	16,632	16,632	199,584
Salary Expenses	8,800	8,800	8,800	8,800	8,800	8,800	8,800	8,800	8,800	8,800	8,800	8,800	105,600
Loan Debt Services	8,400	8,400	8,400	8,400	8,400	8,400	8,400	8,400	8,400	8,400	8,400	8,400	100,800
Insurance	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	3,000	36,000
Depreciation	2,461	2,461	2,461	2,461	2,461	2,461	2,461	2,461	2,461	2,461	2,461	2,461	29,532
Utilities	1,320	1,320	1,320	1,320	1,320	1,320	1,320	1,320	1,320	1,320	1,320	1,320	15,840
Security	1,255	1,255	1,255	1,255	1,255	1,255	1,255	1,255	1,255	1,255	1,255	1,255	15,060
Phone Service	220	220	220	220	220	220	220	220	220	220	220	220	2,640
<b>Total Expenses</b>	<b>42,088</b>	<b>42,088</b>	<b>42,088</b>	<b>42,088</b>	<b>42,088</b>	<b>42,088</b>	<b>42,088</b>	<b>42,088</b>	<b>42,088</b>	<b>42,088</b>	<b>42,088</b>	<b>42,088</b>	<b>505,056</b>
<b>Net Income</b>	<b>41,912</b>	<b>41,912</b>	<b>41,912</b>	<b>41,912</b>	<b>41,912</b>	<b>41,912</b>	<b>41,912</b>	<b>41,912</b>	<b>41,912</b>	<b>41,912</b>	<b>41,912</b>	<b>41,912</b>	<b>502,944</b>

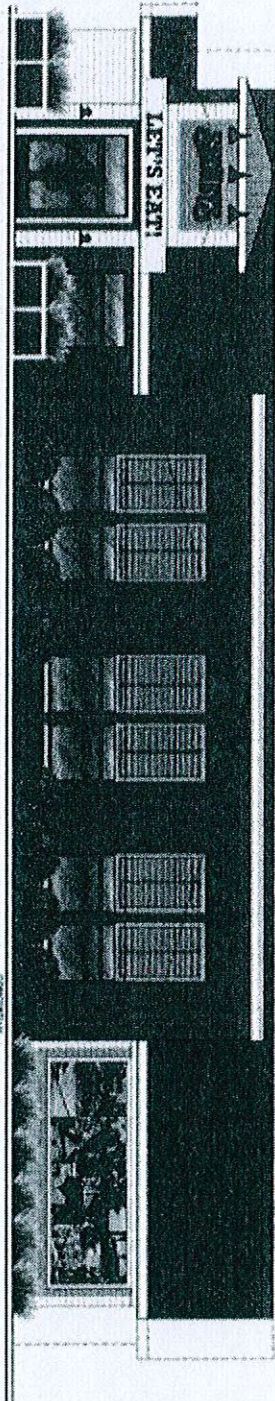
TRG Group Holding LLC  
 Projected Cash Flow Statement  
 For Year 1 of the Shoney's Restaurant Project

	Annually	Monthly																			
		January	February	March	April	May	June	July	August	September	October	November	December								
<b>Cash flow from Operating Activities</b>																					
Cash from customers	1,008,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	84,000	
Cash paid for expenses	(450,724)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	(37,560)	
Cash paid for debt service	(100,800)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	(8,400)	
Net cash from operating activities	456,476	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	
<b>Cash flow from Investing Activities</b>																					
Cash paid for equipment	(1,342,000)	(1,342,000)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Net cash from investing activities	(1,342,000)	(1,342,000)	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>Cash flow from Financing Activities</b>																					
Cash proceeds from loans	1,373,000	1,373,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Cash invested by owners	200,000	200,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
Net cash from financing activities	1,573,000	1,573,000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	
<b>Net cash increase</b>	687,476	269,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	38,040	
Cash balance at beginning of year	-	0	269,040	307,079	345,119	383,159	421,198	459,238	497,278	535,317	573,357	611,397	649,436	687,476	-	-	-	-	-	-	-
Cash balance at end of year	687,476	269,040	307,079	345,119	383,159	421,198	459,238	497,278	535,317	573,357	611,397	649,436	687,476	-	-	-	-	-	-	-	-



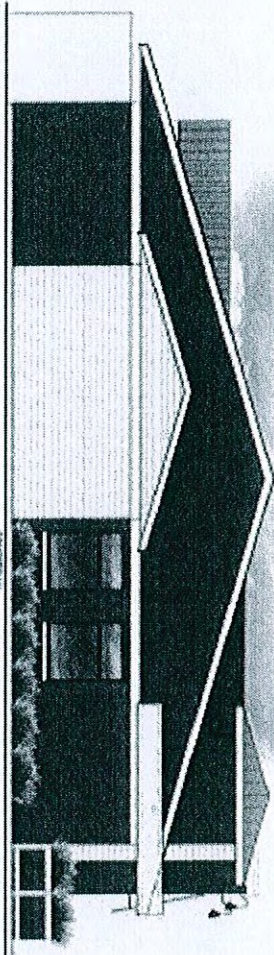


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CONCEPTUAL  
EXTERIOR ELEVATION  
SCALE: 1/8" = 1'-0"

3



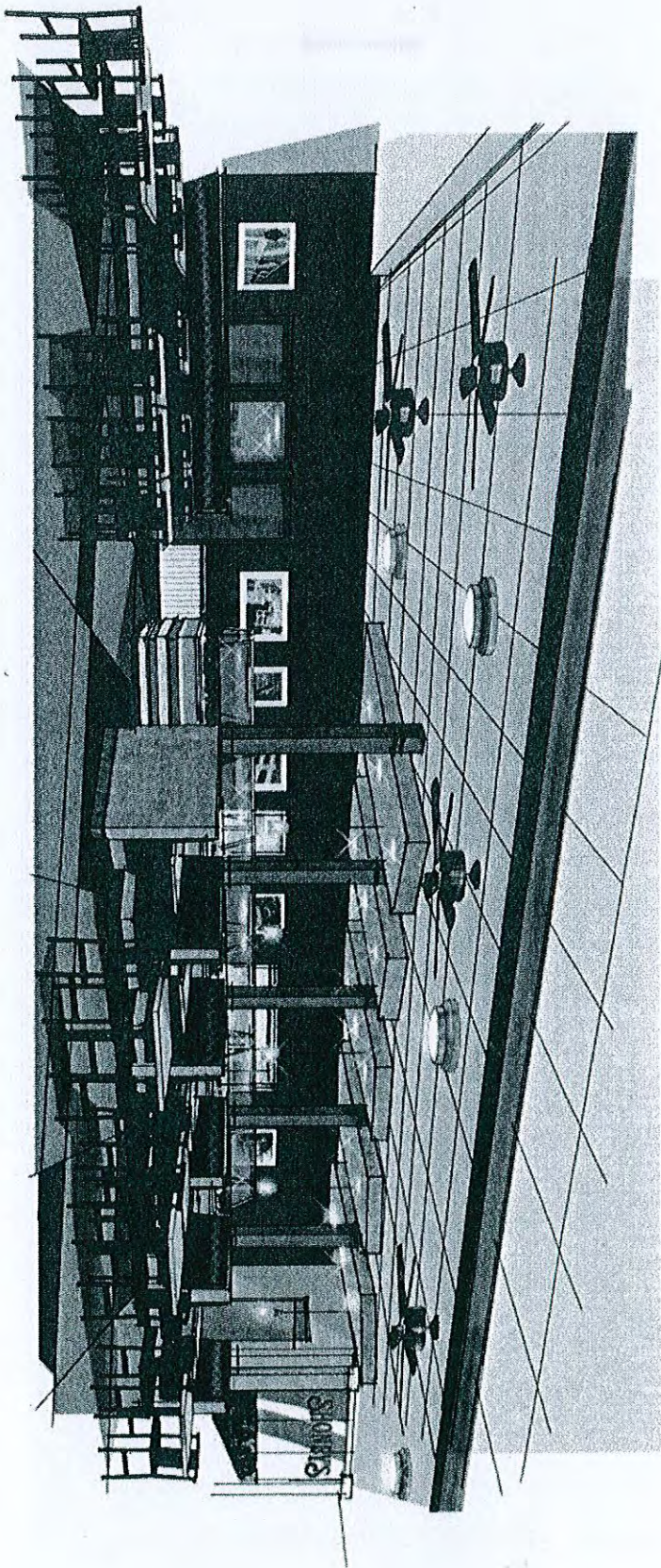
CONCEPTUAL  
EXTERIOR ELEVATION  
SCALE: 1/8" = 1'-0"

2

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# SHONEY'S RESTAURANT FORT LAUDERDALE

## JOB TITLES/POSITIONS

JOB'S CREATED WITH SHONEY'S RESTAURANT FORT LAUDERDALE WILL BE TWENTY (20) FULL TIME POSITIONS CREATED AT THE OPENING OF THE RESTAURANT. ALL FULL TIME JOBS WILL BE BASED ON FORTY (40) HOUR WORK WEEKS. TIME AND A HALF WILL BE PAID FOR HOURS WORKED IN EXCESS OF 40 HOURS PER WEEK.

JOB TITLES/POSITIONS	NUMBER OF EMPLOYEES	SALARIES
STORE MANAGER	1	\$12 PER HOUR
ASSISTANT MANAGER	1	\$11 PER HOUR
COOKS	3	\$12 PER HOUR
PREP-COOKS	2	\$11 PER HOUR
WAITRESSES/WAITERS	10	\$8.12 PER HOUR PLUS TIPS
BARTENDERS	2	\$10 PER HOUR PLUS TIPS
MAINTENANCE PERSONNEL	1	\$8.12 PER HOUR

**Northwest-Progresso-Flagler Heights CRA**  
 Application for Economic Development Incentives  
 Property and Business Improvement Program

**APPLICATION FOR PROPERTY AND BUSINESS IMPROVEMENT PROGRAM**

**APPLICATION INCLUDING ATTACHMENTS MUST BE COMPLETED AND RETURNED TO:**

Economic and Community Reinvestment Division  
 914 NW 6<sup>th</sup> Street, Suite 200, Fort Lauderdale, Florida 33311

Applications will be accepted by in-person or mail only and will not be accepted by fax or email.

**\*Please submit 1 signed original and 7 copies of the application and all attachments\***

**SECTION 1:**

PROJECT LOCATION	ATTACHMENTS
<p>Projects must be located within the NPF CRA redevelopment area; program eligibility is further defined by a project being located in the primary area or the secondary area:</p> <ul style="list-style-type: none"> <li>• Primary Area – commercial properties fronting or abutting NE 6<sup>th</sup> Street/Sistrunk Boulevard</li> <li>• Secondary Area – commercial properties located in the remainder of the NPF CRA district</li> </ul>	<ul style="list-style-type: none"> <li>• Attach project area map showing location and real estate identification number of the parcel on which the project is located.</li> </ul> <p>Visit the Broward County property appraiser website to obtain more detailed information.</p> <p style="text-align: center;"><b>SEE ATTACHED</b></p>
BUSINESS REQUIREMENTS	ATTACHMENTS
<p>Business entity that owns the building at time of application and directly creates capital investment improvements on an existing building having vacant spaces for the purpose of improving and/or upgrading the interior and exterior, to make the property more rentable or “retail/restaurant-ready.”</p> <ul style="list-style-type: none"> <li>• Eligible improvements include but are not limited to window replacement, installation of walls, painting, interior structural reinforcement, HVAC, electrical systems, plumbing, stairs, demolition, flooring, and sprinkler systems.</li> </ul> <p>The project must be a commercial development within the following parameters:</p> <ul style="list-style-type: none"> <li>• The Primary Scoring Area</li> </ul>	<ol style="list-style-type: none"> <li>1. Attach source(s) of financing beyond potential public funds, to include documented letters of financial commitment from investors or banks.</li> <li>2. Attach Development plan for applicant including sources and uses document, balance sheet and operating budget. See Appendix A for more information</li> </ol> <p style="text-align: center;"><b>SEE FUNDING APPLICATIONS AND BUS. PLAN</b></p>

**Northwest-Progresso-Flagler Heights CRA**  
 Application for Economic Development Incentives  
 Property and Business Improvement Program

<ul style="list-style-type: none"> <li>The Secondary Scoring Area</li> </ul> <p><b>Note:</b> Only funds spent on work performed after CRA approval of the grant are eligible for funding. Funds will be disbursed by cost reimbursement upon completion of project and submission of appropriate documentation proving compliance with relevant compliance guidelines.</p>	
<p><b>PROGRAM ELIGIBILITY</b></p>	<p><b>ATTACHMENTS</b></p>
<p>Program eligibility is determined by the review and approval of a completed application. The amount of funding awarded is based upon the scoring criteria used to evaluate the submitted proposals.</p>	<p>1. Attach construction estimate and design drawings</p> <p>SEE CONTRACTOR PROPOSAL AND SHONEY'S DESIGN.</p>
<p><b>TIMELINES/DISBURSEMENT OF FUNDS</b></p>	
<p>Projects must be completed no later than 12 months after CRA approval or the funding agreement is void.</p>	
<p><b>FUNDING GUIDELINES</b></p>	
<p>NPF CRA will review each application to determine the viability of project and need for public funds. All funding requests will be subject to CRA Board approval. All efforts will be made to evaluate and determine funding requests within 45 days of the submission deadline.</p>	
<p><b>SCORING CRITERIA</b></p>	
<p>Applications will be scored using the criteria stated in Appendices B or C.</p>	

Northwest-Progresso-Flagler Heights CRA  
 Application for Economic Development Incentives  
 Property and Business Improvement Program

SECTION 2			
The following sections of the application are to be completed by the <b>APPLICANT</b> . Additional sheets may be attached if the information cannot fit into the space provided.			
APPLICANT INFORMATION			
Applicant Name	Homer J. Thomas	Street Address	209 NW 15 <sup>th</sup> Street
		Mailing address	209 NW 15 <sup>th</sup> Street
Name of Business that Owns Property	T&G Group Holdings	City/State/Zip	Pompano Beach, FL 33062
Contact Person	Homer J. Thomas		
Title	Managing Partner	Phone Ext	954. 785. 8838
Email Address	drhthomas@yahoo.com	Company website	ParadiseSunshineSports.com
Fax	954. 785. 8834	Alt Phone	
# of years in business	4 years		
Tax Status of Business (check all that apply)	<input type="checkbox"/> Sole Proprietorship <input checked="" type="checkbox"/> Corporation (Designation) <input type="checkbox"/> Partnership	Legal Status of Business:	<input checked="" type="checkbox"/> For Profit <input type="checkbox"/> Not-for-profit (Designation) <input type="checkbox"/> Other _____
How long has the applicant owned the property?	Newly Acquired	Is the property currently vacant?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Level of experience applicant or development partner has developing comparable projects successfully	14 years in operating franchise restaurants.		
Has a tenant or lease agreement been secured by the building owner?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		

Northwest-Progresso-Flagler Heights CRA  
 Application for Economic Development Incentives  
 Property and Business Improvement Program

SECTION 3		
FINANCIAL NEED		
Provide the total project capital investment	\$ 1,790,000	
Amount of public funds requested	\$ 331,000	Amount financed by applicant \$ 237,000 <sup>+</sup>
Statement explaining need for public funds	INCENTIVE NEEDED TO DO PROJECT - SEE ATTACHED	
Provide a financial analysis that supports the viability of the project, including details explaining how the project will be funded completely (i.e. bank loan, private equity, city incentive, etc.)	SEE ATTACHED & BUSINESS PLAN.	

