

DEVELOPMENT AGREEMENT
FOR
2500 HALLANDALE BEACH, LLC

INSTR # 100283382
OR BK 45845 Pages 1193-1204
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BROWARD COUNTY COMMISSION
DEPUTY CLERK 3375
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This agreement is entered into this 20 day of October, 2008, between 2500 Hallandale Beach, LLC (2500 Hallandale) and the City of Hallandale Beach (City), a municipal corporation organized and existing under the laws of the State of Florida.

FINDINGS OF FACT

This agreement is predicated upon the following facts:

A. The City of Hallandale Beach Zoning and Land Development Code, Article III, Section 32-173(d)(2), requires the City to enter into binding Development Agreements for the development of real property with persons having legal or equitable interests in such real property;

B. Pursuant to the Zoning and Land Development Code, Section 32-174 PDD Planned Development District and the Design Guidelines Manual, the City has adopted rules and regulations establishing procedures and requirements for Development Agreements;

C. 2500 Hallandale has requested the City of Hallandale Beach to enter into a Development Agreement and proceedings have been taken into accordance with the aforementioned City of Hallandale Beach rules and regulations as cited above;

D. The Hallandale Beach City Commission has found that this Development Agreement is consistent with the Comprehensive Plan, the Major Development Plan, the Land Development Regulations and all other applicable requirements except as otherwise provided for in this agreement;

NOW THEREFORE, THE PARTIES AGREE:

1. Definitions. For the purpose of this agreement, unless the context otherwise requires:

a. Project shall mean the Major Development Plan approved by the City of Hallandale Beach for construction of a mixed use office/condominium consisting of 179 residential units and 40,913 of new and remaining square footage of retail space located in the City of Hallandale Beach in Broward County, Florida. Applicant seeks to build on the property located at 2500 East Hallandale Beach Boulevard in Hallandale Beach, Florida, on the present site of the existing office building. This property is approximately 3.58 acres, and is legally described in Exhibit A, attached hereto.

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b. Owner shall mean 2500 Hallandale Beach, LLC, and includes the property owners successors, assignees, tenants, agent, contractors, subcontractors and parties in interest.

2. Description of Real Property. The legal description of the property which is the subject of this agreement is described and contained in Exhibit A attached hereto and made a part hereof.

a. The name of the project is Millennium Towers at Hallandale.

b. The name of the applicant is 2500 Hallandale Beach, LLC.

3. Specific Restrictions on Development of Real Property. The project shall be undertaken and carried out in accordance with all City Codes and Ordinances in effect on the effective date of this agreement, except for those exceptions and variations as set forth in this agreement or any exhibit attached hereto. All additional Code Amendments adopted after the date of this agreement and not conflicting with the exceptions and variations enumerated in this agreement shall be applicable to the project. The City and the Owner agree that the development of the project will be governed in conformance with the following agreement, limitations, and modifications:

a. Permitted Uses. The project may include all those uses permitted by the Central City Business District and land use designation of general commercial with the application of the Planned Redevelopment Overlay and all uses permitted under this agreement and in accordance with the Hallandale Beach Comprehensive Plan.

b. Permitted Development.

Existing to remain - 97,032 office space and 31,966 square feet retail

New/proposed - 179 residential units and 8,947 square feet of retail space for a total of 40,913 square footage of retail including existing retail.

c. Parking. Parking shall be provided per Exhibit B.

d. Site Design Standards. Please refer to Exhibit B, a complete set of the plans, as to setbacks, maximum height, open space and landscaping and other applicable site development standards of the project. Exhibit AB@ shall be maintained in the City of Hallandale Beach City Clerks Office.

e. All plans shall provide detailed design data subject to final approval by the City Manager during the building permit process. The owner agrees to comply with all local, county, state and federal laws pertaining to this construction.

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f. Completion of Project. Owner agrees to diligently prosecute to completion the construction of the Project.

4. Satisfaction of Conditions. The Owner may notify the City asserting the completion of any of the conditions of this agreement, and as necessary, furnish evidence of same. The City shall then consider such notice, inspect the work or proof of completion and, within 45 days, notify the Developer that such conditions have either been found to be completely satisfied, or found to be not completed, with a list of deficiencies. In the event that the City fails to take action within 45 days of notification, the completion shall be deemed approved.

