

AMENDED AND RESTATED DEVELOPMENT AGREEMENT

FOR

ROMAGNOLE INVESTMENT PROPERTIES, LLC (Oasis Development)

This amended and restated development agreement is effective as of May 2, 2018, between ROMAGNOLE INVESTMENT PROPERTIES, LLC (Developers of the Hallandale Beach Oasis project) (Hereinafter "Romagnole") and the CITY OF HALLANDALE BEACH, a municipal corporation organized and existing under the laws of the State of Florida (Hereinafter "City").

This amended and restated development agreement covers both 1100 East Hallandale Beach Boulevard and 1000 East Hallandale Beach Boulevard in Hallandale Beach, Florida, 33009 and therefore amends and replaces the development agreement dated May 16, 2016, as recorded in the Public Records of Broward County at Instrument Number 113832355.

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 32-174(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. Romagnole and the City entered into an agreement on May 16, 2016 (hereinafter the "2016 Development Agreement"), as recorded in the Public Records of Broward County at Instrument Number 113832355;

D. The 2016 Development Agreement was for the development of certain property located in the City of Hallandale Beach, more specifically 1100 East Hallandale Beach Boulevard and 1000 East Hallandale Beach Boulevard in Hallandale Beach, Florida, 33009;

E. Romagnole submitted an application to the City on or about October 5, 2017 for the major development review and approval of the existing site plan;

F. Romagnole has requested the City of Hallandale Beach to enter into an amended and restated development agreement (hereinafter the "Amended and Restated Development Agreement") and proceedings have been taken in accordance with the aforementioned City of Hallandale Beach rules and regulations as cited above;

G. The Hallandale Beach City Commission has found that this Amended and Restated 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 500 residential units, 34,691 square feet of office space, and 59,219 square feet of commercial space, as proposed, located in the City of Hallandale Beach in Broward County, Florida. Applicant seeks to build on the property located at 1000 and 1100 East Hallandale Beach Boulevard, Hallandale Beach, Florida. The lot area on this property is approximately 441,103 square feet (10.20 acres) (per Broward County Public Records, and not by survey), and is legally described in Exhibit A attached here to.

b. Owner shall mean Romagnole, and includes the property owner successors, assignees, tenants, agent, contractors, subcontractors and parties in interest. It is understood that Romagnole shall have the right to sell assign or otherwise alienate the property subject to Section 17D of this agreement regarding conveyance or refinancing, and that this agreement shall be binding upon its successors in title.

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 Hallandale Oasis.

b. The property is owned by Romagnole Investments Properties, 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 and any exhibits attached hereto, including Exhibit C – Conditions of Approval. 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, all in accordance with the Hallandale Beach Comprehensive Plan.

b. Permitted Development. The development shall consist of:

Two buildings of residential units, with 250 residential units in each building;

Five two story buildings aggregately containing approximately 34,691 square feet of office space and approximately 59,219 square feet of commercial space, including restaurant(s).

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 B shall be maintained in the City of Hallandale Beach Development Services Department.
- 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.
- f. **Completion of Project.** Owner agrees to diligently prosecute to completion the construction of the Project. If construction does not commence on the first residential building within the timeframes allowed by this agreement, specifically Sections 9 and 11 below, then the flex units allotted to the project shall be rescinded.

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 business days, notify the Developer that such conditions have either been found to be completed, or found to be not completed, with a list of deficiencies. In the event that the City fails to take action within 45 business days of notification, the completion shall be deemed approved.

5. Prior to the issuance of the building permit for the first principal building but no later than September 30, 2018, Developer will make a contribution of Two Hundred Eighty-Five Thousand Dollars (\$285,000) to help fund the implementation of a variety of programs listed in the recently adopted Community Needs Analysis, currently known as the "Community Benefit Plan" (the "CBP") administered by the City. In addition, prior to the issuance of the Temporary Certificate of Occupancy of the first principal building but no later than September 30, 2019, Developer will make an additional contribution of Two Hundred Eighty-Five Thousand Dollars (\$285,000) for the same Community Benefit Plan purpose. Developer will contribute in the aggregate a total of Five Hundred Seventy Thousand Dollars (\$570,000) as described above.