SECTION 4		
OVERVIEW OF PROJECT		
Physical address of proposed project	525 NW 7 AVE	Parcel ID #
Is the property located on a public transportation route?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	5042-03-01-1300, 1320, 1330, 1340, 1350, 1360, 1550 & 1540 <input type="checkbox"/> Yes <input type="checkbox"/> No
Do you have a letter of support for the project from the local civic association or business association?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	OTHER LET OF SUPPORT
Estimated start date and completion date if grant is awarded	Start Date: APRIL / JUNE 2014	Completion Date: OCT 2015

SECTION 5 (Limit response to 500 words)	
PROJECT DETAILS	
1. Provide a brief description of the project, intended use of the development, square footage	SHONEY'S BUFFET RESTAURANT EST. 3000 SF
2. Is proposed project consistent with relevant design plans approved by City Commission? If so please explain. a. NPF CRA Redevelopment Plan b. Downtown Master Plan c. NPF CRA Implementation Plan d. NPF CRA 5-Year Spending Program	YES. ALL NEW RESTAURANT AT 525 NW 7TH AVE JOB CREATION: 20 JOBS

Northwest-Progresso-Flagler Heights CRA  
 Application for Economic Development Incentives  
 Property and Business Improvement Program

<p>3. Describe sustainable development practices which will be utilized in considering the environment during construction/deconstruction</p>	<p>We will develop according to the city of Fort Lauderdale Guideline for the NW Redevelopment zone. <i>PER ADEPT PLANS</i></p>
<p>4. Describe any of the following items that may be provided (in kind only): Enhancement to parks, plazas, greenways, parking, street activity or accommodations for pedestrian amenities such as bike racks, transit shelters, etc.</p>	<p>There will be a new parking area designed and new greenery added plus Side Walk, ADA Accessibility  <i>STREET ACTIVITY - ENGAGE STREET</i></p>

FOR INTERNAL USE ONLY			
Project Location	<input type="checkbox"/> NE 6 <sup>th</sup> Street/Sistrunk Boulevard <input type="checkbox"/> NPF CRA Boundary	Date Application Complete:	
Date Application Received:			
Reviewed By:	<i>[Signature]</i>	Date:	
Approved By:		Date:	

I certify to the Fort Lauderdale Community Redevelopment Agency that ALL of the information contained in this application is true and correct to the best of my knowledge. I agree to supplement this application with such additional information as may be requested in order to provide the most accurate and complete picture of my company and the timing of the project for which I am seeking incentive funding. I acknowledge the requested incentives constitute a bonafide inducement for my company to undertake this project, without which inducements my company would be less likely to pursue this project.

**\*Please submit 1 signed original and 7 copies of the application and all attachments\***

Homer J. Thomas  
 Print Name

CEO / Managing Partner  
 Title

*[Signature]*  
 Signature

3/6/2014  
 Date



DALE V.C. HOLNESS, Commissioner, District 9

**Board of County Commissioners**

115 S. Andrews Avenue, Room 421 • Fort Lauderdale, Florida 33301

TEL: 954-357-7009 • FAX 954-357-5622

Email: [dholness@broward.org](mailto:dholness@broward.org)

March 10, 2015

Mr. Bob Wojocik  
City of Fort Lauderdale - Northwest CRA  
914 NW 6<sup>th</sup> Street  
Fort Lauderdale FL 33311

Re: Letter of Support – Shoney’s Fort Lauderdale Project by Dr. H/ Thomas

Mr. Wojocik:

The Shoney’s project mentioned above has by all accounts been well thought out by the business partners Dr. Homer Thomas and Mr. Grisset. The community is very much in favor and in support of the project. The restaurant is needed in the neighborhood and based on all conversations with the owners I believe this project will be very successful and beneficial to the City of Fort Lauderdale and Broward County as it will, amongst other things, create jobs and generate taxes. Therefore, as Broward County Commissioner, I fully support the venture and ask the Northwest CRA Advisory Committee to give all due consideration to approve the project for all needed funding.

Thank you very much for your time and kind consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dale V.C. Holness", written over a light blue circular stamp.

Dale V.C. Holness

Broward County Commissioner, District 9

Broward County Board of County Commissioners

Sue Gunzburger • Dale V.C. Holness • Kristin Jacobs • Martin David Klar • Chip LaMarca • Stacy Ritter • Tim Ryan • Barbara Sharief • Lois Wexler  
[broward.org](http://broward.org)

FLORIDA DEPARTMENT OF STATE  
DIVISION OF CORPORATIONS**Detail by Entity Name****Florida Limited Liability Company**

T &amp; G GROUP HOLDINGS LLC

**Filing Information**

<b>Document Number</b>	L14000054453
<b>FEI/EIN Number</b>	NONE
<b>Date Filed</b>	04/03/2014
<b>State</b>	FL
<b>Status</b>	ACTIVE
<b>Effective Date</b>	04/02/2014

**Principal Address**704 NW 4 STREET  
FORT LAUDERDALE, FL 33311**Mailing Address**P O BOX 668086  
POMPANO BEACH, FL 33066**Registered Agent Name & Address**DAVIS, JOHN  
230 SOUTH CYPRESS ROAD  
SUITE E  
POMPANO BEACH, FL 33060**Authorized Person(s) Detail****Name & Address**

Title COO

GRISSETT, RALPH, JR  
351 SW 28 TERRACE  
FORT LAUDERDALE, FL 33312

Title CEO

THOMAS, HOMER J  
209 NW 15 STREET  
POMPANO BEACH, FL 33060**Annual Reports**

**No Annual Reports Filed**

**Document Images**

04/03/2014 -- Florida Limited Liability

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State of Florida, Department of State

**Electronic Articles of Organization  
For  
Florida Limited Liability Company**

L14000054453  
FILED 8:00 AM  
April 03, 2014  
Sec. Of State  
syong

**Article I**

The name of the Limited Liability Company is:

T & G GROUP HOLDINGS LLC

**Article II**

The street address of the principal office of the Limited Liability Company is:

704 NW 4 STREET  
FORT LAUDERDALE, FL. US 33311

The mailing address of the Limited Liability Company is:

P O BOX 668086  
POMPANO BEACH, FL. US 33066

**Article III**

The name and Florida street address of the registered agent is:

JOHN DAVIS  
230 SOUTH CYPRESS ROAD  
SUITE E  
POMPANO BEACH, FL. 33060

Having been named as registered agent and to accept service of process for the above stated limited liability company at the place designated in this certificate, I hereby accept the appointment as registered agent and agree to act in this capacity. I further agree to comply with the provisions of all statutes relating to the proper and complete performance of my duties, and I am familiar with and accept the obligations of my position as registered agent.

Registered Agent Signature: JOHN DAVIS

### Article IV

The name and address of person(s) authorized to manage LLC:

Title: COO  
RALPH GRISSETT JR  
351 SW 28 TERRACE  
FORT LAUDERDALE, FL. 33312 US

Title: CEO  
HOMER J THOMAS  
209 NW 15 STREET  
POMPANO BEACH, FL. 33060 US

L14000054453  
FILED 8:00 AM  
April 03, 2014  
Sec. Of State  
syoung

### Article V

The effective date for this Limited Liability Company shall be:

04/02/2014

Signature of member or an authorized representative

Electronic Signature: HOMER J THOMAS

I am the member or authorized representative submitting these Articles of Organization and affirm that the facts stated herein are true. I am aware that false information submitted in a document to the Department of State constitutes a third degree felony as provided for in s.817.155, F.S. I understand the requirement to file an annual report between January 1st and May 1st in the calendar year following formation of the LLC and every year thereafter to maintain "active" status.

# Homer J Thomas

209 NW 15 Street Pompano Beach FL, 33060

WORK PHONE 954-785-8836

CELL 954-501-4625

DrHThomas@yahoo.com

## **EDUCATION**

---

High School Pompano Beach High	1972-1976
Kansas State University	1976-1977
Florida State University, B.A	1978-1981
Concord Law School, J.D.	2010-2012
Excelsior College, M.B.A	2012-until

## **WORK EXPERIENCE**

---

### ***MUTUAL OF OMAHA***

Insurance Agent 1982-1984

### ***BROWARD COUNTY SCHOOL BOARD***

History Teacher 1984-1986

### ***SPORTS AGENT***

NFL & CFL 1986-1993

### ***SUB-WAY RESTURANTS***

Multi-Franchise Owner 1993-2004

### ***MORGAN STANLY & CO.***

Financial Advisor 1999-2008

### ***PARADISE SUNSHINE SPORTS***

CEO 2009-UNTIL

**RALPH GRISSETT**  
**351 SW 28<sup>th</sup> Terr.**  
**Fort lauderdale, FL 33312**  
[tofluffy@att.net](mailto:tofluffy@att.net)

**SUMMARY OF QUALIFICATIONS**

Customer Service and Relations  
Product Displaying

Training and Delegating

**WORK EXPERIENCE**

Publix Supermarkets

*Meat Cutter Associate*

Performed daily meat departmental operations  
Products displaying  
Customer service and relations

Lakeland, FL

*03/31/2007-present*

Winn Dixie Stores, Inc.

*Assistant Meat Manager*

Supervised a staff of 4 employees  
Performed daily meat departmental operations  
Products displaying  
Customer service and relations

Jacksonville, FL

*03/08/1996-03/29/2007*

J R Mini Market

*Store Manager*

Supervised a staff of 8 employees  
Performed daily store operations  
Customer service and relations

Fort Lauderdale, FL

*10/01/1984-03/01/1996*

**EDUCATION**

Pompano Beach High

Pompano Beach, FL

# SHONEY'S RESTAURANT FORT LAUDERDALE

## FACTS REGARDING SHONEYS RESTAURANT FORT LAUDERDALE

The proposed restaurant location sits on 7/8 acres of real estate. The projected building size is roughly 3,000 sq. ft., which will seat a maximum capacity of 140 guests at one time.

This is a full service restaurant that will serve breakfast, lunch and dinner. The restaurant will be open 7 days a week, 16 hours a day, between the hours of 6:00am – 10:00pm. The restaurant will be closed for Thanksgiving, Christmas and New Years Day. Breakfast menu will be buffet style only and lunch and dinner will be served with sit-down menu request. Alcoholic beverages will be available from 11:00am – 10:00pm. We expect sales to remain constant but sales will peak during the winter months of November thru April.

Shoney's Restaurant has a direct supplier of all of our products which include paper goods, food products and all alcoholic beverage products. The company providing these products is Affiliated Products Sales, which is a national supplier for Shoney's franchises. Their local South Florida office is based in the city of Fort Lauderdale.

TnG Group Holdings, LLC is requesting funding for development of the Shoney's Restaurant in Fort Lauderdale. The funds requested are as follows:

- (1) A \$200,000 Grant Incentive from the Northwest CRA Program
- (2) Additionally, TnG Group Holdings, LLC will request from the City of Fort Lauderdale a loan for no more than \$135,000, which will be used for building construction and will be based on terms set by the City of Fort Lauderdale which will be agreeable to both parties involved.

# T&G GROUP HOLDINGS, LLC

## SHONEYS RESTAURANT FORT LAUDERDALE ESTIMATED PROJECT COSTS

SOFT COST		HARD COST	
Shoneys Architect	\$ 53,000.00	Site Demo	\$ 2,000.00
Local Architect	\$ 77,400.00	Land Purchase	\$668,000.00
Building Permits		Building Cost	\$568,000.00
(Demo Permits & Business Tax)		Furniture & Equipment	\$106,000.
Closing Cost	\$ 88,000.00	Inventory	\$40,000.00
Franchise Fee	\$ 35,000.00		
Surveys	\$ 650.00		
Site Plan	\$ 1950.00		
Working Capital	\$150,000.00		
<b>TOTAL SOFT COST</b>		<b>TOTAL HARD COST</b>	
<b>406,000.00</b>		<b>\$1,384,000.00</b>	
<b>TOTAL PROJECT COST</b>			
<b>\$1,790,000.00</b>			

# T&G GROUP HOLDINGS, LLC

## PROJECT FUNDING SOURCES & AMOUNTS

BLACK BUSINESS INVESTMENT FUND	\$ 250,000.00
SOUTH FLORIDA REGIONAL PLANNING COUNCIL	\$ 150,000.00
CITY OF FORT LAUDERDALE NORTHWEST CRA	\$ 331,000.00
BUSINESS ADMINISTRATION 7A PROGRAM	\$ 822,000.00
T&G EQUITY INVESTMENT	\$ 237,000.00
<b>TOTAL PROJECT SOURCE FUNDINGS</b>	<b>\$1,790,000.00</b>

# SHONEY'S RESTAURANT FORT LAUDERDALE

## SALES PROJECTIONS

### FOOD SALES PROJECTIONS

HOURLY	_____	\$112.50
DAILY	_____	\$1,800.00
WEEKLY	_____	\$12,600.00
MONTHLY	_____	\$50,400.00
<b>ANNUALLY</b>	_____	<b>\$604,800.00</b>

### DRINK SALES PROJECTIONS

HOURLY	_____	\$109.09
DAILY	_____	\$1,200.00
WEEKLY	_____	\$8,400.00
MONTHLY	_____	\$33,600.00
<b>ANNUALLY</b>	_____	<b>\$403,200.00</b>

**TOTAL ANNUAL PROJECTED FOOD AND DRINK SALES \$1,008,000.00**

TOTAL ANNUAL PROJECTED EXPENSES \$467,955.24

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**ANNUAL PROJECTED NET SALES \$540,044.80**

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The above figures are based on the lower 25% of Shoney's Franchises within the company.

**EXPRESSWAY**  
FAST BUSINESS FUNDING

April 16, 2015

Mr. Bob Wojocik  
City of Ft. Lauderdale – NW CRA  
914 NW 6<sup>th</sup> Street  
Ft. Lauderdale, FL 33311

Re: Letter of Engagement – Shoney's Ft. Lauderdale Project by T&G Group Holdings, LLC.

Dear Mr. Wojocik,

Through an introduction by the Ft. Lauderdale SBDC, Expressway Business Loans, LLC. (EBL) has been engaged by T&G Group Holdings, LLC. (Client) to source and secure a lender to provide the majority of the funding for the Shoney's Ft. Lauderdale Project. Our firm, with headquarters in Boca Raton, is a commercial capital broker which specializes in sourcing lenders who are industry financing experts for small to medium sized businesses.

Our Client's project will require a total of \$1,790,000 in funding to complete the project. The acquisition of the land and building will cost \$668,000 and will be funded by the Ft. Lauderdale NW CRA, BBIF and our Client. The construction, furniture, fixtures, equipment and inventory costs totaling \$822,000 will be funded by a lender specializing in commercial restaurant construction. Operating capital will total \$150,000 and will be funded by The South Florida Regional Planning Council. The closing costs and franchise fees will cost \$150,000 and will be funded by our Client. The lender will be an SBA PLP and will underwrite and approve the project funds using the SBA 7(a) Loan Program Guidelines and Eligibility Requirements.

EBL, as broker, sole responsibility in the project is to prepare the lender loan package based on documents prepared and or certified in a timely basis by our Client. The loan program framework within the SBA guidelines will allow the lender to review, investigate and attest to the documents validity and usefulness in underwriting, approving and eventually funding our Client's loan request. EBL makes no guarantees or warranties that the Client loan request will be funded. EBL has also ascertained and determined that the land and building may have to be acquired and in our Client's possession before the funds for the construction will be secured.

EBL provides the following high level task timeline (all days are expressed in business days) only as an estimate for planning purposes as to the effort required. EBL assumes that the Client will be responsive, proactive and complete the tasks completely and accurately in the time frame requested by EBL on behalf of the lender.