5. Sidewalks. 2500 Hallandale agrees to construct sidewalks in accordance with the attached Exhibit B.

6. Exhibits and Controlling Documents. The following documents are made a part hereof by this reference:

a. The Code of Ordinances of the City of Hallandale Beach.

b. The Development Plans and Specifications filed with the City.

c. In the event that the Major Development Plan and/or any of its contents are found to be in conflict with this Development Agreement, the applicable provision of this Development Agreement shall prevail.

d. There shall be strict adherence to this Development Agreement and the Major Development Plan. Any substantive change or amendment to the aforementioned Exhibits shall be addressed in conformance with Zoning and Land Development Code, Section 32-174 (j).

7. Amendments. Any amendment to this agreement or to the development plans shall not be approved unless all parties agree to the amendment in writing. All amendments not requiring City Commission approval shall be subject to the final approval by the City Manager on behalf of the City.

8. Building Permits and Certificates of Occupancy. The City agrees to issue to the Owner, upon application and approval, all required building permits, approvals or other required permits and Certificates of Occupancy for the construction, use and occupancy of the project, subject to compliance with the permit conditions, this agreement and the most current Florida Building Code Broward County Edition, as amended from time to time.

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9. Fees. 2500 Hallandale shall pay all fees as required by City Code. Approvals are also based upon payment of the City's usual and customary fees and charges for such applications, permits or services, in effect at the time of issuance of the permit or approval, and any financial contribution identified as part of this agreement and included in Exhibit C, also attached.

It is further understood and agreed that failure to fulfill any provision of this agreement, the Major Development Plan, or the conditions of approval, including any conditions of a specific building permit, may result in non-issuance of Certificates of Occupancy, Certificates of Completion, or other regulatory approvals until such time as all conditions of the specific building permit and this agreement are complied with, and that the City shall not be liable for any direct, indirect and/or consequential damages claimed for such non-issuance.

10. Payment of Future Exactions. With regards to the conditions set forth in Exhibit "C," the City represents that it may enact impact fee ordinance(s) or other regulatory or assessment programs to fund infrastructure improvements associated with new development, including, but not limited to: traffic, transit, utility, recreation improvements (the "Future Exactions"). Should the City enact regulation(s) imposing Future Exactions within 3 years of the issuance of the Certificate of Occupancy, Developer shall pay such Future Exactions as may be required pursuant to such regulation(s). Developer shall only be required to pay its proportionate share for such exactions. Developer further acknowledges and agrees that, with respect to the payment of the transportation impact fee, it has no vested rights and the City shall not be estopped from assessing and collecting same.

11. Binding Effect of Agreement. This agreement shall be binding upon the Owner and the City and upon any successive owners, their respective assignees, successors, including any mortgagees who acquire title by deed or foreclosure, legal representatives, heirs and beneficiaries, (as applicable) upon acquiring any interest in the property and shall run with the land. This agreement shall be recorded in the Public Records of Broward County, Florida.

12. Breach of Agreement. In the event that the Owner has materially breached the Development Agreement, prior to issuance of the Certificate of Occupancy, the Owner shall commence to cure the breach within 30 days of notice by the City. If the Owner is unable or unwilling to cure the breach and abide by the agreement, the City shall exercise its right to take appropriate legal action for the purpose of curing the breach and enforcing this agreement.

13. Hold Harmless. Owner agrees to and shall hold the City, its officers, agents, employees, and representatives harmless from liability for damage or claims for damage for personal injury including death and claims for property damage which may arise from the direct or indirect operations of the Owner or those of the property owners contractor, subcontractor,

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agent, employee, or other person acting on his behalf which relate to the project. Property owner agrees to and shall defend the City and its officers, agents, employees, and representatives from actions for damages caused or alleged to have been caused by reason of property owners activities in connection with the project.

14. Monitoring Official. The City Manager or his designee shall ensure that all requirements of this agreement are met.

15. Surety. Bonding shall be as provided as prescribed in the Code and applicable ordinances and regulations. This agreement shall not affect such requirements except to provide for joint and severable liability and to make clear that all requirements shall be binding on any mortgagees, successors or assigns. Irrevocable letters of credit in such form and issued by such institution as may be acceptable by the City shall serve as appropriate surety against failure to perform.

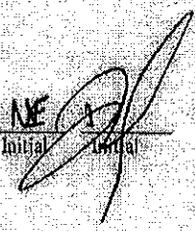
However, nothing herein shall prevent the City, in its discretion, from accepting bonds or letters of credit in lieu of any specific improvement, on site or off site, being completed within a specified time period.