6. **Sidewalks.** Owner agrees to construct sidewalks in accordance with the attached. It is specifically agreed that the sidewalk on Southeast 2<sup>nd</sup> Street which is required by City Code 25-68 may be waived, in writing, by the City, if the City determines that it is unable to obtain the anticipated 50 foot Right of Way for the construction of Southeast 2<sup>nd</sup> Street prior to the Owner's completion of the improvements to SE 2 Avenue as required by the plans and this agreement.

7. **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 Amended and Restated Development Agreement, the applicable provision of this Amended and Restated Development Agreement shall prevail.

- d. There shall be strict adherence to this Amended and Restated 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, Article IV, Section 32- 174(j)(1)-(3).

8. Amendments. Any amendment to this agreement or to the development plans shall be requested in writing and agreed to by all parties. All amendments not requiring City Commission approval shall be subject to the final approval by the City Manager on behalf of the City.

9. Building Permits and Certificates of Occupancy. Zoning and Land Development Code, Article V, Section 32-790, current as to the effective date of this Agreement, shall apply to the approval of the major amendments and certain modifications to the approved major development for the Hallandale Oasis project contemplated simultaneously with this Amended and Restated Developer's Agreement. However, if a complete application for a building permit for the above-ground principal use as shown on the approved site plan has not been submitted by Friday, September 28, 2018, then the approval shall expire unless the City Manager grants a six-month extension to Friday, March 29, 2019 under his authority pursuant to Section 32-790(e). The extension shall not be unreasonably withheld. For purposes of this agreement, the submittal of a dry-run application which contains plans for all City-reviewed trades will satisfy the requirement for a complete application. 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 South Florida Building Code Broward County Edition, as amended from time to time. It is agreed that Owner shall have the right to build the two residential buildings and the office/retail buildings sequentially; provided, however, that no more than 18 months may elapse between the receipt of the Certificate of Occupancy on one building and the submission of a Building Permit on the next.

10. Fees. Romagnole 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.

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.

11. Flex Units. Both parties agree that the rights to the 250 flex units previously assigned to the project have been extended, and shall not expire so long as the other development approvals on this project remain in force. Both parties agree that an additional 250 flex units are hereby assigned to the project, which shall therefore have a total of 500 flex units. If the 18 month schedule within Section 9 above is not met, the flex units will no longer be allocated. This includes both the originally approved 250 Flex Units and the additional approved 250 Flex Units. Notwithstanding the foregoing, the parties agree that in the event Owner shall be delayed, hindered in, or prevented from the performance of the construction of a principal residential building or from doing acts required under the terms of this Agreement ("Force Majeure"), within the timeline provided in this Agreement, by reason of acts of

God (such as, but not limited to, fires, explosions, hurricanes, and floods within Broward County), riots, insurrection, discovery of cultural, archeological or paleontological resources or endangered species, war, terrorism, all of the above not being the fault of the owner, then performance of such act shall be excused for the allowable period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. This clause shall not be interpreted to allow the Owner to request extensions pursuant to State of Emergency Declarations by the Governor of Florida under F.S. Section 252.363 beyond what is allowed by Section 21 of this agreement.

12 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. Foreclosure shall not extend any deadlines set herein. This agreement may be recorded in the Public Records of Broward County, Florida.

13. Developer's Breach of Agreement and Remedies. The occurrence of any one or more of the following events shall be deemed a "Developer Event of Default" under this Agreement:

A. Any failure to fulfill any covenants and obligations under this Agreement that shall continue for a period of thirty (30) days following written notice from City; however, in the event that such failure cannot be reasonably cured within such thirty (30) day period, so long as the City in its sole discretion determines that such failure was beyond the reasonable control of Developer or did not result from a lack of good faith and Developer has promptly commenced the action(s) necessary to cure the failure and diligently and continuously prosecutes such action, the thirty (30) day cure period shall be extended for such period as may reasonably be necessary to cure such failure.