- |   |               |
|---|---------------|
| 1. Review Client documents provided and source lender(s)  | 3 days        |
| 2. Prepare lender loan package and solicit lender specific forms from Client  | 5 days        |
| 3. Submit lender loan package, communicate pre-screening results to Client for follow-up  | 6 days        |
| 4. Provide Letter of Interest / Terms and Conditions Sheet to Client for review and approval  | 2 days        |
| 5. Submit amended lender loan package, SBA / lender expense deferment check, communicate underwriting results to Client for follow-up | 11 days       |
| 6. Schedule interview with underwriting, communicate results to Client for follow-up  | 4 days        |
| 7. Provide loan agreement to Client for review and approval, negotiate loan agreement modifications if necessary                      | 4 days        |
| 8. Schedule, conduct closing and fund loan  | <u>5 days</u> |

**ESTIMATED TOTAL TIME: 40 DAYS**

**21301 Powerline Road, Suite #106, Boca Raton, FL 33433 <> 800.371.1711 <> [info@expresswaybusinessloans.com](mailto:info@expresswaybusinessloans.com)**

**EXPRESSWAY**  
FAST BUSINESS FUNDING

It has been EBL's experience that delays are inevitable on many levels and this project will be no exception however; EBL will work to mitigate any delays. EBL receives no compensation until the loan is funded and all broker compensation is paid by the lender.

EBL appreciates the opportunity to work on behalf of our Client, T&G Group Holdings, LLC., with the City of Ft. Lauderdale – NW CRA, the BBIF, the South Florida Regional Planning Council and all other interested parties in achieving a successful project and bringing a restaurant tradition like Shoney's to the local community.

Please don't hesitate to contact me directly if you have questions or need any additional information.

Very Truly Yours,

*Ted Beinhorn*

Ted Beinhorn  
Managing Partner / Broker

CC: Homer J. Thomas  
Chief Executive Officer  
T&G Group Holdings, LLC.

Smart Growth  
for your Business!



April 16, 2015

Bob Cass Wojcik, AICP

Economic Reinvestment Coordinator

LEED Green Associate

Fort Lauderdale Community Redevelopment Agency

City of Fort Lauderdale Department of Sustainable Development

Dear Bob,

The BBIF Florida will be presenting a loan request to our Loan Committee for review on April 22 and recommending approval of a \$250,000 loan for land acquisition for T&G Holdings, LLC. If approved the proposed terms of the loan will be a 10 year term with a 20 year amortization at a 7.50% interest rate. BBIF will be seeking first lien position on the acquired land as collateral.

Thank you,

A handwritten signature in blue ink, appearing to read 'Duane Lewis', is written over a light blue circular stamp.

Duane Lewis

Vice President

**BBIF FLORIDA**  
301 EAST PINE STREET, SUITE 175 | ORLANDO, FL 32801  
PHONE: 407.649.4780 | FAX: 407.649.8688 | [www.BBIFFlorida.com](http://www.BBIFFlorida.com)

Exhibit G  
Shoney's

## Bob Wojcik

---

**From:** Cheryl Cook <cherylc@sfrpc.com>  
**Sent:** Wednesday, April 08, 2015 12:34 PM  
**To:** Bob Wojcik; lmarc@bbif.com  
**Cc:** drthomas@yahoo.com  
**Subject:** RE: Commitment Letter -T & G Holdings, LLC - Shoney's Restaurant 525 NW 7 Ave, Fort Lauderdale 33311

Mr. Thomas:

Pursuant to our conversation regarding providing a letter of commitment for your loan request of \$150,000. Your loan request of \$150,000 for working capital and equipment purchase is up for review at our upcoming Loan Administration Board meeting scheduled for Monday April 20, 2015. The underwriter has agreed to move this loan request forward to the members with a seven year term with an interest rate of 6%. **If approved** by the members of the loan board, a full commitment will be issued and these fund will only be disbursed after construction has been completed.

If more information is needed, please contact me.

Cheryl D. Cook  
Director of Loan Programs  
South Florida Regional Planning Council  
3440 Hollywood Boulevard, Suite 140  
Hollywood, FL 33021  
(954) 985-4416 Fax (954) 985-4417  
[cherylc@sfrpc.com](mailto:cherylc@sfrpc.com)  
[www.sfrpc.com/rlf.htm](http://www.sfrpc.com/rlf.htm)



**L+P ARCHITECTURE**

T&G Group Holdings LLC  
Construction Documentation Proposal  
Shoney's - Fort Lauderdale, FL

July 28, 2014

Homer J. Thomas  
T&G Group Holdings LLC  
July 28, 2014

Homer,

This document is in response to your request for L+P to develop construction documentation for a ground up Shoney's in Fort Lauderdale, FL. The scope of work includes full documentation for a 3,500 SF freestanding Shoney's. L+P services to include schematic design, construction documentation and permit coordination.

It is understood that you are looking at 1.1 mil investment on a 1 acre site. Approximate square footage to be in the range of 3,500 with 130 seats and an additional 10 seats at the bar. A covered patio will provide 34-30 seats. It is our understanding that the existing site is vacant and was previously occupied by a Churches Chicken.

Given the building specifications you are looking for it is L+P's recommendation to proceed with the Shoney's on the Go concept in order to achieve the desired square footage. Shoney's current prototype is 5,500 with an option for an additional bumped out dining area. If the Shoney's on the Go format is not something you want to pursue the Schematic Design phase for L+P will be significantly higher since no design currently exists for a Shoney's 3,500 full service operational model.

The projected timeline for this project is to be complete with CD's by end of August, early September with a construction start later in September.



DESIGN + ARCHITECTURE

2138 N. Cleveland Massillon Road Akron, Ohio 44333 t 330.659.3161 [louisandpartners.com](http://louisandpartners.com)

Exhibit G  
Shoney's



The following information details L+P deliverables and cost associated with the project. The below option is for a **FULL SERVICE 3,500 NEW DESIGN**

**L+P Schematic Design services to include**

- Proposed floor plan showing building footprints, BOH allocation and furniture layout
- Exterior design
- Exterior rendering(s) based on proposed floor plan. Rendering views to be generated as 3-D digital models.
- Building signage locations. Finals signage package to be permitted by approved signage contractor.

**Cost + Timing**

Design Development	\$15,000.00
Timing:	3 Weeks

**L+P CD documentation to consist of the following:**

Architectural, structural, mechanical, plumbing and electrical construction documents

1. Cover sheet with code data, contact information, drawings index, key map, and other support information
2. Architectural floor plan, finish plan, furniture plan and material schedules.
3. Reflected ceiling plan indicating lighting schedules and ceiling notes.
4. Exterior and interior elevations, restroom elevations, materials and finishes.
5. Mechanical, plumbing and electrical (MEP) drawings.
6. Coordination with food service equipment drawings. FSE drawings are by owner.
7. Structural drawings
8. Written specifications
9. Assistance in filing documents required for the approval of governmental authorities consistent with locally accepted standards for professional skill and care.

**Cost + Timing**

Construction Documentation	\$30,000.00
Timing:	4 Weeks from receipt of full FSE drawings



DESIGN + ARCHITECTURE

2138 N. Cleveland Massillon Road Akron, Ohio 44333 t 330.659.3161 [louisandpartners.com](http://louisandpartners.com)

Exhibit G  
Shoney's

The following information details L+P deliverables and cost associated with the project. The below option is for a **SHONEY'S ON THE GO**

**L+P Schematic Design services to include**

- Proposed floor plan showing building footprints, BOH allocation and furniture layout
- Exterior rendering(s) based on proposed floor plan. Rendering views to be generated as 3-D digital models.
- Building signage locations. Finals signage package to be permitted by approved signage contractor.

**Cost + Timing**

Design Development \$5,000.00

Timing: 2 Weeks

**L+P CD documentation to consist of the following:**

Architectural, structural, mechanical, plumbing and electrical construction documents

1. Cover sheet with code data, contact information, drawings index, key map, and other support information
2. Architectural floor plan, finish plan, furniture plan and material schedules.
3. Reflected ceiling plan indicating lighting schedules and ceiling notes.
4. Exterior and interior elevations, restroom elevations, materials and finishes.
5. Mechanical, plumbing and electrical (MEP) drawings.
6. Coordination with food service equipment drawings. FSE drawings are by owner.
7. Structural drawings
8. Written specifications
9. Assistance in filing documents required for the approval of governmental authorities consistent with locally accepted standards for professional skill and care.

**Cost + Timing**

Construction Documentation \$28,000.00

Timing: 4 Weeks from receipt of full FSE drawings



DESIGN + ARCHITECTURE

2138 N. Cleveland Massillon Road Akron, Ohio 44333 t 330.659.3161 [louisandpartners.com](http://louisandpartners.com)

Exhibit G  
Shoney's

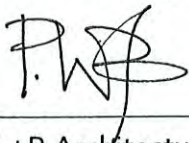
Exclusions include the following:

- Owner provided food service equipment drawings, specification, and cut sheets to be provided by FSE provider. Including rough-in schedule and hood / oven ventilation equipment.
- Telecommunications, data and security systems shall be by owner. Pathway and rough-in locations shall be included as directed.
- Zoning and planning approvals, appeals or reviews, if required, shall be an additional service.
- Civil engineering, landscape design and fire sprinkler engineering are not included.
- All outside expenses permit fees, prints and travel to be billed additional per our standard terms and conditions.
- Site visits as required will be billed per diem architect and engineer.

---

Encore Enterprises

Date



7.28.14

---

L+P Architecture

Date



DESIGN + ARCHITECTURE

2138 N. Cleveland Massillon Road Akron, Ohio 44333 t 330.659.3161 [louisandpartners.com](http://louisandpartners.com)

Exhibit G  
Shoney's

## **Agreement for L+P Architecture Services**

### **1. Standard of Care**

The professional services provided by L+P Architecture. ("Architect") and its subsidiaries, independent professional associates, consultants, and subcontractors will be performed in a reasonable and prudent manner in accordance with the ordinary and reasonable skill and care of architects and/or engineers licensed in the state of Ohio and generally accepted architectural and/or engineering practice. Recommendations, opinions, and decisions of the Architect will be on the basis of the information available to the Architect and the experience, technical qualifications, and professional judgment of the Architect. Unless otherwise agreed, the Architect shall be entitled to rely on the information provided by the Owner or their independent consultants without further verification by the Architect.

Regardless of any other term or condition of this agreement, Architect makes no express or implied warranty of any sort. All warranties, including warranty of merchantability or warranty of fitness for a particular purpose, are expressly disclaimed.

### **2. Termination**

Either the Architect or Owner may terminate the services to be provided under this Proposal, in whole or in part, in writing, if the other party substantially fails to fulfill its obligations through no fault of the terminating party. No termination of this Project by the Owner, with or without cause, shall be effective unless seven (7) days written notice of intent to terminate, together with the reasons and details therefore, has been received by a principal or officer of the Architect. A final invoice will be calculated on or about the first of the month following receipt of such termination notice and represent the work completed through the effective date of termination.

In addition, the Architect may, after giving seven (7) days written notice to the Owner, suspend services without liability until the Owner has paid in full all amounts due the Architect on account of services rendered and expenses incurred, including interest on past due invoices. Payment of invoices is not subject to discounting by the Owner.



### **3. Limitation of Liability**

After thoroughly reviewing the risks associated with the Project and the rewards resulting there from for both the Owner and the Architect, in order to balance the discrepancy relative to the risk-reward analysis, the Owner and Architect hereby agree that the Architect's total liability to the Owner for any loss or damage, including, but not limited to, special and consequential damages, as may be permitted by law, arising out of or in connection with the accompanying Proposal related to Architect's professional negligence, errors, or omissions, shall not exceed the total aggregate liability of the Architect and his or her consultants to all those named shall not exceed the Architect's total fee for services rendered on this project. The Owner in accepting this Proposal hereby releases the Architect from any liability above such amount.

If any term or provision of this agreement is held to invalid or unenforceable under any applicable statute or rule of law, such holdings shall be applied only to the provision so held, and the remainder of this agreement shall remain in full force and effect.

Limitations of liability, indemnifications and representations contained in this agreement shall survive the completion or termination of this agreement and shall remain in full force and effect.

### **4. Reuse of Documents**

Upon full payment of all sums due the Architect under this Proposal and upon performance of all the Owner's obligations then due under this Proposal, the Owner is hereby granted a limited license in accordance with the provisions of this Paragraph in the latest original Drawings and Specifications, prepared by the Architect for the Project. This grant of license shall not deprive the Architect of the right to retain electronic data or other reproducible copies of the Drawings and Specifications, or the right to reuse information contained therein in the normal course of the Architect's professional activities, and the Architect shall retain all rights not specifically conveyed, and shall be given appropriate credit in any public display of such documents or design.

Reuse of documents: The Owner may reproduce and utilize the Drawings and Specifications with respect to this Project for maintenance, repair, or alterations of the Project or for completion of this Project, at no additional fee. If the services of the Architect are terminated without cause prior to the completion of the Project, the Owner shall indemnify, keep, and save harmless the Architect, the Architect's consultants, agents, employees, and assigns of any of them, from any and all claims arising after the date of termination which result from the use of the Drawings and Specifications for the completion of the Project.



DESIGN + ARCHITECTURE

2138 N. Cleveland Massillon Road Akron, Ohio 44333 t 330.659.3161 [louisandpartners.com](http://louisandpartners.com)

Exhibit G  
Shoney's



thank you.



February 9, 2015

Homer J. Thomas  
T & G Group Holdings, LLC

Reference: Shoney's – Ft. Lauderdale Location  
Phase Breakdown after Land Acquisition

Dear Mr. Thomas:

T. Knowles & Associates, LLC is pleased to submit our Phase Breakdown for the property listed above. We are excited about this opportunity and the prospect of working with your organization. T. Knowles & Associates, LLC is uniquely qualified to successfully deliver this project on time and budget. Breakdown of included of phases are listed below.

Phase 1 – Design and Permitting Phase	\$85,000.00
Survey, Site Plan Drawings, Construction Drawings, Impact Fees and Permit Fees	
Phase 2 – Site Development Phase	\$20,000.00
Minor Demolition, Clearing Site and Tree Removal/Relocation	
Phase 3 – Equipment Procurement Phase	\$106,000.00
Franchise Equipment for New Restaurant	
Phase 4 – Construction (Building and Site) Phase	\$648,000.00
Site work, Concrete, Masonry, Structural/Misc. Steel, Cabinetry, Roofing, Door, Windows, Stucco, Drywall, Framing, Flooring, Ceilings, Painting, Signage, Toilet/Bathroom Accessories, Plumbing, HVAC, Electrical and Fire Alarm.	
<b>Cost of Work all Phases</b>	<b><u>\$819,000.00</u></b>

If you should have any questions or require any additional information, please do not hesitate to contact me at via phone at (954) 756-1514 or via email at [traves@tkassocllc.com](mailto:traves@tkassocllc.com).

Sincerely,  
T. Knowles & Associates, LLC

A handwritten signature in blue ink, appearing to read "Traves Knowles", is written over a horizontal line.

Traves Knowles, LEED AP  
President

 **AIA** Document A101™ – 2007

**Standard Form of Agreement Between Owner and Contractor** where the basis of payment is a Stipulated Sum

AGREEMENT made as of the 6TH day of MARCH  
in the year 2015  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:  
(Name, legal status, address and other information)

T & G GROUP HOLDINGS, LLC  
P.O. BOX 668086  
POMPANO BEACH, FL 33066

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™-2007, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

and the Contractor:  
(Name, legal status, address and other information)

T. KNOWLES & ASSOCIATES, LLC  
2433 NW 16TH LANE, SUITE 5  
POMPANO BEACH, FL 33069

for the following Project:  
(Name, location and detailed description)

SHONEY'S – FORT LAUDERDALE LOCATION  
525 NW 7<sup>TH</sup> AVE  
FORT LAUDERDALE, FL 33311

The Architect:  
(Name, legal status, address and other information)

TO BE DETERMINED

The Owner and Contractor agree as follows.