16. Notices. Any notice, demand or other communication required or permitted under the terms of this agreement shall be in writing, made by overnight delivery services or certified mail, return receipt requested, and shall be deemed to be received by the addressee one (1) business day after sending by overnight delivery services, and three (3) business days after mailing, if sent by certified mail. Notices shall be addressed as provided below:

(1) If to the City:

City of Hallandale Beach
Attention: City Manager
400 South Federal Highway
Hallandale Beach, FL 33009
(954) 457-1300 - Phone
(954) 457-1342 - Fax

And
City of Hallandale Beach
Attention: City Attorney
400 South Federal Highway
Hallandale Beach, FL 33009
(954) 457-1325 - Phone
(954) 457-1660

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(2) If to the Manager:

Noel Epelboim, President
2500 Hallandale Beach, LLC
2500 E. Hallandale Beach Blvd., PH-1
Hallandale Beach, FL 33009
(954) 385-2550 - Phone
(954) 385-9929 - Fax

17. Effective Date of the Agreement. This agreement shall become effective upon the Hallandale Beach City Commission approval and execution by the Owner and City Manager of the City.

18. Recording. This agreement shall be recorded in the Public Records and shall run with the land.

19. Severability. In the event that any portion or section of this agreement is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portions or sections of this agreement, which shall remain in full force and effect.

IN WITNESS WHEREOF this agreement has been executed by the parties on the day and year first above written.

Approved as to form:



David Jove, City Attorney

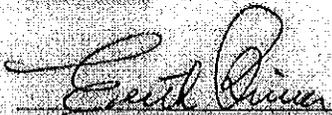
CITY OF HALLANDALE BEACH

By: 

Mike Good, City Manager

Attest:
E. Dent McGough, City Clerk

Witnesses:

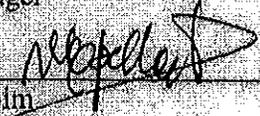


Print Name: ENITH RIVERA

2500 HALLANDALE BEACH, LLC

By: Millennium Development Enterprises, LLC,
its manager

Print Name: PINA YADONISI



Noel Epelboim

Print Name: 


Total
08.28.08

MILLENIUM LEGAL DESCRIPTION

LOTS 3, 4 AND 5 THE EAST 400 FEET OF LOT 6, BLOCK 1 OF "GOLDEN ISLES SECTION 'E'", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 46, PAGE 20 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

EXHIBIT "A"

EXHIBIT "B"

Exhibit B are the development plans dated November 27, 2006 for the Millennium project which are maintained in the Development Services Department

**MILLENNIUM
DEVELOPMENT AGREEMENT
EXHIBIT "C"**

All of the following conditions are intended to be requirements of the final design as submitted for and approved during construction document preparation and issuance of building permits. The conditions may include or supplement general requirements of the Zoning and Land Development Code, the Florida Building Code, the City Design Guidelines Manual, any other applicable Code and the approved Major Development Plan.

The developer shall comply with the list of conditions as specified herein:

Prior to the issuance of a building permit for the proposed Development, the Developer will make the following contributions and commitments to the City to mitigate the impacts of the proposed Development upon City services and facilities:

1. The Developer/owner shall pay to the City \$10,000 to cover the cost associated with re-flying and re-generation an aerial photography of the aerial photo of the property after construction. All payments listed in paragraphs 1 through 9 shall be paid at or before the issuance of a Building Permit.

2. The Developer/owner shall dedicate a continuous utility easement along the property lines as follows:

10 foot on North Side
0 on East Side
8 foot on South Side
12 foot on West Side

3. The Owner shall contract with the City of Hallandale Beach Sanitation Division for roll out service and sanitation collection, now and in perpetuity. This agreement shall be recorded as a covenant running with the land, and incorporated and recorded as part of the deed to said property. The agreement will define the owner's responsibility to provide placement of the dumpsters in an area deemed by the City to be safe for the purpose of emptying the containers. Such area will accommodate the forward motion of the sanitation vehicle as the horizontal and vertical clearance necessary for the safe operation of the vehicle.

4. The Developer shall be responsible for all respective costs for the physical improvements, relocation, upgrades and/or modifications of City owned utilities (including lift station) necessary to accommodate the flows created by the proposed Development as determined by the hydraulic analysis of the City's water and sewer infrastructure and the City engineer. Staff estimates costs of \$

250,000.00. In no event shall Developer be responsible for more than \$300,000.00 in costs under this section.

