

**FINAL**  
**DEVELOPMENT AGREEMENT**  
**BETWEEN THE CITY OF HALLANDALE BEACH**  
**AND**  
**OPTIMA INTERNATIONAL NORTH, LLC**  
**FOR**  
**OPTIMA PLAZA NORTH**

 **THIS DEVELOPMENT AGREEMENT ("Agreement")** is made and entered this day of July, 2016, by and between OPTIMA INTERNATIONAL NORTH, LLC, a Florida limited liability company, whose mailing address is: c/o Rosenthal Rosenthal Rasco Kaplan, LLP, 20900 N.E. 30<sup>th</sup> Avenue, Suite 600, Aventura, FL 33180 ("**Owner**"), and the **CITY OF HALLANDALE BEACH**, a municipal corporation of the State of Florida, whose mailing address is 400 South Federal Highway, Hallandale Beach, FL 33009 ("**City**").

WITNESSETH:

**WHEREAS**, Owner is the owner of certain property located in the City of Hallandale Beach, more particularly described in Exhibit "A" attached hereto and hereinafter referred to as (the "**Property**"); and

**WHEREAS**, on April 23, 2015 pursuant to Section 15 of the City of Hallandale Beach Ordinance Number 2014-30, the City made a Vested Rights Determination that the Property could be developed under the prior zoning designation of Planned Development Overlays and obtain Major Development Approval for a development which adheres to those previous regulations; and

**WHEREAS**, Owner proposes to construct a Platinum LEED Certified Class "A" office building with associated amenities, including but not limited to restaurants and a bank; and

**WHEREAS**, Owner submitted Applications to the City for: (i) major development approval for the Proposed Development (the "**Site Plan**"); and (ii) waiver of specific provisions of the City of Hallandale Beach Zoning and Land Development Code (hereinafter collectively referred to as the "**Approvals**"); and

**WHEREAS**, Section 32-174(d)(4) of the City of Hallandale Beach Zoning and Land Development Code authorizes the City to enter into binding development agreements for the development of real property with persons having a legal or equitable interest in such property; and

**WHEREAS**, Owner has requested the City to enter into a Development Agreement to provide for the terms and conditions upon which the Property can be developed in accordance

with the Site Plan and to provide for funding of certain public improvements as delineated herein; and

WHEREAS, the City of Hallandale Beach City Commission and Owner are desirous of entering into a Development Agreement which is consistent with the Comprehensive Plan, the Land Development Regulations, and all other applicable requirements, as specifically provided in this Development Agreement;

NOW, THEREFORE, in consideration of the sum of Ten (\$10.00) Dollars and other good and valuable consideration, the receipt of which his hereby acknowledged, the parties hereto, intending to be legally bound, do hereby agree as follows:

1. **Recitations.** The recitations set forth above are true and correct and are incorporated herein by this reference.
2. **Definitions.** For the purpose of this Agreement, unless the context otherwise requires:
  - A. **"Owner"** shall mean Optima International North, LLC.
  - B. **"Project"** or **"Proposed Development"** shall mean the Major Development Plan (the "Site Plan"), as more specifically described in Exhibit "B", approved by the City of Hallandale Beach for construction of a Platinum LEED Certified Class "A" office building with associated amenities and a bank.
3. **Description of Real Property.** The legal description of the Property which is the subject of this Development Agreement is set forth on Exhibit "A".
4. **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 Development Agreement, except for those exceptions and variations as set forth in this Development Agreement or any exhibit attached hereto. All additional Code amendments adopted after the effective date of this Development Agreement and not conflicting with the approvals memorialized herein, including without limitation the exceptions and variations enumerated in this Development Agreement, shall be applicable to the Project.
5. **Permitted Uses and Development.** The Property may be developed with those uses permitted in the RAC Corridor Sub zoning district as approved by City Commission.
6. **Parking, Dimensional and Landscape Requirements.** The development of the Property with the Permitted Uses shall be in accordance with the applicable parking requirements, setbacks, heights, landscaping and other site development standards set forth in the Site Plan and as set forth in a complete set on file and maintained by the

City's Development Services Department except as modified by approval of the City Commission.