## TABLE OF ARTICLES

- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS
- 10 INSURANCE AND BONDS

### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be the date of this Agreement unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.

*(Insert the date of commencement if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)*

Date of Commencement shall be determined and agreed upon by both parties.

If, prior to the commencement of the Work, the Owner requires time to file mortgages and other security interests, the Owner's time requirement shall be as follows:

Within 30 Days after agreement is executed by both parties.

§ 3.2 The Contract Time shall be measured from the date of commencement.

§ 3.3 The Contractor shall achieve Substantial Completion of the entire Work not later than Two hundred and ten ( 210 ) days from the date of commencement, or as follows: *(Insert number of calendar days. Alternatively, a calendar date may be used when coordinated with the date of commencement. If appropriate, insert requirements for earlier Substantial Completion of certain portions of the Work.)*

Construction Phase of work will be 210 days.

**Portion of the Work**

**Substantial Completion Date**

, subject to adjustments of this Contract Time as provided in the Contract Documents. *(Insert provisions, if any, for liquidated damages relating to failure to achieve Substantial Completion on time or for bonus payments for early completion of the Work.)*  
N/A

**ARTICLE 4 CONTRACT SUM**

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be Seven Hundred and Forty Four Thousand Dollars (\$ 744,000.00 ), subject to additions and deductions as provided in the Contract Documents.

§ 4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner: *(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)*

1. Contract Sum is based on Exhibit A Phase breakdown. Please note that each phase pricing is an estimate and any overages will be reimbursed by the Owner.
2. Price does not include an owner requested adds, building department comments and any other fees not mentioned.

§ 4.3 Unit prices, if any: *(Identify and state the unit price; state quantity limitations, if any, to which the unit price will be applicable.)*

Item	Units and Limitations	Price per Unit (\$0.00)
N/A		

§ 4.4 Allowances included in the Contract Sum, if any:  
(Identify allowance and state exclusions, if any, from the allowance price.)

Item  
N/A

Price (\$0.00)

## ARTICLE 5 PAYMENTS

### § 5.1 PROGRESS PAYMENTS

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:  
N/A

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 25TH day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the 30TH day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment shall be made by the Owner not later than fifteen ( 15 ) days after the Architect receives the Application for Payment.  
(Federal, state or local laws may require payment within a certain period of time.)

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 Subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

- .1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of ten percent ( 10 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201™-2007, General Conditions of the Contract for Construction;
- .2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing), less retainage of ten percent ( 10 %);
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract amounts, if any, for which the Architect has withheld or nullified a Certificate for Payment as provided in Section 9.5 of AIA Document A201-2007.

§ 5.1.7 The progress payment amount determined in accordance with Section 5.1.6 shall be further modified under the following circumstances:

- .1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to the full amount of the Contract Sum, less such amounts as the Architect shall determine for incomplete Work, retainage applicable to such work and unsettled claims; and  
*(Section 9.8.5 of AIA Document A201-2007 requires release of applicable retainage upon Substantial Completion of Work with consent of surety, if any.)*
- .2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Section 9.10.3 of AIA Document A201-2007.

§ 5.1.8 Reduction or limitation of retainage, if any, shall be as follows:

*(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Sections 5.1.6.1 and 5.1.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)*

Retainage held shall be reduced from 10% to 5% once 50% of the contract value of work has been completed and inspected by the Architect and Owner.

Also, retainage shall not be held on vendors that are suppliers of materials only.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## § 5.2 FINAL PAYMENT

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Section 12.2.2 of AIA Document A201-2007, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

N/A

## ARTICLE 6 DISPUTE RESOLUTION

### § 6.1 INITIAL DECISION MAKER

The Architect will serve as Initial Decision Maker pursuant to Section 15.2 of AIA Document A201-2007, unless the parties appoint below another individual, not a party to this Agreement, to serve as Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

**§ 6.2 BINDING DISPUTE RESOLUTION**

For any Claim subject to, but not resolved by, mediation pursuant to Section 15.3 of AIA Document A201–2007, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box. If the Owner and Contractor do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)*

- Arbitration pursuant to Section 15.4 of AIA Document A201–2007
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

**ARTICLE 7 TERMINATION OR SUSPENSION**

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2007.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2007.

**ARTICLE 8 MISCELLANEOUS PROVISIONS**

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2007 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located. *(Insert rate of interest agreed upon, if any.)*

Interest rate shall be 3%

§ 8.3 The Owner’s representative:

*(Name, address and other information)*

Homer J. Thomas and Ralph Grissett Jr.  
T & G Group Holdings, LLC  
P.O. Box 668086  
Pompano Beach, FL 33066  
phone: 954-501-4625 email: drhthomas@yahoo.com

§ 8.4 The Contractor’s representative:

*(Name, address and other information)*

Traves Knowles, President  
T. Knowles & Associates, LLC  
2433 NW 16th Lane  
Suite 5  
Pompano Beach, FL 33064  
phone: 954-756-1514 email: traves@tkassocllc.com

§ 8.5 Neither the Owner’s nor the Contractor’s representative shall be changed without ten days written notice to the other party.

**§ 8.6 Other provisions:**

On change orders, the Contractor shall be paid 15% for overhead and profit on subcontractors cost of work to complete scope changes.

**ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS**

**§ 9.1** The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

**§ 9.1.1** The Agreement is this executed AIA Document A101–2007, Standard Form of Agreement Between Owner and Contractor.

**§ 9.1.2** The General Conditions are AIA Document A201–2007, General Conditions of the Contract for Construction.

**§ 9.1.3** The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
N/A			

**§ 9.1.4** The Specifications:

*(Either list the Specifications here or refer to an exhibit attached to this Agreement.)*

N/A

Section	Title	Date	Pages
---------	-------	------	-------

§ 9.1.5 The Drawings:

(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

N/A

Number	Title	Date
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§ 9.1.6 The Addenda, if any:

Number	Date	Pages
N/A		

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

§ 9.1.7 Additional documents, if any, forming part of the Contract Documents:

- .1 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed by the parties, or the following:

N/A

- .2 Other documents, if any, listed below:

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2007 provides that bidding requirements such as advertisement or invitation to bid, Instructions to Bidders, sample forms and the Contractor's bid are not part of the Contract Documents unless enumerated in this Agreement. They should be listed here only if intended to be part of the Contract Documents.)*

Exhibit A - Phase Breakdown

**ARTICLE 10 INSURANCE AND BONDS**

The Contractor shall purchase and maintain insurance and provide bonds as set forth in Article 11 of AIA Document A201-2007.

(State bonding requirements, if any, and limits of liability for insurance required in Article 11 of AIA Document A201-2007.)

Type of Insurance or Bond	Limit of Liability or Bond Amount (\$0.00)
Commerical General Liability Insurance	\$1,000,000.00
Worker's Compensation Insurance	Statutory State Limits
Comprehensive Automobile Insurance	\$1,000,000.00
Builders Risk Insurance *	Amount Equal to the contract sum for construction only
* Owner pays this cost and is not included, owner is responsible for the deductible and any increase caused by added scope that will increase the contract amount	

This Agreement entered into as of the day and year first written above.

*Homer J. Thomas*  
 OWNER (Signature)

*[Signature]*  
 CONTRACTOR (Signature)

HOMER J. THOMAS  
 (Printed name and title)

Traves Knowles, President  
 (Printed name and title)

*Ralph Crissett Jr.*  
 RALPH CRISSETT JR.

Init.

Northwest-Progresso-Flagler Heights CRA  
 Application for Economic Development Incentives  
 Property and Business Improvement Program

SHONEY'S RESTAURANT  
 T&G HOLDINGS  
 525 NW 7 AVE

Appendix B  
 Primary Area Scoring Criteria

PRIMARY AREA SCORING CRITERIA	MAX SCORE	SCORE
1. Retail restaurant or office space exceeding 1,500 square feet a. 2,000 + square feet - 5 points b. 1,500 - 1,999 square feet - 4 points c. 1,000 - 1,499 square feet - 3 points d. 500 - 999 square feet - 2 points e. 250 - 499 square feet - 1 point	5	5
2. Building design or renovation program is consistent with recommended design guidelines	5	2
3. Greater than 50% of 1st floor frontage is transparent windows	5	4
4. Project will create at least 5 new full-time and/or part-time jobs	15	15
5. Reuses a vacant or underutilized property	10	10
6. Property/Project eligible for Brownfield program designation or other contamination clean-up program	5	NA
7. High quality and environmentally friendly building materials	5	4
8. Financial analysis supports the project and demonstrates need for assistance	30	25
9. Qualifications of developer, or development partnership demonstrates success on other comparable projects	15	15
10. The Project is consistent with the goals and objectives of the CRA redevelopment plans	3	3
11. Potentially increases the tax base of the property being redeveloped (based upon estimates from County Tax office)	2	2
<b>MINIMUM CRITERIA SCORE</b>	<b>100</b>	<b>95</b>
Bonus Criteria (max of 5 points each)		
12. Plan includes mixed use development with a quality housing component (live/work including workforce housing with retail on 1st floor)	5	NA
13. Provide a letter of support from the civic and/or business association where the project is located <i>Other</i>	5	2
14. Clearly documented financial commitment letter(s) of interest from investors or banks	5	0
15. Project has received or will apply for industry standard designation indicating high level of sustainability in design and construction (i.e. LEED, etc.)	5	NA
16. Accommodations made for bike racks, transit shelters and other pedestrian amenities	5	2
17. Adds street activity such as outdoor eating areas	5	3
18. Creates or enhances area parks, pedestrian environment or first floor commercial space	5	5
19. Tenant or lease agreement has been secured for property	5	5
<b>BONUS CRITERIA SCORE</b>	<b>40</b>	<b>17</b>
<b>TOTAL MINIMUM CRITERIA plus BONUS SCORE</b>	<b>140</b>	<b>102</b>

ITEM V



## Transportation and Mobility Department

### Memorandum #15-44

**Date:** April 6, 2015  
**To:** Lee Feldman, City Manager  
**From:** Diana Alarcon, Director *DA*  
**Re:** Sistrunk Streetcar Feasibility Study Scope and Task Order

---

Please find attached for your signature, Task Order #2 with the Broward Metropolitan Planning Organization (BMPO) for management of the Sistrunk Streetcar Feasibility Study to be performed pursuant to the approved agreement between the City and the BMPO for transportation planning services (14-0861).

The Scope of Services and Deliverables proposed by TyLin are attached for your reference.

The following are the authorizing actions related to this project:

CAM 14-1383 – October 22, 2014 – The Community Redevelopment Agency Board requested that a feasibility study be completed to extend the Wave Streetcar along Sistrunk Boulevard from the existing project alignment westward to the City limits.

CAM 14-1446 - November 4, 2014 - The Commission authorized the BMPO to conduct the feasibility study.

CAM 14-1218 – November 4, 2014 – The Commission authorized an amendment to the FY 2015 Community Investment Plan (CIP) and Budget by amending the appropriate accounts in the Northwest Progresso Flagler Heights CRA CIP Fund in the amount of \$300,000 to complete the feasibility study.

Please let me know if you have any questions.

---

#### Attachments:

1. TyLin Scope of Work
2. 14-0861 City/BMPO Interlocal Agreement
3. 14-1446 Authorization for BMPO to Conduct a Sistrunk Feasibility Study
4. 14-1218 Consolidated Budget Amendment

**TASK ORDER #: 2**

**CONSULTANT**

Broward Metropolitan Planning Organization  
100 W. Cypress Creek Rd., Suite 850  
Fort Lauderdale, FL 33309  
Phone: (954) 876-0033  
Email: stuartg@browardmpo.org

CONTRACT NUMBER: N/A  
CONTRACT DESC: Broward Metropolitan Planning Organization Agreement Executed 10/9/14  
CC AWARD: 11/4/14, CAM # 14-1218

**TO:** City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301

CITY CONTACT: Debora Griner  
PHONE: (954) 828-6307  
FAX:

**PROJECT NAME:** Sistrunk Streetcar Feasibility Study

FUNDING SOURCE: DSD060601.106-3199  
TASK ORDER DATE: 4/3/2015

**SUMMARY OF WORK :**

A consultant will analyze the feasibility of extending the Wave Streetcar from its current alignment at Andrews Avenue and Sistrunk Boulevard westward to the City limits. Sistrunk Boulevard will be the primary east/west corridor analyzed, but alternatives along Sunrise and Broward Boulevards will also be reviewed.

**Scope Tasks and Amount**

Task/Description	Amount
Coordination	\$5,565
Data Collection	\$3,590
Operating Plans	\$22,160
Integration with Transit Services	\$10,200
Ridership Forecasting	\$44,400
Conceptual Eng/Capital and Operating Cost	\$38,260
Funding Sources	\$16,850
Issues to Overcome/Next Steps	\$12,240
Presentation to Board or Commission	\$5,700
Draft/Final Report	\$21,060
Administrative costs not to exceed 10% per approved City/MPO Interlocal Agreement	\$18,002.50
<b>Total Authorized Amount</b>	<b><u>\$198,027.50</u></b>

**CITY SIGNATURES:**



4-6-2015

\_\_\_\_\_  
Diana Alarcon  
Director of Transportation and Mobility

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

\_\_\_\_\_  
CITY OF FORT LAUDERDALE, a Florida municipality:

By:

\_\_\_\_\_  
LEE R. FELDMAN, City Manager

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

## ***Sistrunk Boulevard Streetcar Feasibility Study***

### **SPECIFIC SCOPE OF SERVICES AND DELIVERABLES**

As requested, we have prepared a scope of work and budget for the Sistrunk Boulevard Streetcar Feasibility Study. T.Y. Lin, International (TYLI) will act as prime consultant and will be joined by subconsultant, Clary Consulting LLC for the analysis of funding sources.

Our scope addresses the seven items listed in the “Proposed Scope of Work” as described below and anticipates being able to develop findings using similar methodologies and tools to those used, in part, by the SFRTA and FDOT teams completing the Phase I and Phase II design for The WAVE, respectively. In order to provide the common technical background – particularly for the ridership forecasts, operating plan and capital and operating/maintenance costs – we have included meetings with those teams to facilitate information sharing. It is assumed that the Broward MPO and/or City of Ft. Lauderdale staff will be able to schedule them. We have also included two public meetings to be determined by the CRA Director.

For the purposes of this proposal, the project study area is bounded by Sunrise Boulevard and Broward Boulevard, between NE Third Avenue and I-95.

**Task 1 Coordination** – CONSULTANT will manage and complete the tasks and deliverables identified in this scope of services and coordinate with the Client Project Manager to ensure completion within the project timeline. A primary component of all of the tasks will be the completion of quality control of analyses and documentation, and quality assurance checks of performance. CONSULTANT will provide Quality Control (QC) of all draft and final deliverables prior to submittal to the Client.

#### **1.1 Coordination Meetings**

##### **1.1.1 *Project Management Progress Meetings***

CONSULTANT Project Manager will prepare for, attend and complete follow-up activities associated with three (3) monthly progress meetings (i.e., “Progress Meeting No. 1”, “Progress Meeting No. 2”, and “Progress Meeting No. 3”) with the Client Project Manager to review project status to date, activities accomplished, next steps, budget and schedule adherence, review of unforeseen events, etc. All of these meetings will be held in person, and will include preparation and corresponding materials (agenda, progress reports, etc), and follow-up activities resulting from these monthly meetings.