B. Upon a Developer Event of Default that continues beyond all applicable cure periods, in addition to all remedies available at law and/or equity, the City shall have the right to terminate this Agreement by providing written notice to Developer, in which event the parties shall be released from all further obligations under this Agreement. In the event Developer commences construction of a Major Building and the City determines that the Project has been abandoned pursuant to Section 32-761 of the City Code, Developer shall demolish, at its expense, any partially completed improvements and restore the site with sodding and fencing in accordance with all requirements of the City Code.

14. 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, 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 owner's activities in connection with the project.

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

16. Surety. Bonding shall be as provided 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.

17. 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  
CityManagerDL@cohb.org

With Counterpart to:  
City of Hallandale Beach  
Attention: City Attorney  
400 South Federal Highway  
Hallandale Beach, FL 33009  
(954) 457-1325 - phone  
CityAttorneyDL@cohb.org

(2) If to the Owner:  
Giuseppe Iadisernia, c/o Eduardo Jakubowicz  
Romagnole Investment Properties, LLC  
1150 E. Hallandale Beach Blvd., Ste 1150-B  
Hallandale Beach, Fl. 33009  
Phone (954) 295-1627  
Oasishallandale@gmail.com

With copies to:  
  
Moncarz Law Firm  
Attn: Claudia Moncarz  
2699 Stirling Road, Suite B-200  
Fort Lauderdale, Florida 33312  
Phone: (786) 541-2705

Smith Currie

Attn: Lisa Colon  
101 N.E. Third Avenue  
Suite 1910  
Fort Lauderdale, FL 33301  
Phone: 954.769.5329  
lcheron@smithcurrie.com

18. Assignment. Developer agrees that in the event Developer conveys an interest in the Property to others necessitating an assignment of this Agreement and the development rights it governs as to any portion of the Property, Developer will:

A. Notify the City of the name and address of such entity within 15 days of any such assignment, including a description of the development experience of such entity and/or its principals; and

B. Provide an acknowledgement by instrument executed by such assignee(s) evidencing its acceptance of the financial obligations in this Agreement that relate to the portion of the Project in which such assignee has an interest and a representation that such assignee has the financial ability to meet such obligations; such instrument shall be in recordable form.

C. Notwithstanding the foregoing, the Developer's obligation to pay a title transfer fee as set forth herein shall expire upon the issuance of a Building Permit for the Project. This does not waive the due on sale cash out or refinance clause described in Section E. below.

D. Conveyance of Total Interest. In the event the Developer conveys its entire interest in the Property -- not individual residential units nor individual non-residential spaces constituting less than 50% of such building -- to an unrelated entity or individual such that the current principals of ROMAGNOLE INVESTMENT PROPERTIES, LLC no longer have any interest in the Property or such development parcel ("Total Conveyance"), the Developer will pay the City a title transfer fee as follows:

\$825,000 (1/3 of 1% of the estimated value of the project - \$247.5 million) in the event of a Total Conveyance of the Property in its entirety.

Neither the sale of individual residential units nor the sale individual non-residential spaces constituting less than 50% of such building shall relieve the Developer from this requirement.

E. Share of Cash Out Upon Refinancing. Starting with the approval of the project by the City Commission and for a period of five (5) years following the issuance of the first Certificate of Occupancy for a principal commercial structure, in the event of a refinance of the Project which results in cash out to the OWNER, the OWNER shall pay the CITY a portion of the Cash Out Upon Refinancing regardless of whether there was a Construction Loan or if the Project was financed on an equity basis. The payment from Cash Out Upon Refinancing shall be paid to the CITY at the closing of the loan in an amount of \$250,000 (hereinafter referred to as the "Cash Out Payment") if it occurs before or within one year after the issuance of the first CO. The Cash Out Payment due shall be reduced by \$50,000 each year thereafter that refinancing does not occur until after the fifth year anniversary date of the first CO upon which no payment shall be due. For purposes of this Agreement, "Cash Out Upon Refinancing" shall consist of the cash being paid to the OWNER upon refinancing as evidenced on the loan closing statement which is not directly used in the Project. The foregoing shall be included in the

Declaration. This Section applies only to the OWNER and not to any successor to the OWNER that is a bona fide purchaser for value.