5. The Developer shall pay connection fees for water and sewer according to city ordinance.

6. The Developer shall pay \$182,108.00 as its charge for the sewer plant capacity at the Hollywood Treatment Plant pursuant to the terms of the City's Large User Agreement with the City of Hollywood, as it may be amended from time to time (the "Large Users Agreement");

7. The Developer shall submit drainage calculations and shall cause to be constructed all on-site Storm Water Systems Improvements necessary to maintain proper drainage and run-off. Design shall be in accordance with City Ordinance and shall retain a one year 5-hour storm event on site. In addition, the storm water system will meet all respective codes, including but not limited to Broward County EPD, SFWMD, and FDOT.

8. The Developer shall construct all utilities servicing the buildings underground, including any existing above ground utilities to be utilized within the scope of the project shall be buried.

9. The Developer agrees to donate \$150,000.00 to the City for historical renovations or relocation of the PBA Hall or for other historical facilities.

10. The Developer shall contribute \$100,000.00 for improvements to Diana Drive.

11. The Developer shall contribute \$10,000.00 to the City's Weed and Seed Crime Prevention Program.

12. The Developer shall contribute \$15,000 to PAL (Police Athletic League) Program.

13. The Developer shall contribute \$5,000.00 for the City's expenses incurred in the preparation of the Master Transportation Study; provided, however, that in the event that the City enacts a future exaction, pursuant to paragraph 10 of the Development Agreement, that this amount shall be credited toward that future exaction.

14. The Developer shall contribute \$20,000 for Three Island Park Improvements.

15. The Developer shall contribute \$150,000.00 for improvements to the Golden Isles Tennis Facility.

16. The Developer shall pay \$25,000.00 for purposes of athletic fields.

17. The Developer shall contribute \$20,000.00 for South Beach Park improvement.

18. The Developer shall contribute \$20,000.00 for Water Conservation Infrastructure Program.

19. The Developer shall contribute \$100,000 for the City's Parking Fund.

20. The Developer shall dedicate an easement of 6 foot by 20 foot for the placement of a bus shelter, the exact location of which will be determined by the City.

21. The Developer shall provide a solid barrier fencing during construction of the project, which may contain advertisement as approved by the City Manager.

22. Irrigation for the property shall be a of gray water (reclaimed water) system with the understanding that potable water will be used for the property until such time that reclaimed water is available.

23. Trees removed from the project site to enable construction shall be made available for City use at the discretion of the City.

24. The development shall be an environmentally sensitive project and in compliance with LEED (Leadership, Energy & Environmental Design) certification standards.

25. The Developer shall install continuous landscaping along the parking garages to supplement landscaping on the property. Such areas shall be planted with landscape materials as approved by the City Manager. The City Manager may permit non-contiguous landscaping if contiguous landscaping cannot be accommodated or is not otherwise advantageous.

Prior to the issuance of the Certificate of Occupancy, the Developer shall make the following additional contributions and commitments:

1. The Developer shall contribute \$10,000 donation to the City's mini-bus system; provided, however, that in the event that the City enacts a future exaction, pursuant to paragraph 10 of the Development Agreement, this amount shall be credited toward future exaction.

2. The Developer shall contribute \$10,000.00 for Pedestrian Crossover on US 1.

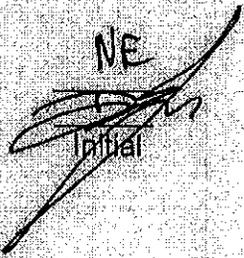
3. Developer shall pay \$250,000.00 as a contribution to the City's affordable housing program.

4. The Developer shall contribute \$10,000.00 to the City's Wastewater

Inflow/Infiltration Elimination Program.

5. The Developer shall contribute \$30,000.00 to the City's Sand By-Pass Project.

6. The City has requested and the Developer has agreed to work with the City to help Developer build two homes at the Developer's expense on behalf of the City on City-owned land being provided by the City at no cost to the Developer. Each of these homes will be a minimum of 1,700 square feet and designed such that the Developer's total construction cost does not exceed \$200,000.00 per home, including the cost associated to deliver the house to the City (legal fees and expense, among others). Construction of these two homes shall be completed within one year of the City's providing Developer with sufficient land, platted to permit construction of two homes pursuant to the applicable City zoning requirements, but never before twelve (12) months after the City issues a Building Permit to Developer. The Developer shall deliver the completed homes free and clear of all encumbrances and deliver each house by appropriate instrument to the City at no cost to the City. The City shall be responsible for the sale of these homes and disposition of any proceeds derive from such sales. In no event shall Developer be required to pay more than \$200,000.00 per home, and, at the City's option, the Developer may fulfill its obligation by paying to the City the sum of \$200,000.00 per home.

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