##### **1.1.2 *Public Meetings***

The CONSULTANT will present interim and preliminary findings of the Sistrunk Streetcar Feasibility Study at two public meetings to be scheduled and coordinated by the City/ CRA. The intent of these meetings is to provide information about: (first meeting) what is being studied and the timeframe; and to present (second meeting) study findings. Public input will be captured as part of future project development should the City/CRA decide to move forward. The CONSULTANT will prepare presentations for each of these meetings. Responsibility for scheduling the meeting and all meeting logistics will be the responsibility of the City/CRA.

##### **1.1.3 *Invoicing and Progress Report***

CONSULTANT will prepare a work breakdown structure and schedule for all tasks and deliverables necessary to complete the project on time and within

budget. CONSULTANT will also prepare and submit monthly invoices in a format approved by the Client.

#### *1.1.4 Other Administrative Activities*

CONSULTANT will prepare, submit and file all documentation required under our contract with the MPO, including detailed statements per the MPO's requirements, expense reports/receipts, and preparation of a subconsultant agreement.

**Task 2 Data Collection** - CONSULTANT shall assemble all available data to support the development of Operating Plans, alignments, ridership forecasts, and other information needed for successive steps: i.e., Task 3-Operating Plans, Task 5-Ridership Forecasts, Task 6-Capital and Operating Cost Estimates, and Task 7-Funding Sources. CONSULTANT shall seek to utilize the methodologies, assumptions, tools, etc., used by the SFRTA team for The WAVE to the extent practicable, for the development of the Operating Plans estimation of ridership forecasts for the three Sistrunk streetcar alignments. For the purposes of this proposal, it is assumed that we will be able to review available data with the SFRTA team for The WAVE.

**2.1 Research** – CONSULTANT will review relevant transportation and land use studies, identify and list the infrastructure projects completed to date that have the potential to support or constrain a streetcar service in the study area. Included in this research will be the physical and operational features of The WAVE (Phase I and II) and BCT bus routes (Routes 1, 9, 11, 14, 22, 31, 36, 40, 50 60), ridership estimates and forecast model documentation, right-of-way, land use, socio-economic and demographic data that will be used to support development of the Operating Plans (Task 3). CONSULTANT will check the consistency of recently completed developments vis-à-vis City-adopted documents; specifically, the recent rezoning of portions of the study area to understand the development and re-development conditions.

**2.2 Transit Usage** – CONSULTANT will review the coordinate with Broward County Transit (BCT) to obtain the latest available travel times, headways, and ridership at a bus-stop level for the ten routes serving the study area, as well as those bus routes that are within one-half mile of the study area. As stated above, the CONSULTANT will review ridership findings developed for The WAVE project.

**2.3 Existing Infrastructure Inventory** – CONSULTANT will prepare an inventory of traffic control devices, roadway features and geometrics, sidewalks, crosswalks, on-street parking, and back-out parking on collector streets, bicycle lanes, bus stops and bus stops facilities, street lighting, and tree cover and informal signage for study area. This inventory will be based on the Florida Department of Transportation (FDOT) Roadway Characteristics Inventory; and Broward County, Fort Lauderdale, and BCT's GIS databases. CONSULTANT will verify and update the available secondary data based on visual analysis of aerial imagery (Google Earth and Broward County Property Appraiser aerial data) and site visits.

**2.4 Development** – City of Fort Lauderdale will provide information of completed and ongoing development projects within and adjacent to the study area. CONSULTANT will evaluate connectivity issues and update the programmed transportation improvements based on the development projects provided by the City of Fort Lauderdale.

**Task 3 Operating Plans** – The operating plans for the three alternatives (all three will be reviewed under the WAVE Phase I and Phase II scenarios) will be based on a variety of factors including station locations, routings, route mileage, available vehicle equipment, schedule for The WAVE Phase I and Phase II services, traffic controls including traffic signal timing,

vehicle and pedestrian traffic volume, and desired headways. The operating plans will include a schedule for streetcar service by station stop.

Streetcar running speeds and dwell time will seek to mirror those produced for The WAVE Phase I and II, however, if an alternative alignment is placed on an arterial street (e.g., Broward or Sunrise Boulevard) running speeds may be adjusted. This analysis will be completed in a spreadsheet –based model.

**Task 4 Integration with BCT, SunTrolley, NW Community Link, and The WAVE (Phase I and Phase II) Services** – As discussed above, the operating plan for the Sistrunk Boulevard streetcar alternatives will provide for direct transfers to The WAVE phases I and II. CONSULTANT shall recommend modifications to routings and/or headways/schedules for consideration to all or some of the ten (10) BCT bus routes that use study area streets in order to avoid providing redundant transit services as well as to utilize the opportunity for BCT routes to best connect with the Sistrunk Boulevard alternatives and for BCT to possibly better deploy the bus services in the study area to other parts of the transit district. Similar analyses will be completed for the Sun Trolley and NW Community Link services. This analysis will be completed in a spreadsheet –based model.

**Task 5 Ridership Forecasts** - CONSULTANT shall seek to utilize the methodologies, assumptions, tools, etc., used by the SFRTA team for The WAVE to the extent practicable, for the estimation of ridership forecasts for the three Sistrunk Boulevard streetcar alignments. For the purposes of this proposal, it is assumed that CONSULTANT will be able to review the model documentation utilized by the SFRTA and FDOT teams for The WAVE.

CONSULTANT will develop a spreadsheet model to forecast daily ridership levels for future year (consistent with SFRTA and FDOT team) for each of the six options. The spreadsheet model would be built with the following information obtained from the adopted Southeast Florida Regional Planning Model (SERPM) with appropriate modifications<sup>1</sup>:

- regional model origin-destination trip tables
- regional model modal splits
- socioeconomic and land use data for the study area
- ridership for the study area bus routes

CONSULTANT will utilize the model documentation provided by the SFRTA and FDOT teams for The WAVE and fill in any data gaps with locally available information. This spreadsheet model follows the general methodology of the FTA’s Simplified Trips-on-Project Software (STOPS), and has clear advantages in its application, such as: the inputs and how they influence ridership estimation are clearly visible; and the inputs can easily be changed and new ones tested.

Forecasts will be prepared for each of the three alternative alignments under two scenarios: i.e., The WAVE Phase I and THE WAVE Phase II. In other words, forecast will be produced for six options. As described in Task 3 above, this is necessary because of the different operating plans that will be used in Phase I and II, and the need for the alternative alignments

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<sup>1</sup> Modifications may be made to account for trips not fully captured by SERPM - bicycle and walk trips, non-home based trips (trips to and from work places, government services, cultural, religious, and educational institutions, shopping centers, restaurants, hotels, etc. ). Each of these items is critical for understanding how and why people use downtown or community circulator service such as streetcar circulator.

to have complementary operating plans to avoid bunching and track and signaling conflicts in the system.

**Task 6 Capital and Operating/Maintenance Cost Estimates** - CONSULTANT shall prepare capital cost and operating/maintenance cost estimates for use in the analyses developed for Task 7-Funding Sources. For the purposes of this proposal, it is assumed that the CONSULTANT will be able to review the cost inputs developed by the SFRTA and FDOT teams for The WAVE.

**6.1 Capital Cost Estimates** – CONSULTANT will develop will develop conceptual capital costs (in current dollars) for engineering, construction and mobilization of the alternative streetcar alignments, including track, signal/ communication equipment and software, power facilities, vehicles, etc. The concept cost estimates will be completed on a quantities and unit price basis (per mile costs), and will include costs for sidewalks, curbs, and drainage. The estimates will not include the costs associated with right-of-way acquisition or relocations.

**6.2 Operating and Maintenance Cost Estimates** – CONSULTANT will prepare estimates of annual operating and maintenance costs associated with the alternatives. The operating cost estimates will be based on per service and/or revenue hour as reported in the National Transit Database by providers of streetcar services elsewhere in the U.S., as well as the findings prepared by the SFRTA and FDOT teams for The WAVE.

**Task 7 Potential Funding Sources** - CONSULTANT shall assemble and prepare a list of potential funding sources for the capital and annual operating/maintenance costs generated by the Sistrunk Boulevard Streetcar alternatives. The list will contain only those funding instruments that the alternatives may be eligible for, and also be evaluated on the basis of the project’s competitiveness for receipt of those funds. In addition, this effort will describe the actions required to receive those funds, and will recommend the next steps needed to more fully develop the funding analysis. The analysis will be limited to a review of existing funding sources, but will also provide a “higher-level” of the range of funding that could be generated by a special assessment district.

SUBCONSULTANT Clary Consulting, who is providing financial advice to the SFRTA team in the development of The WAVE project, will be performing this analysis and effort and for the purposes of consistency, will utilize the approach they have taken with The WAVE for this Sistrunk analysis.

**Task 8 Issues to Overcome/Recommended Next Steps** – As part of the feasibility study, the CONSULTANT will identify physical, operational, financial, and other impediments CONSULTANT believes would need to be either avoided or mitigated to advance any of the alternatives. Strategies to avoid or mitigate these impediments will be described.

Based on the findings of the above tasks, the CONSULTANT will recommend the next steps to advance or modify (or, even no longer consider) any proposal to initiate a streetcar service in the study area. If the findings indicate that a streetcar service is both feasible and productive, next steps recommendations would be focused on formally adopting an approach – with public and private sector stakeholders – to include the streetcar service in long-range transportation and land use plans, and to consider whether federal or state funds would be sought to continue development of the service.

In addition, more precise information about costs, equipment and materials needs, and construction schedules (in particular, with respect to utilities) is critical to decision making

and can only be accomplished with survey data and more detailed engineering and design.

Moreover, the interests of neighborhood residents and businesses, and other stakeholders need to be discussed to ensure that a streetcar service is an appropriate investment for the community in the study area as well as the community at-large.

If the decision is made to seek Federal and state funds, their grant programs have prescriptive requirements that can often delay desired schedules; and so, addressing those requirements should be part of the initial efforts.

These next steps will be identified and described in the Final Report.

**Task 9 Presentation to Board/Commission** - CONSULTANT shall prepare and present a short PowerPoint presentation to either Broward MPO Board or the Fort Lauderdale City Commission about the findings of the study. The presentation will be reviewed with staff at Progress Meeting No. 4 prior to the briefing.

**Task 10 Final Report** – CONSULTANT will prepare draft and final reports for the Sistrunk Boulevard Streetcar Feasibility Study for review with the Client Project Manager. The final report will document the data collection, analysis, findings, coordination, etc., utilized to develop the study findings. The report will be between 30 and 60 pages in length, include an Executive Summary and corresponding appendices. The draft report will be reviewed with the Client Project Manager, and comments and suggestions to this draft from the Client will be compiled by the Client Project Manager and forwarded to the CONSULTANT for incorporation in the final report.

### **Deliverables**

Deliverables for this project shall consist of the following:

#### **Task 1**

- Agendas/meeting notes/summaries for monthly Progress Meetings with the Client (2 hr maximum).
- Critical path schedule for project tasks and deliverables based on the work scope.
- Subcontract agreement for work to be completed by Clary Consulting.
- Monthly progress reports that describe activities completed, project progress and future activities.
- Monthly invoices by the 20th of each month.
- Administrative tasks associated with the obligations of our contract with the Client.
- Presentation materials (PPT) for two public meetings.

#### **Task 9**

- Draft and final PowerPoint presentation to Board or Commission

#### **Task 10**

- Sistrunk Boulevard Streetcar Feasibility Study (Draft and Final Report)

### **Project Assumptions**

The analysis and recommendations resulting from this project is limited to the boundaries of the proposed study area.

CONSULTANT will be able to meet with the SFRTA and FDOT teams preparing development for The WAVE for the purposes of sharing information, data, reports, etc., The WAVE operating plans, modeling methodology, capital and operating cost variables, and funding sources.

CONSULTANT will be able to meet with BCT staff to review any anticipated changes to the bus

services provided in the study area.

**Client Responsibilities**

- Client shall request meetings with SFRTA and FDOT teams preparing development for The WAVE.
- Client shall be responsible for scheduling two public meetings, as well as all corresponding meeting logistics.
- Client shall schedule date for presentation to the Board or Commission.
- Client shall provide the documents summarizing the development and land use changes in the study area.

**Project Schedule**

The CONSULTANT shall perform the services identified in Tasks 1 through 10 inclusive within three (3) months of written Notice to Proceed, as shown below.

Task	Description	Month 1	Month 2	Month 3
1	Project Management/Administration			
	Progress Meeting No. 1			
	Progress Meeting No. 2			
	Progress Meeting No. 3			
	Public Meetings (2)			
2	Meet with SFRTA and FDOT Teams on The WAVE Phase I/II			
	Meet with BCT Staff			
3	Identify Station Locations			
	Develop Operating Plans			
4	Integration with The WAVE Phase I/II, and BCT bus routes			
5	Ridership Forecasts			
6	Physical/Operational Feasibility			
	Capital Cost Estimates			
	Annual Operating & Maintenance Cost Estimates			
7	Funding Sources			
8	Issues to Overcome/Next Steps			
9	Progress Meeting No. 4			
	Presentation to Board or Commission			
10	Draft and Final Report			

**Project Budget**

The cost for the services performed by the CONSULTANT and SUBCONSULTANT in Tasks 1 through 10 totals \$180,000, as shown in the table below.

Task No.	Task Title	Consultant	Subconsultant	Total
1	Coordination	\$5,565		\$5,565
2	Data Collection	\$3,590		\$3,590
3	Operating Plans	\$22,160		\$22,160
4	Integration with Transit Services	\$10,200		\$10,200
5	Ridership Forecasting	\$44,400		\$44,400
6	Conceptual Eng/Capital and Operating Cost	\$38,260		\$38,260
7	Funding Sources	\$7,450	\$9,400	\$16,850
8	Issues to Overcome/Next Steps	\$12,240		\$12,240
9	Presentation to Board or Commission	\$5,700		\$5,700
10	Draft/Final Report	\$21,060		\$21,060
		\$170,625	\$9,400	\$180,025

ITEM VI

## Executive Summary

### Progresso Neighborhood Pedestrian Walkway Improvements Project 11486

The purpose of this project is for the rehabilitation of neighborhood pedestrian and safety improvements in the Progresso neighborhood consisting of sidewalk, lighting, and landscaping improvements. The stakeholder for this project is Northwest Community Redevelopment Agency (NW CRA). The need for these neighborhood improvements was initiated:

- To meet the NW CRA Implementation Plan
- Provide a safe pedestrian passage to the major transit corridors of Sunrise Blvd and Sistrunk Blvd.
- Address non-existing ADA accessible sidewalks in some areas
- Address inaccessible sidewalks and sidewalk continuity

The original budgeted amount was \$1.2 million, which was derived several years prior. Due to a cost increase to construction this project the cost to construct has increased. The cost of the project to date, as designed, is \$2.5 million. This is based on the community's desire to have limited landscaping (because they do not want irrigation fees), sidewalk on one side of the street (except on one street which has sidewalks on both sides) and lighting only on the sidewalks being installed (only on one side of each street). However, the budgeted funds do not provide for construction of the entire project. NW CRA expresses concern that the entire project should be limited to a lower construction cost. Therefore, the neighborhood must decide which elements need to be eliminated from the project scope, or agree to a revised project schedule.

Although, the cost of the project is \$2.5 million, lighting is the largest expense at \$1.15 million (it is solar lighting to meet the City's desire to reduce carbon emissions). In limiting the entire project to a lower construction cost, we can consider two viable options. First, we can reduce the scope by removing some lighting, and perhaps some sidewalks; or secondly, we can change the type of lighting. The alternative to solar lighting would be to reduce emissions elsewhere

and use electric LED fixtures which would cost about \$760,000. By doing the second option, it would delay construction and therefore not meet the grant deadline; but will reduce the project by \$390,000.