F. Assignment does not waive for the assignee any of the obligations of the OWNER required by this agreement.

19. **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.

20. **Recording.** This agreement or a memorandum shall be recorded in the Public Records and shall run with the land.

20. **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.

21. **Extension.** Developer agrees to restrict the project's ability to request extensions based on State of Emergency Declarations by the Governor of Florida under F.S. Section 252.363, unless the State of Emergency directly affects Broward County or South Florida. For purposes of this Agreement South Florida shall mean Broward, Monroe, Miami-Dade and Palm Beach counties.

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

Approved as to form:

By:

Jennifer Merino, City Attorney

Witnesses:

*Chandra Moncarz*  
*Chandra Moncarz*  
*Marisa Acosta*  
Marisa Acosta FERTIS  
Print Names:

CITY OF HALLANDALE BEACH

By:

Nydia M. Rafols Sallaberry  
Interim City Manager

ROMAGNOLE INVESTMENT PROPERTIES, LLC

By:

Giuseppe Indisernia, Manager

**Exhibit A**

**Legal Description 1000: The West 365 feet of Lot 2, less the North 75 feet thereof for road right-of-way, and less the South 25 feet for road right-of-way, Block 8, Section 27, Township 51 South, Range 42 East, Town Hallandale, according to the plat thereof, recorded in Plat Book B, Page 13, of the Public Records of Miami-Dade County, Florida. Said lands now lying, being and situate in Broward County, Florida.**

**Legal Description 1100: Tract "A" REGENCY PARK according to the plat thereof, as recorded in Plat Book 111 at Page 29 of the Public Records of Broward County, Florida.**

**Exhibit B**

Exhibit B is the development plans dated February 12, 2008 for the Oasis project and presented to the City Commission on May 2, 2018. Such plans are maintained in the Development Services Department.

**Exhibit "C" — Conditions of Approval**

**ROMAGNOLE INVESTMENT PROPERTIES, LLC**

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 or certificates of occupancy. 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:

**Section I**

***Prior to the issuance of a building permit*** for either the ***commercial or residential*** portions of the proposed development, the Developer shall make the following commitments to the City to mitigate the impacts of the proposed Development upon City Services and facilities.

1. The Developer shall dedicate an additional 5 feet along the South side of the property, along the Eastern portion of the property as a right of way for Southeast 2<sup>nd</sup> Street. Developer or it's predecessor's in title to the property will then have dedicated a total of 25' of right of way for the construction of Southeast 2<sup>nd</sup> Street along the entire approximately 800' of frontage Developer owns along the proposed SE 2<sup>nd</sup> St.
2. The Developer/owner shall dedicate continuous utility easements along the property line as follows:
  - 15 feet on North Side
  - 10 feet on East Side (starting at 15' from the property line)
  - 10 feet on South Side
  - 10 feet on West Side (starting at 15' from the property line)
3. The Owner shall contract with the City of Hallandale Beach Sanitation Division for roll out service and sanitation collection 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 pay connection fees for water and sewer in accordance with City Ordinance, including any necessary water and sewer upgrades. This cost shall include but not be limited to the impact on Lift Station and linear feet of force main impacted. Nothing in this agreement shall prevent this amount from being financed through the creation of a Community Development District, and/or the issuance of bonds, if so agreed between City and Owner. City agrees that it shall provide water and sewer to Owner in a timely fashion.
5. Modeling results indicate that flow from Hallandale Oasis combined with additional flows from other proposed developments, will adversely impact Lift Station No. 6 and the associated force

main. As a result of the modeling of these future needs as performed by the City and its Consultants, the cost for required improvements of 637 gallons per minute of sewer capacity infrastructure in the east sewage district is estimated at \$5,806,000. Based on the flow for Oasis of 80.77 gallons per minute – which is 12.68% of the capacity that the City is constructing -- the OWNER's proportionate share cost is \$736,150. OWNER shall pay this total of \$736,150 in increments prior to issuance of each building's permit, the schedule for which is set within this agreement. The payments will be made proportionately with the building being permitted based upon square feet or units as applicable.

6. The Developer shall pay the City's water and sewer impact fees in accordance with City Code. The water and sewer impact fees are estimated for \$1,408,126 (\$614,197 for water and \$793,929 for sewer). These costs are in addition to the payments listed above in #4 and #5.
7. The Developer/owner shall submit drainage calculations and shall cause to be constructed all on-site/off-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 five year 1-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/owner shall construct all utilities servicing the buildings underground, including any existing above ground utilities to be utilized within the scope of the project and undergrounding the existing overhead utilities along Hallandale Beach Boulevard from Gulfstream Way to the eastern boundary of the project. This undergrounding along Hallandale Beach Blvd. shall be completed prior to the issuance of a TCO for the first building.
9. The Developer shall include purple piping for irrigation purposes. Irrigation for the property shall be a 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.
10. The development shall be an environmentally sensitive project and shall be required to obtain a Green Building certification from LEED or another recognized environmental rating agency accepted by the City's Development Services Department.
11. All project perimeters shall be screened from view during construction by a temporary solid wood wall eight feet in height (instead of a chain link construction fence). This buffer shall be designed to visually screen the project site from horse stables on the property belonging to the Village of Gulfstream Park and to reduce noise that would otherwise affect them.
12. Developer shall implement a system of dust suppression and vehicle tire cleaning to ensure that construction debris and dirt is not tracked from the project site during construction.
13. The Developer shall phase and construct the project pursuant to the following sequence: office space/commercial buildings first, followed by residential buildings in two phases.

14. Prior to the issuance of a building permit for any Major Building, the Developer shall contribute to the City the cost of two additional bus shelters in the amount of \$50,000.00 (\$25,000.00 for each bus shelter) to be erected in the vicinity if the project.
  
15. The Developer and the City jointly recognize the traffic needs of the City, and mutually desire to deal with such traffic needs. Therefore, Developer and City agree as follows:
  - A. Should the City require the construction of a "complete street" known as Hibiscus Street or Southeast 2<sup>nd</sup> Street, the Developer will dedicate a continuous 25 foot right of way along the southern portion of its property, totaling approximately 800 feet in length. This right of way is dedicated as Developer's ½ of the required 50 feet for the "complete street". The City may provide the additional 25 foot provided the City can obtain the necessary dedications.
  
  - B. The complete cost of construction (exclusive of any cost of land acquisition) for the construction of Hibiscus from U.S. 1 to 14<sup>th</sup> Avenue is estimated by the City at \$1,937,000. Developer had previously agreed to pay its pro-rata share of this cost along with another developer, such that the two developers would have paid the entire cost of the construction of Hibiscus. Because of uncertainty surrounding the City's ability to secure the roadway dedications necessary for the construction of Hibiscus Street, Developer voluntarily agrees to pay to City \$1 million dollars (\$1,000,000) to be used by City for transportation purposes, which may include the construction of Hibiscus Street or another transportation project at the discretion of the City. The Developer will make a payment of the \$1 million dollars (\$1,000,000) (hereinafter referred to as the "Hibiscus Road Payment") as follows:
    - a. Five Hundred Thousand Dollars (\$500,000) before the issuance of the Temporary Certificate of Occupancy for the first residential tower, and
    - b. Five Hundred Thousand Dollars (\$500,000) before the issuance of the Temporary Certificate of Occupancy for the second residential tower.
    - c. Notwithstanding the foregoing, Developer shall make the Hibiscus Road Payment no later than on the third-year anniversary of the issuance of the Temporary Certificate of Completion of the first principal building (hereinafter referred to as the "Final Payment Date"). For purposes of clarification, if on the Final Payment Date, Developer only paid Five Hundred Thousand Dollars (\$500,000) toward the Hibiscus Road Payment, then Developer shall pay the remaining Five Hundred Thousand Dollars of the Hibiscus Road Payment on the Final Payment Date.
  