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**JOINT PARTICIPATION AGREEMENT**

725-030-06  
 PUBLIC TRANSPORTATION  
 06/11  
 Page 1 of 14

Financial Project No(s): (item-segment-phase-sequence) <u>42512319401</u>	Fund: <u>DPTO</u> Function: <u>215</u> Federal No.: _____ DUNS No.: <u>80-939-7102</u>	FLAIR <u>088809</u> Object Code: <u>750098</u> Org. Code: <u>55042010429</u> Vendor No.: <u>VF596000219002</u>
Contract No.: _____ CFDA Number: _____	CSFA Number: <u>55014</u>	

THIS AGREEMENT, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION, an agency of the State of Florida, hereinafter referred to as the Department, and City of Fort Lauderdale  
100 North Andrews Avenue, Fort Lauderdale FL 33301  
 hereinafter referred to as Agency. The Department and Agency agree that all terms of this Agreement will be completed on or before 12/31/2014 and this Agreement will expire unless a time extension is provided in accordance with Section 18.00.

WITNESSETH:

WHEREAS, the Agency has the authority to enter into said Agreement and to undertake the project hereinafter described, and the Department has been granted the authority to function adequately in all areas of appropriate jurisdiction including the implementation of an integrated and balanced transportation system and is authorized under Chapter 341.053 \_\_\_\_\_, Florida Statutes, to enter into this Agreement.

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

**1.00 Purpose of Agreement:** The purpose of this Agreement is

Progresso Neighborhood Improvements Project. Provide construction costs of sidewalks, swales, landscaping, pedestrian lighting, traffic calming, and related features. For detailed description and deliverables, see Exhibit A.

and as further described in Exhibit(s) A,B,C,D attached hereto and by this reference made a part hereof, hereinafter referred to as the project, and to provide Departmental financial assistance to the Agency and state the terms and conditions upon which such assistance will be provided and the understandings as to the manner in which the project will be undertaken and completed.

## 2.00 Accomplishment of the Project

**2.10 General Requirements:** The Agency shall commence, and complete the project as described in Exhibit "A" attached hereto and by this reference made a part hereof this Agreement, with all practical dispatch, in a sound, economical, and efficient manner, and in accordance with the provisions herein, and all applicable laws.

**2.20 Pursuant to Federal, State, and Local Law:** In the event that any election, referendum, approval, permit, notice, or other proceeding or authorization is requisite under applicable law to enable the Agency to enter into this Agreement or to undertake the project hereunder, or to observe, assume or carry out any of the provisions of the Agreement, the Agency will initiate and consummate, as provided by law, all actions necessary with respect to any such matters so requisite.

**2.30 Funds of the Agency:** The Agency shall initiate and prosecute to completion all proceedings necessary including federal aid requirements to enable the Agency to provide the necessary funds for completion of the project.

**2.40 Submission of Proceedings, Contracts and Other Documents:** The Agency shall submit to the Department such data, reports, records, contracts and other documents relating to the project as the Department may require as listed in Exhibit "C" attached hereto and by this reference made a part hereof.

**3.00 Project Cost:** The total estimated cost of the project is \$ 600,000. This amount is based upon the estimate summarized in Exhibit "B" attached hereto and by this reference made a part hereof this Agreement. The Agency agrees to bear all expenses in excess of the total estimated cost of the project and any deficits involved.

**4.00 Department Participation:** The Department agrees to maximum participation, including contingencies, in the project in the amount of \$ 300,000 as detailed in Exhibit "B", or in an amount equal to the percentage(s) of total cost shown in Exhibit "B", whichever is less.

**4.10 Project Cost Eligibility :** Project costs eligible for State participation will be allowed only from the effective date of this agreement. It is understood that State participation in eligible project costs is subject to:

- (a) Legislative approval of the Department's appropriation request in the adopted work program year that the project is scheduled to be committed;
- (b) Availability of funds as stated in Section 17.00 of this Agreement;
- (c) Approval of all plans, specifications, contracts or other obligating documents and all other terms of this Agreement;
- (d) Department approval of the project scope and budget (Exhibits A & B) at the time appropriation authority becomes available.

**4.20 Front End Funding :** Front end funding  is  is not applicable. If applicable, the Department may initially pay 100% of the total allowable incurred project costs up to an amount equal to its total share of participation as shown in paragraph 4.00.

**5.00 Retainage :** Retainage  is  is not applicable. If applicable, \_\_\_\_\_ percent of the Department's total share of participation as shown in paragraph 4.00 is to be held in retainage to be disbursed, at the Department's discretion, on or before the completion of the final project audit.

## **6.00 Project Budget and Payment Provisions:**

**6.10 The Project Budget:** A project budget shall be prepared by the Agency and approved by the Department. The Agency shall maintain said budget, carry out the project and shall incur obligations against and make disbursements of project funds only in conformity with the latest approved budget for the project. No budget increase or decrease shall be effective unless it complies with fund participation requirements established in Section 4.00 of this Agreement and is approved by the Department Comptroller.

**6.20 Payment Provisions:** Unless otherwise allowed under Section 4.20, payment will begin in the year the project or project phase is scheduled in the work program as of the date of the agreement. Payment will be made for actual costs incurred as of the date the invoice is submitted with the final payment due upon receipt of a final invoice.

## **7.00 Accounting Records:**

**7.10 Establishment and Maintenance of Accounting Records:** The Agency shall establish for the project, in conformity with requirements established by Department's program guidelines/procedures and "Principles for State and Local Governments", separate accounts to be maintained within its existing accounting system or establish independent accounts. Such accounts are referred to herein collectively as the "project account". Documentation of the project account shall be made available to the Department upon request any time during the period of the Agreement and for three years after final payment is made.

**7.20 Funds Received Or Made Available for The Project:** The Agency shall appropriately record in the project account, and deposit in a bank or trust company which is a member of the Federal Deposit Insurance Corporation, all payments received by it from the Department pursuant to this Agreement and all other funds provided for, accruing to, or otherwise received on account of the project, which Department payments and other funds are herein collectively referred to as "project funds". The Agency shall require depositories of project funds to secure continuously and fully all project funds in excess of the amounts insured under federal plans, or under State plans which have been approved for the deposit of project funds by the Department, by the deposit or setting aside of collateral of the types and in the manner as prescribed by State Law for the security of public funds, or as approved by the Department.

**7.30 Costs Incurred for the Project:** The Agency shall charge to the project account all eligible costs of the project. Costs in excess of the latest approved budget or attributable to actions which have not received the required approval of the Department shall not be considered eligible costs.

**7.40 Documentation of Project Costs:** All costs charged to the project, including any approved services contributed by the Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges.

**7.50 Checks, Orders, and Vouchers:** Any check or order drawn by the Agency with respect to any item which is or will be chargeable against the project account will be drawn only in accordance with a properly signed voucher then on file in the office of the Agency stating in proper detail the purpose for which such check or order is drawn. All checks, payrolls, invoices, contracts, vouchers, orders, or other accounting documents pertaining in whole or in part to the project shall be clearly identified, readily accessible, and, to the extent feasible, kept separate and apart from all other such documents.

**7.60 Audit Reports:** In addition to the requirements below, the Agency agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department, including but not limited to site visits and limited scope audits. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the State Comptroller or Auditor General. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of three years from the date the audit report is issued, and shall allow the Department access to such records and working papers upon request. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any state agency inspector general, the Auditor General, or any other state official.

The Agency shall comply with all audit and audit reporting requirements as specified in Exhibit "D" attached hereto and by this reference made a part hereof this Agreement.

**7.61 Monitoring:** In addition to reviews of audits conducted in accordance with OMB Circular A-133 and Section 215.97, Florida Statutes, (see "Audits" below), monitoring procedures may include, but not be limited to, on-site visits by Department staff, limited scope audits as defined by OMB Circular A-133, and/or other procedures. The Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. In the event the Department determines that a limited scope audit of the Agency is appropriate, the Agency agrees to comply with any additional instructions provided by the Department staff to the Agency regarding such audit. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by FDOT's Office of Inspector General (OIG) and Florida's Chief Financial Officer (CFO) or Auditor General.

**7.62 Audits:**

**Part I Federally Funded:** If the Agency is a state, local government, or non-profit organizations as defined in OMB Circular A-133 and a recipient of federal funds, the following annual audit criteria will apply:

1. In the event that the recipient expends \$500,000 or more in Federal awards in its fiscal year, the recipient must have a single or program-specific audit conducted in accordance with the provisions of OMB Circular A-133, as revised. Exhibit "D" to this agreement indicates Federal resources awarded through the Department by this agreement. In determining the Federal awards expended in its fiscal year, the recipient shall consider all sources of Federal awards, including Federal resources received from the Department. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by OMB Circular A-133, as revised. An audit of the recipient conducted by the Auditor General in accordance with the provisions OMB Circular A-133, as revised, will meet the requirements of this part.
2. In connection with the audit requirements addressed in Part I, Paragraph 1., the recipient shall fulfill the requirements relative to auditee responsibilities as provided in Subpart C of OMB Circular A-133.
3. If the recipient expends less than the amount in Part I, Paragraph 1., an audit conducted in accordance with the provisions of OMB Circular A-133, is not required. If the recipient elects to conduct such an audit, the cost of the audit must be paid from resources obtained from other than Federal entities.
4. Federal awards are to be identified using the Catalog of Federal Domestic Assistance (CFDA) title and number, award number and year, and name of the awarding federal agency.

**Part II State Funded:** If the Agency is a nonstate entity as defined by Section 215.97(2)(m), Florida Statutes, and a recipient of state funds, the following annual audit criteria will apply:

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$500,000 in any fiscal year, the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services and the CFO; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. Exhibit "D" to this agreement indicates state financial assistance awarded through the Department by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, Paragraph 1., the recipient shall ensure that the audit complies with the requirements of Section 215.97(7), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapter 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than the amount in Part II, Paragraph 1., such audit is not required. If the recipient elects to conduct such an audit, the cost of the audit must be paid from the recipient's resources obtained from nonstate entities.
4. State awards are to be identified using the Catalog of State Financial Assistance (CSFA) title and number, award number and year, and name of the state agency awarding it.

### Part III Other Audit Requirements

1. The Agency shall follow-up and take corrective action on audit findings. Preparation of a summary schedule of prior year audit findings, including corrective action and current status of the audit findings is required. Current year audit findings require corrective action and status of findings.

2. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is completed or the dispute is resolved. Access to project records and audit work papers shall be given to the Department, the Department Comptroller, and the Auditor General. This section does not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of state financial assistance or limit the authority of any other state official.

### Part IV Report Submission

1. Copies of reporting packages for audits conducted in accordance with OMB Circular A-133, as revised, and required by Section 7.62 Part I of this agreement shall be submitted, when required by Section .320 (d), OMB Circular A-133, by or on behalf of the recipient directly to each of the following:

A. The Department at each of the following addresses:

Florida Department of Transportation  
Office of Modal Development  
3400 W Commercial Blvd.  
Fort Lauderdale, FL 33309-3421

B. The number of copies required by Sections .320 (d)(1) and (2), OMB Circular A-133, submitted to the following address:

Federal Audit Clearinghouse  
Bureau of the Census  
1201 East 10th Street  
Jeffersonville, IN 47132

C. Other Federal agencies and pass-through entities in accordance with Sections .320 (e) and (f), OMB Circular A-133.

2. In the event that a copy of the reporting package for an audit required by Section 7.62 Part I of this Agreement and conducted in accordance with OMB Circular A-133 is not required to be submitted to the Department for reasons pursuant to section .320 (e)(2), OMB Circular A-133, the recipient shall submit the required written notification pursuant to Section .320 (e)(2) and a copy of the recipient's audited schedule of expenditures of Federal awards directly to each of the following:

Florida Department of Transportation  
Office of Modal Development  
3400 W Commercial Blvd.  
Fort Lauderdale, FL 33309-3421

In addition, pursuant to Section .320 (f), OMB Circular A-133, as revised, the recipient shall submit a copy of the reporting package described in Section .320 (c), OMB Circular A-133, and any management letters issued by the auditor, to the Department at each of the following addresses:

Florida Department of Transportation  
Office of Modal Development  
3400 W Commercial Blvd.  
Fort Lauderdale, FL 33309-3421

3. Copies of financial reporting packages required by Section 7.62 Part II of this Agreement shall be submitted by or on behalf of the recipient directly to each of the following:
  - A. The Department at each of the following addresses:

Florida Department of Transportation  
Office of Modal Development  
3400 W Commercial Blvd.  
Fort Lauderdale, FL 33309-3421
  - B. The Auditor General's Office at the following address:

Auditor General's Office  
Room 401, Pepper Building  
111 West Madison Street  
Tallahassee, Florida 32399-1450
4. Copies of reports or the management letter required by Section 7.62 Part III of this Agreement shall be submitted by or on behalf of the recipient directly to:
  - A. The Department at each of the following addresses:

Florida Department of Transportation  
Office of Modal Development  
3400 W Commercial Blvd.  
Fort Lauderdale, FL 33309-3421
5. Any reports, management letter, or other information required to be submitted to the Department pursuant to this Agreement shall be submitted timely in accordance with OMB Circular A-133, Section 215.97, Florida Statutes, and Chapter 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
6. Recipients, when submitting financial reporting packages to the Department for audits done in accordance with OMB Circular A-133 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

**7.63 Record Retention:** The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of at least five years from the date the audit report is issued, and shall allow the Department, or its designee, the CFO or Auditor General access to such records upon request. The Agency shall ensure that the independent audit working papers are made available to the Department, or its designee, the CFO, or Auditor General upon request for a period of at least five years from the date the audit report is issued, unless extended in writing by the Department. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these documents and records shall be furnished to the Department upon request. Records of costs incurred include the Participant's general accounting records and the project records, together with supporting documents and records, of the contractor and all subcontractors performing work on the project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

**7.64 Other Requirements:** If an audit discloses any significant audit findings related to any award, including material noncompliance with individual project compliance requirements or reportable conditions in internal controls of the Agency, the Agency shall submit as part of the audit package to the Department a plan for corrective action to eliminate such audit findings or a statement describing the reasons that corrective action is not necessary. The Agency shall take timely and appropriate corrective action to any audit findings, recommendations, and corrective action plans.

**7.65 Insurance:** Execution of this Joint Participation Agreement constitutes a certification that the Agency has and will maintain the ability to repair or replace any project equipment or facilities in the event of loss or damage due to any accident or casualty for the useful life of such equipment or facilities. In the event of the loss of such equipment or facilities, the Agency shall either replace the equipment or facilities or reimburse the Department to the extent of its interest in the lost equipment or facility. In the event this Agreement is for purchase of land or for the construction of infrastructure such as airport runways the Department may waive or modify this section.

#### **8.00 Requisitions and Payments:**

**8.10 Action by the Agency:** In order to obtain any Department funds, the Agency shall file with the Department of Transportation, District Four Public Transportation Office 3400 W Commercial Blvd., Fort Lauderdale, FL, 33309 its requisition on a form or forms prescribed by the Department, and any other data pertaining to the project account (as defined in Paragraph 7.10 hereof) to justify and support the payment requisitions.

**8.11** Invoices for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper preaudit and postaudit thereof.

**8.12** Invoices for any travel expenses shall be submitted in accordance with Chapter 112.061, F.S. The Department may establish rates lower than the maximum provided in Chapter 112.061, F.S.

**8.13** For real property acquired, submit;

- (a) the date the Agency acquired the real property,
- (b) a statement by the Agency certifying that the Agency has acquired said real property, and actual consideration paid for real property.
- (c) a statement by the Agency certifying that the appraisal and acquisition of the real property together with any attendant relocation of occupants was accomplished in compliance with all federal laws, rules and procedures required by any federal oversight agency and with all state laws, rules and procedures that may apply to the Agency acquiring the real property.

**8.20 The Department's Obligations:** Subject to other provisions hereof, the Department will honor such requisitions in amounts and at times deemed by the Department to be proper to ensure the carrying out of the project and payment of the eligible costs. However, notwithstanding any other provision of this Agreement, the Department may elect by notice in writing not to make a payment on the project if:

**8.21 Misrepresentation:** The Agency shall have made misrepresentation of a material nature in its application, or any supplement thereto or amendment thereof, or in or with respect to any document or data furnished therewith or pursuant hereto;

**8.22 Litigation:** There is then pending litigation with respect to the performance by the Agency of any of its duties or obligations which may jeopardize or adversely affect the project, the Agreement, or payments to the project;

**8.23 Approval by Department:** The Agency shall have taken any action pertaining to the project which, under this agreement, requires the approval of the Department or has made related expenditures or incurred related obligations without having been advised by the Department that same are approved;

**8.24 Conflict of Interests:** There has been any violation of the conflict of interest provisions contained herein; or

**8.25 Default:** The Agency has been determined by the Department to be in default under any of the provisions of the Agreement.

**8.26 Federal Participation (If Applicable):** Any federal agency providing federal financial assistance to the project suspends or terminates federal financial assistance to the project. In the event of suspension or termination of federal financial assistance, the Agency will reimburse the Department for all disallowed costs, including any and all federal financial assistance as detailed in Exhibit "B."

**8.30 Disallowed Costs:** In determining the amount of the payment, prior to receipt of annual notification of funds availability, the Department will exclude all projects costs incurred by the Agency prior to the effective date of this Agreement, costs which are not provided for in the latest approved budget for the project, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the Department and costs invoiced prior to receipt of annual notification of fund availability.

**8.40 Payment Offset:** If, after project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this agreement, the Department may offset such amount from payments due for work or services done under any public transportation joint participation agreement which it has with the Agency owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the Department. Offsetting amounts shall not be considered a breach of contract by the Department.

#### **9.00 Termination or Suspension of Project:**

**9.10 Termination or Suspension Generally:** If the Agency abandons or, before completion, finally discontinues the project; or if, by reason of any of the events or conditions set forth in Sections 8.21 to 8.26 inclusive, or for any other reason, the commencement, prosecution, or timely completion of the project by the Agency is rendered improbable, infeasible, impossible, or illegal, the Department will, by written notice to the Agency, suspend any or all of its obligations under this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected, or the Department may terminate any or all of its obligations under this Agreement.

**9.11 Action Subsequent to Notice of Termination or Suspension.** Upon receipt of any final termination or suspension notice under this paragraph, the Agency shall proceed promptly to carry out the actions required therein which may include any or all of the following: (1) necessary action to terminate or suspend, as the case may be, project activities and contracts and such other action as may be required or desirable to keep to the minimum the costs upon the basis of which the financing is to be computed; (2) furnish a statement of the project activities and contracts, and other undertakings the cost of which are otherwise includable as project costs; and (3) remit to the Department such portion of the financing and any advance payment previously received as is determined by the Department to be due under the provisions of the Agreement. The termination or suspension shall be carried out in conformity with the latest schedule, plan, and budget as approved by the Department or upon the basis of terms and conditions imposed by the Department upon the failure of the Agency to furnish the schedule, plan, and budget within a reasonable time. The approval of a remittance by the Agency or the closing out of federal financial participation in the project shall not constitute a waiver of any claim which the Department may otherwise have arising out of this Agreement.

**9.12** The Department reserves the right to unilaterally cancel this Agreement for refusal by the contractor or Agency to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, F.S. and made or received in conjunction with this Agreement.

**10.00 Remission of Project Account Upon Completion of Project:** Upon completion of the project, and after payment, provision for payment, or reimbursement of all project costs payable from the project account is made, the Agency shall remit to the Department its share of any unexpended balance in the project account.

**11.00 Audit and Inspection:** The Agency shall permit, and shall require its contractors to permit, the Department's authorized representatives to inspect all work, materials, payrolls, records; and to audit the books, records and accounts pertaining to the financing and development of the project.

#### **12.00 Contracts of the Agency:**

**12.10 Third Party Agreements:** Except as otherwise authorized in writing by the Department, the Agency shall not execute any contract or obligate itself in any manner requiring the disbursement of Department joint participation funds, including consultant, construction or purchase of commodities contracts or amendments thereto, with any third party with respect to the project without the written approval of the Department. Failure to obtain such approval shall be sufficient cause for nonpayment by the Department as provided in Section 8.23. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same.

**12.20 Compliance with Consultants' Competitive Negotiation Act:** It is understood and agreed by the parties hereto that participation by the Department in a project with an Agency, where said project involves a consultant contract for engineering, architecture or surveying services, is contingent on the Agency complying in full with provisions of Chapter 287, F.S., Consultants' Competitive Negotiation Act. At the discretion of the Department, the Agency will involve the Department in the Consultant Selection Process for all contracts. In all cases, the Agency's Attorney shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

### **12.30 Disadvantaged Business Enterprise (DBE) Policy**

**12.31 DBE Policy:** The Agency and its contractors agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26, as amended, have the maximum opportunity to participate in the performance of contracts and this Agreement. In this regard, all recipients, and contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that the Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Grantees, recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of Department assisted contracts.

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*)

**12.40** The Agency agrees to report any reasonable cause notice of noncompliance based on 49 CFR Part 26 filed under this section to the Department within 30 days of receipt by the Agency.

### **13.00 Restrictions, Prohibitions, Controls, and Labor Provisions:**

**13.10 Equal Employment Opportunity:** In connection with the carrying out of any project, the Agency shall not discriminate against any employee or applicant for employment because of race, age, creed, color, sex or national origin. The Agency will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, age, creed, color, sex, or national origin. Such action shall include, but not be limited to, the following: Employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Agency shall insert the foregoing provision modified only to show the particular contractual relationship in all its contracts in connection with the development or operation of the project, except contracts for standard commercial supplies or raw materials, and shall require all such contractors to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials. When the project involves installation, construction, demolition, removal, site improvement, or similar work, the Agency shall post, in conspicuous places available to employees and applicants for employment for project work, notices to be provided by the Department setting forth the provisions of the nondiscrimination clause.

**13.20 Title VI - Civil Rights Act of 1964:** Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, *et seq.*), the Regulations of the Federal Department of Transportation issued thereunder, and the assurance by the Agency pursuant thereto.

**13.30 Title VIII - Civil Rights Act of 1968:** Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by Title VIII of the Civil Rights Act of 1968, 42 USC 3601, *et seq.*, which among other things, prohibits discrimination in housing on the basis of race, color, national origin, creed, sex, and age.

**13.40 Americans with Disabilities Act of 1990 (ADA):** Execution of this Joint Participation Agreement constitutes a certification that the Agency will comply with all the requirements imposed by the ADA (42 U.S.C. 12102, et. seq.), the regulations of the federal government issued thereunder, and the assurance by the Agency pursuant thereto.

**13.50 Prohibited Interests:** The Agency shall not enter into a contract or arrangement in connection with the project or any property included or planned to be included in the project, with any officer, director or employee of the Agency, or any business entity of which the officer, director or employee or the officer's, director's or employee's spouse or child is an officer, partner, director, or proprietor or in which such officer, director or employee or the officer's, director's or employee's spouse or child, or any combination of them, has a material interest.

"Material Interest" means direct or indirect ownership of more than 5 percent of the total assets or capital stock of any business entity.

The Agency shall not enter into any contract or arrangement in connection with the project or any property included or planned to be included in the project, with any person or entity who was represented before the Agency by any person who at any time during the immediately preceding two years was an officer, director or employee of the Agency.

The provisions of this subsection shall not be applicable to any agreement between the Agency and its fiscal depositories, any agreement for utility services the rates for which are fixed or controlled by the government, or any agreement between the Agency and an agency of state government.

**13.60 Interest of Members of, or Delegates to, Congress:** No member or delegate to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising therefrom.

**14.00 Miscellaneous Provisions:**

**14.10 Environmental Pollution:** Execution of this Joint Participation Agreement constitutes a certification by the Agency that the project will be carried out in conformance with all applicable environmental regulations including the securing of any applicable permits. The Agency will be solely responsible for any liability in the event of non-compliance with applicable environmental regulations, including the securing of any applicable permits, and will reimburse the Department for any loss incurred in connection therewith.

**14.20 Department Not Obligated to Third Parties:** The Department shall not be obligated or liable hereunder to any party other than the Agency.

**14.30 When Rights and Remedies Not Waived:** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist, on the part of the Agency, and the making of such payment by the Department while any such breach or default shall exist shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

**14.40 How Agreement Is Affected by Provisions Being Held Invalid:** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance the remainder would then continue to conform to the terms and requirements of applicable law.

**14.50 Bonus or Commission:** By execution of the Agreement the Agency represents that it has not paid and, also, agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

**14.60 State or Territorial Law:** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision thereof, perform any other act or do any other thing in contravention of any applicable State law: Provided, that if any of the provisions of the Agreement violate any applicable State law, the Agency will at once notify the Department in writing in order that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the project.

**14.70 Use and Maintenance of Project Facilities and Equipment:** The Agency agrees that the project facilities and equipment will be used by the Agency to provide or support public transportation for the period of the useful life of such facilities and equipment as determined in accordance with general accounting principles and approved by the Department. The Agency further agrees to maintain the project facilities and equipment in good working order for the useful life of said facilities or equipment.

**14.71 Property Records:** The Agency agrees to maintain property records, conduct physical inventories and develop control systems as required by 49 CFR Part 18, when applicable.

**14.80 Disposal of Project Facilities or Equipment:** If the Agency disposes of any project facility or equipment during its useful life for any purpose except its replacement with like facility or equipment for public transportation use, the Agency will comply with the terms of 49 CFR Part 18 relating to property management standards. The Agency agrees to remit to the Department a proportional amount of the proceeds from the disposal of the facility or equipment. Said proportional amount shall be determined on the basis of the ratio of the Department financing of the facility or equipment as provided in this Agreement.

**14.90 Contractual Indemnity:** To the extent provided by law, the Agency shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Agency, its agents, or employees, during the performance of the Agreement, except that neither the Agency, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by the Agency in the performance of services required under this Agreement, the Department will immediately forward the claim to the Agency. The Agency and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of the Agency in the defense of the claim or to require that the Agency defend the Department in such claim as described in this section. The Department's failure to promptly notify the Agency of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Agency. The Department and the Agency will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any. However, if only one party participates in the defense of the claim at trial, that party is responsible for all expenses at trial.

**15.00 Plans and Specifications:** In the event that this Agreement involves the purchasing of capital equipment or the constructing and equipping of facilities, the Agency shall submit to the Department for approval all appropriate plans and specifications covering the project. The Department will review all plans and specifications and will issue to the Agency written approval with any approved portions of the project and comments or recommendations concerning any remainder of the project deemed appropriate. After resolution of these comments and recommendations to the Department's satisfaction, the Department will issue to the Agency written approval with said remainder of the project. Failure to obtain this written approval shall be sufficient cause for nonpayment by the Department as provided in 8.23.

**16.00 Project Completion, Agency Certification:** The Agency will certify in writing on or attached to the final invoice, that the project was completed in accordance with applicable plans and specifications, is in place on the Agency facility, that adequate title is in the Agency and that the project is accepted by the Agency as suitable for the intended purpose.

**17.00 Appropriation of Funds:**

**17.10** The State of Florida's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature.

**17.20 Multi-Year Commitment:** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Chapter 339.135(6)(a), F.S., are hereby incorporated: "(a) The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of 25,000 dollars and which have a term for a period of more than 1 year."

**18.00 Expiration of Agreement:** The Agency agrees to complete the project on or before 12/31/2014. If the Agency does not complete the project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Director of Transportation Development. Expiration of this Agreement will be considered termination of the project and the procedure established in Section 9.00 of this Agreement shall be initiated.

**18.10 Final Invoice:** The Agency must submit the final invoice on this project to the Department within 120 days after the expiration of this Agreement.

**19.00 Agreement Format:** All words used herein in the singular form shall extend to and include the plural. All words used in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

**20.00 Execution of Agreement:** This Agreement may be simultaneously executed in a minimum of two counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one in the same instrument.

**21.00 Restrictions on Lobbying:**

**21.10 Federal:** The Agency agrees that no federal appropriated funds have been paid or will be paid by or on behalf of the Agency, to any person for influencing or attempting to influence any officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any federal contract, grant, loan or cooperative agreement.

If any funds other than federal appropriated funds have been paid by the Agency to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Joint Participation Agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

The Agency shall require that the language of this section be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

**21.20 State:** No funds received pursuant to this contract may be expended for lobbying the Legislature or a state agency.

**22.00 Vendors Rights:** Vendors (in this document identified as Agency) providing goods and services to the Department should be aware of the following time frames. Upon receipt, the Department has five (5) working days to inspect and approve the goods and services unless the bid specifications, purchase order or contract specifies otherwise. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the goods or services are received, inspected and approved.

If a payment is not available within 40 days after receipt of the invoice and receipt, inspection and approval of goods and services, a separate interest penalty in accordance with Section 215.422(3)(b), F.S. will be due and payable, in addition to the invoice amount to the Agency. The interest penalty provision applies after a 35 day time period to health care providers, as defined by rule. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices which have to be returned to an Agency because of vendor preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agencies who may be experiencing problems in obtaining timely payment(s) from the Department. The Vendor Ombudsman may be contacted at (850) 413-5516.

**23.00 Public Entity Crime:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017, F.S. for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

**24.00 Discrimination:** An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity.

#### **25.00 E-Verify**

Vendors/Contractors:

1. shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Vendor/Contractor during the term of the contract; and
2. shall expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

Financial Project No(s) 42512319401

Contract No. \_\_\_\_\_

Agreement Date \_\_\_\_\_

IN WITNESS WHEREOF, the parties hereto have caused these presents be executed, the day and year first above written.

AGENCY

FDOT

City of Fort Lauderdale  
AGENCY NAME

See attached Encumbrance Form for date of Funding  
Approval by Comptroller

\_\_\_\_\_  
SIGNATORY (PRINTED OR TYPED)

\_\_\_\_\_  
LEGAL REVIEW  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
DEPARTMENT OF TRANSPORTATION

\_\_\_\_\_  
TITLE

Director of Transportation Development  
TITLE

Fin. Proj. No.: 425123-1-94-01

Contract No.: \_\_\_\_\_

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

**Exhibit "A"**  
**PROJECT DESCRIPTION AND RESPONSIBILITIES**

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida, Department of Transportation and **the City of Fort Lauderdale** referenced by the above Financial Project Number.

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PROJECT LOCATION: City of Fort Lauderdale Progresso Neighborhood

PROJECT DESCRIPTION: Pedestrian Improvements

**SPECIAL CONSIDERATIONS BY AGENCY:**

The audit report(s) required in paragraph 7.60 of the Agreement shall include a schedule of project assistance that will reflect the Department's contract number, Financial Project Number and the Federal Identification number, where applicable, and the amount of state funding action (receipt and disbursement of funds) and any federal or local funding action and the funding action from any other source with respect to the project.

**SPECIAL CONSIDERATIONS BY DEPARTMENT:** Effective July 1, 2010, Section 215.971 of the Florida Statutes, requires our agreements to contain a scope of work that clearly establishes quantifiable and measurable deliverables. The attached Department of Financial Services link will provide guidance concerning accountable contract development. The scope of work is specifically addressed in chapter 3:

<http://www.myfloridacfo.com/aadir/docs/ContractandGrantManagementUserGuide.pdf>

**Narrative** This project funds the construction of sidewalks, swales, landscaping, pedestrian lighting, traffic calming, and related features in Fort Lauderdale's Progresso neighborhood. The boundaries are Sistrunk Blvd. to the south, Sunrise Blvd. to the north, Andrews Avenue to the east, and NW 5<sup>th</sup> Avenue to the west. Project elements will be constructed in accordance with the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Florida Greenbook).