  - C. Developer is required to construct a portion of the roadway that will make up Hibiscus that is within the 25' right of way that it is dedicating for purposes of traffic circulation within the project. Developer shall coordinate with City, and shall, prior to issuance of the TCO for the first residential building, construct this right of way pursuant to

specifications set forth by City, the cost of which is yet to be fully determined. Should the City successfully acquire additional property in order to complete the proposed roadway (connecting Federal Highway and S.E. 14 Avenue), prior to the Developer constructing their required roadway, it is understood that the Developer's maximum "Hibiscus Road Payment" is \$1,000,000 as defined above in Section 15B.

- D. City acknowledges that the development set forth in this agreement will result in a reduction of traffic impact in the P.M. Peak Hours, (which is the method used by Broward County in determining traffic impact), when compared to Developer's current entitlements on the Eastern portion of its property, and the actual impact on the Western portion of its property.
- E. Prior to the issuance of a building permit for each Major Building and prior to the issuance of the first certificate of occupancy for each major building thereafter, the Developer will contribute \$100,000 to the City to be used to fund improvements (new vehicles, expanded or new routes, new bus stops, etc.) to the Citywide Circulator/municipal bus service, for a total contribution of \$300,000 to the City for these purposes.
- F. In consideration of the fact that Developer is paying to City for traffic mitigation a sum far in excess of the City traffic impact fees (which would amount to an estimated \$378,508) no additional traffic impact fees shall be paid to City.

G. **Public Safety Commitments**

1. **Capital Improvements to Police and Fire Department:** In recognition of the increased demand on public safety services anticipated from the Project, prior to the issuance of the first building permit for each Major Building, the Developer will contribute an amount based upon the final development program within each such Major Building at the following rates: \$ 217 per residential unit for police services and \$204 per residential unit for fire services; and, \$.31 per square feet of new commercial development for police services and \$.40 per square feet of new commercial development for fire services (the "Impact Fee Rates".) The funds paid by Developer pursuant to the Impact Fee Rates shall be used by the City to provide necessary capital improvements in public safety departments, including, but not be limited to, expansion of fire station(s) and construction of a police training facility. Based upon the current maximum build out scenario for the Project as set forth on the Site Plan (500 residential units x \$421 per unit = \$210,500 and 93,910 square feet of commercial development x \$.71= \$66,676), Developers maximum public safety contribution will be \$277,176 (the "Maximum Public Safety Contribution").

2. **Effect of City Adoption of Future Public Safety Impact Fee:** It is understood that City has not adopted an impact fee for police and fire service. In the event the City adopts an impact fee for police and/or fire services at any time prior to issuance of the last building permit for a Major Building and such impact fees for the Project when calculated pursuant to such adopted impact fee ordinance are less than the Maximum Public Safety Contribution, any development within the Project for which a building permit is sought after adoption of such impact fee shall be

subject to the new impact fee schedule and Developer will be credited for any over payment already made for buildings which were permitted prior to the adoption of the impact fee ordinance.

**J. Payment of Affordable Housing Mitigation Fees:** In accordance with City policy, prior to the issuance of a building permit for a major structure, contribute an amount of \$8,833 per required affordable residential unit to the City's affordable housing trust fund. This per unit cost represents the City's most recently calculated average assistance provided per affordable unit required, which is 15% of the market rate units being constructed. ( $500 * 15\% * \$8833.33 = \$662,500$ ).

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END OF EXHIBIT "C"