**Justification** The project neighborhoods are blighted, and the Fort Lauderdale Community Development Agency (CRA) is trying to revitalize the area. The community is under-served and made of mostly low-income minority groups. Currently, most

streets do not have sidewalks or adequate lighting to provide access to the Broward County Transit system. The area should also be impacted by the proposed Wave Streetcar, which will run on Andrews Ave., 3<sup>rd</sup> Avenue and 2<sup>nd</sup> St. The pedestrian improvements will also complement some proposed redevelopment of private property in the neighborhood. This project is intended to add on to other pedestrian improvement projects that are taking place in this neighborhood. It is consistent with the Northwest/Progresso/Flagler Heights Implementation Plan.

Deliverables shall include:

1. Develop a detailed scope and construction schedule of values for the above named project that clearly establish quantifiable and measurable deliverables. They will be submitted with the first reimbursement request. Reimbursement for this deliverable will be made upon acceptance.
2. Additional deliverables will be determined and reimbursed in accordance with the schedule of values.
3. The final deliverable is the construction complete pedestrian improvements.

Fin. Proj. No.: 425123-1-94-01

Contract No.: \_\_\_\_\_

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

**EXHIBIT "B"**  
**PROJECT BUDGET**

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida, Department of Transportation and **the City of Fort Lauderdale** referenced by the above Financial Project Number.

I. PROJECT COST: \$600,000

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TOTAL PROJECT COST: \$600,000

II. PARTICIPATION:

Maximum Federal Participation  
FTA, FAA ( 0%) or \$0

Agency Participation  
In-Kind ( 0%) \$0  
Cash (contribution from City of  
Fort Lauderdale – NWFHP CRA) ( 50%) \$300,000  
Other ( 0%) \$0

Maximum Department Participation,  
Primary  
(DS)(DDR)(DIM)(PORT)(**DPTO**) ( 50%) or \$300,000  
Federal Reimbursable (DU)(FRA)(DFTA) ( 0%) or \$0  
Local Reimbursable (DL) ( 0%) or \$0

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TOTAL PROJECT COST \$600,000

Fin. Proj. No.: 425123-1-94-01

Contract No.: \_\_\_\_\_

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

**EXHIBIT "C"**  
**(GENERAL - with Safety Requirements)**

This exhibit forms an integral part of that certain Joint Participation Agreement between the State of Florida, Department of Transportation and **the City of Fort Lauderdale** referenced by the above Financial Project Number.

**Reference statutes as applicable:** Section 341.053, Florida Statutes

**Documents required to be submitted to the department by the agency in accordance with the terms of this agreement:**

1. All proposals, plans, specifications, and 3<sup>rd</sup> party contracts covering the project for Departmental approval.
2. Copies of all correspondence related to this project.
3. Audit reports as described in Section 7.60 of this JPA.
4. Quarterly progress reports provided within thirty (30) days of the end of the quarter.
5. Three (3) original Invoice Summaries and backup information including a progress report must be submitted to the District Office when requesting payment.

**EXHIBIT D**

Fin. Proj. No.: 425123-1-94-01

Contract No.: \_\_\_\_\_

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

**FEDERAL** and/or **STATE** resources awarded to the recipient pursuant to this agreement should be listed below. If the resources awarded to the recipient represent more than one Federal or State program, provide the same information for each program and the total resources awarded. **Compliance Requirements** applicable to each Federal or State program should also be listed below. If the resources awarded to the recipient represent more than one program, list applicable compliance requirements for each program in the same manner as shown here:

- (e.g., What services or purposes the resources must be used for)
- (e.g., Eligibility requirements for recipients of the resources)
- (Etc...)

**NOTE:** Instead of listing the specific compliance requirements as shown above, the State awarding agency may elect to use language that requires the recipient to comply with the requirements of applicable provisions of specific laws, rules, regulations, etc. The State awarding agency, if practical, may want to attach a copy of the specific law, rule, or regulation referred to.

**STATE RESOURCES**

<u>State Agency</u>	<u>Catalog of State Financial Assistance (Number &amp; Title)</u>	<u>Amount</u>
FDOT	55.014	\$300,000.00

Compliance Requirements

**Restrictions:**

Projects funded under the program should be consistent to the maximum extent feasible with approved local government comprehensive plans for the unit of government in which the project is located. Projects are also indentified through legislative proviso. No single transportation authority or single fixed-guideway transportation system receiving funds under the Intermodal Development Program is to receive more than 33 1/3 percent of the total intermodal development funds appropriated between July 1, 1990, and June 30, 2015.

**Application Procedures:**

District Offices consult with appropriate Metropolitan Planning Organizations in urbanized areas, or Boards of County Commissioners in non-urbanized area, to identify projects that may be eligible for Intermodal Development Program funding. For each candidate project an Intermodal Project Description is prepared. Application procedures are described in the work program instructions and are established by each District.

## EXHIBIT D

### **Award Procedures:**

District personnel are responsible for the review and approval of the intermodal project selected for annual formula funding.

**NOTE: Section .400(d) of OMB Circular A-133, as revised, and Section 215.97(5)(a), Florida Statutes, require that the information about Federal Programs and State Projects included in this exhibit be provided to the recipient.**

ITEM VII

**CITY OF FORT LAUDERDALE**  
**Community Redevelopment Agency (CRA)**

**EVENT PROMOTION/SPONSORSHIP GRANT APPLICATION**

- (1) **Name of Event:** Sistrunk Arts Partnership  
**Cultural Equity in the Arts: Building Bridges Forum & Reception**
- (2) **Location of Event:** **Forum to be held at**  
Old Dillard Museum and Walker Elementary School  
  
**Reception to be held at**  
Midtown Art Gallery  
1001 and 1009 NW 4<sup>th</sup> Street, Fort Lauderdale  
1033 Northwest 6<sup>th</sup> Street, Fort Lauderdale
- (3) **Date(s) of Event:** Saturday, May 30, 2015
- (4) **Hours of Operation:** 9:00 am – 7:30 pm
- (6) **Proposed Activities Planned:**

**Background**

The Sistrunk Arts Partnership (SAP) is an effort led by Broward Cultural Division (BCD) to strengthen inter-connectivity among redevelopment stake holders, residents, visitors, and arts and cultural assets in and surrounding the Northwest Progresso Flagler Heights Community Redevelopment Area.

SAP activities will leverage government, non-profit and private resources, as well as others and integrate and respond to goals of the CRA's five-year strategic plan and recommendations from BCD's CreativeBroward2020 Plan for Cultural and Economic Development.

- Serve to preserve, celebrate and honor Sistrunk's rich history; expand access to the local arts and culture for residents and visitors; strengthen the presence of creative industries on Sistrunk Boulevard; and build greater connectivity between NPFH neighborhoods and its arts and cultural assets;
- Respond to the CRA's five-year strategic objectives and development goals, involving the target and attraction of culinary and creative arts businesses and venues along with cultural development and embracing the creative class; and
- Focus retention and expansion efforts on businesses in creative industries, including nonprofits, especially those in targeted industries.

The types of activities to be pursued through SAP include:

- Professional and business development for artists, cultural organization and creative businesses.
- Affordable commercial and residential space for artists and creative businesses and community arts space for local youth and adults.
- Arts-based community-building and engagement that expands and increases access to the arts and tourism by residents and visitors.
- Collaborations between artists and arts and cultural organizations with a focus on the Sistrunk neighborhood.

### **About the Event**

#### **Cultural Equity in the Arts Forum: Building Bridges**

Saturday, May 30, 2015, 9:30 am – 5:00 pm  
Old Dillard Museum & Walker Elementary School Campus  
1009 NW 4<sup>th</sup> Street, Fort Lauderdale.

#### **What are South Florida's narratives on cultural equity and how can we build better bridges towards a fully inclusive society?**

Broward Cultural Division ([www.broward.org/arts](http://www.broward.org/arts)) in partnership with The Association of American Cultures ([www.taac.com](http://www.taac.com)), Old Dillard Museum, and the School Board of Broward County, FL, invites the arts and cultural sector and its stakeholders to participate in **Cultural Equity in the Arts: Building Bridges**, a day-long forum to discover, explore and identify solutions that integrate cultural equity within local arts policy, and the socioeconomic and educational infrastructures influenced by the arts.

South Florida will become engaged in an on-going, national dialogue led by The Association of American Cultures ([www.taac.com](http://www.taac.com)) on achieving equal participation in policymaking, equitable funding for all cultural institutions, an elevation in multicultural leadership, and essential networks that impact cultural policies.

Pursuit of cultural equity in the arts is challenging and requires approaches that are both systemic and sustainable. What are South Florida's narratives on cultural equity, from its meaning, to the actions required for its practice and implementation?

## What to Expect

The day will be an incredible learning and working session for those who are motivated to be the change they wish to see. First, the Keynote and Common Ground sessions will focus on storytelling, identity and where our stories overlap. Then, the concurrent Break Out Sessions will explore authentic engagement, advocacy and leadership. The Plenary Work Session brings everyone together around building essential networks. At the Closing Plenary, recommendations and strategies from the Plenary Work Session will be presented as next steps for moving action and dialogue forward. Relaxation and networking will occur during the closing reception at Midtown Art Gallery, located just around the corner from Old Dillard Museum. The day can be topped off with a visit to the Flager Artwalk, just a short trolley ride from Midtown Art Gallery.

## Schedule

9:00 – 9:30 Registration & Coffee

9:30 – 9:45 Welcome & Introductions

### **9:45 – 11:00 Keynote Presentation – Kiran Sirah**



Kiran Singh Sirah is President of the International Storytelling Center, producers of the world acclaimed National Storytelling Festival, based in Jonesborough, Tennessee.

Kiran has established a number of award-winning arts, cultural and human rights programs in the UK. After 9/11 he developed programs at National Museums Scotland, and created a number of peace and conflict resolution initiatives exploring issues of religious, ethnic, and sectarian conflicts in Scotland and Northern Ireland. He went on to lead the Helen Keller International Arts award, establishing disability arts part of Glasgow's Creative UNESCO City of Music.

In 2011 Kiran embarked on a Rotary Peace Fellowship, focusing on focusing on the folklore of "home". Working across the arts, cultural and peacebuilding and the international development community he emphasizes his interest in "the power of human creativity, arts, storytelling and social justice, and the notion of a truly multicultural society." In 2012, Kiran was invited to give a key note address at the RI- United Nations Day at the UN headquarters, entitled Telling Stories That Matter- A project that encourages the use of arts, culture and diverse storytelling within the international peace building community.

### **11:00 – 12:00 Common Ground - Wayne William Smoke-Snellgrove**



For the past 16 years, artist Wayne (Smoke) Shellgrove, a Cree Native born on Fishing Lake First Nation Reserve in Wadena, Saskatchewan, has walked the Red Road. He is a Miami-based artist and craftsman, exhibits his work locally, and is working on a book of memoirs. He regularly lectures in public and private schools, teaches adults and youth, and brings Native ceremony and tradition to Native inmates incarcerated in Florida state and federal prisons.

His path to today has not been easy. Smoke was stolen from his Native family at birth by the Canadian government. During this period in Canadian infamy known as the 60s Scoop, Native babies were routinely taken from their families in a social experiment of assimilation. When Smoke was 32-years old, he reunited with his birth mother – a meeting that saved his life and set him on the Red Road of his ancestors.

As a Red Road warrior, he brings peace, love and understanding to all life's circumstances.

In the Forum's *Common Ground* segment, Wayne will share his message of forgiveness as a gateway for attendees to discover where their stories overlap toward common ground.

**12:00 – 12:30      Grab & Go Lunch**

**12:30 – 2:30      Concurrent & Rotating Break Out Sessions**

1. Authentic Engagement
2. Advocacy & Leadership

**2:45 – 3:45      Plenary Work Session – Building Essential Networks**

**4:00 – 5:00      Closing Plenary**

**5:30 – 7:30      Reception at Midtown Art Gallery, around the corner at  
1033 NW 6<sup>th</sup> Street**

**On Your Own      Flagler Artwalk**

**(7) Provide a detailed marketing plan that explains how the proposed event will be marketed/advertised.**

Because all of the aforementioned partners are embedded in the community they will use their extensive internal networks to market the activity. Broward Cultural Division will market the event through press releases, website and email announcements to the local arts and cultural sector; post the event on its website; the activity will also be posted on ArtsCalendar.com, and be included as a centennial activity on the Broward100 website ([www.broward100.org](http://www.broward100.org)).

**(8) Explain in detail the positive economic impact the proposed event will have for the CRA. Discuss how these impacts will be measured and reported to the CRA upon completion of the event.**

This is an initial activity to begin working together through the Sistrunk Arts Partnership to achieve Partnership goals as described in the aforementioned Background section.

**(9) Explain in detail how the proposed event will aid in the CRA's efforts to identify or brand your event as a destination experience for the area.**

This activity as well as others presented through the Sistrunk Arts Partnership leverage City and County resources, and integrate and respond to goals of the CRA's five-year strategic plan and recommendations from BCD's CreativeBroward2020 Plan for Cultural and Economic Development, including:

- #8 - Develop and expand performance, exhibition and working spaces, as well as incubators, for creative businesses and workers;
- #19 - Strengthen the connection of the business and cultural communities;
- #20 - Develop an ongoing, community-based advocacy network;
- #32 - Expand support for local multi-cultural festivals that have an arts and cultural component;
- #34 - Provide financial and technical support to local Broward municipalities to develop arts and cultural programs in their cities; and
- #36 - Identify ways to expand access to art education, building on the success of the 2003 Community Arts Education Study (Art Starts in Our Hearts).

- (10) CRA event sponsorship, if approved, shall only be "seed" money, with contributions reduced in subsequent years. Provide a business plan detailing how the proposed event will become self-sustaining within 3-5 years.**

There is a recognized need for a coordinated, collaborative effort to prepare and carry out successful activities that respond to the cultural and economic development goals of both BCD and the CRA. BCD will be a leader of the Sistrunk Arts Partnership to assist with the identification and implementation of relevant and interconnected projects that meet agreed upon cultural and economic development goals.

The Sistrunk Arts Partnership through which these activities will occur requires its participants to:

1. Attendance at 3-4 Partnership meetings per year, and other additional meetings as needed;
2. Support BCD and CRA activities to be implemented through the Partnership;
3. Participate in a process to identify and select projects to be recommended for investment and implementation; and
4. Actively market and promote partnership activities through contact lists, databases, flyers, press releases, posters, etc.

The Cultural Equity in the Arts forum is the first activity involving members of the Sistrunk Arts Partnership. The Partnership will continue to develop activities to support the goals of the community.

- (11) Total Cost of Event: \$14,250**

- (12) Revenue Sources (other than the amount requested from CRA):**

Broward Cultural Division:	\$ 7,750
The Association of American Cultures:	\$ 4,000

- (13) Amount Requested from CRA: \$2,500**

- (14) Please Attach Proposed Event Budget: see attached**

# **Cultural Equity in the Arts Forum: Building Bridges**

Saturday, May 30, 2015, 9:30 am – 7:30 pm

Old Dillard Museum & Walker Elementary School Campus

Midtown Art Gallery - Forum Reception

1009 NW 4<sup>th</sup> Street, Fort Lauderdale

## **Budget**

Speakers, Presenters & Facilitators	\$	11,750.00
Facility Rental (Midtown Art Gallery)	\$	250.00
Food and Beverage (ReFresh Live!)	\$	2,250.00