7. **Modification of City Regulations.** In consideration of compliance with the Special Conditions in Section 9, the Project may be constructed in accordance with the following modifications of the applicable Code provisions:

WAIVERS OR DEFICIENCIES	REQUIRED/ALLOWED	PROPOSED
1. Front yard setback	15 feet max.	20 feet
2. Rear yard setback	25 feet min.	15 feet
3. Corner side yard setback	15 feet min.	10 feet 10 inches
4. Loading Zone w/o maneuvering area on site	Not allowed	2 spaces
5. Parking required	1,217 spaces	851 spaces
6. Tandem Parking spaces	Not allowed	40 rows 3 spaces deep
7. Dead-end parking corridor	Not allowed	Dead-end parking corridor in Levels 5-8

8. **Special Conditions.** Owner, its successors and assigns, shall comply with the conditions of major development approval which are set forth in this Agreement. It is further understood and agreed that failure to fulfill any provision of this Agreement, the Site Plan, or the conditions of approval, may result in non-issuance of certificates of occupancy, certificate of completion, or other regulatory approvals with respect to the Proposed Development, until such time as all conditions of the specific building permit or 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. Owner acknowledges that the following are special conditions which must be adhered to throughout the development of the Project:

A. **General Development Conditions:**

- 1) All roof-mounted mechanical equipment shall be screened from street view. The roof equipment shall be engineered and screened to reduce noise.
- 2) The Approvals shall be subject to the extension and expiration provisions of the Code of Ordinances of Hallandale Beach, to-wit: seven (7) years from Major Development approval.
- 3) Prior to the issuance of the building permit, Owner shall submit a construction staging and management plan ("Construction Plan") for review and approval by the City Manager or his/her designee. The Construction Plan shall include measures to minimize dust and dirt emanating from the construction of the development, and establish a construction and community liaison to assure that

communication between the general contractor for all development of the Project and the surrounding residents is direct and efficient. The Construction Plan shall provide detail regarding the availability of the community liaison and parameters for his or her response items.

- 4) Prior to the issuance of the building permit for the Project, Owner, in cooperation with the Hallandale Opportunity Program ("HOP") administered by the City Human Services Director, will formulate and implement a "**Community Benefit Plan**" (the "CBP") for the Project. Prior to the issuance of a building permit for the Project, Owner shall submit their CBP plan to the HOP Administrator and receive approval as outlined below. Upon review by the HOP Administrator, the CBP plan shall be submitted to the City Manager for review and approval. The CBP plan shall establish and delineate the parameters of the program as described below and how the program goals will be achieved. The CBP will serve as evidence that the program has been formulated and will be implemented subject to refinements as construction proceeds. The requirements of this program will be implemented in the construction of the Development.

**a. Local Workforce Utilization:**

- (i) **Construction Workforce:** The goal of having a minimum of ten (10%) percent of the anticipated construction workforce of the workers hired for construction jobs at the Project, including general laborers and specialized trades, to be residents of Hallandale Beach, also known as Local Workforce. Local Workforce in this capacity shall be defined as any worker that is directly working on the project, during design and/or construction, who resides within the City as a renter or homesteaded property owner. Those classified as local workforces shall be provided with not only work directly on the project, but also provided the opportunity to generate a tangible sustainable impact after the project is complete. This may include, but not be limited to, participation in an apprentice program, mentorship program, training, long term employment beyond the term of the project, etc.
- (ii) **Permanent Workforce:** Owner anticipates utilizing a management company to accomplish certain tasks at the completed project just as it does at Optima Plaza South. In that regard Owner will have several employees on its payroll, and the management company will provide the remainder based on the additional square footage in the Project. Owner anticipates that a total of approximately twenty (20) permanent employees will be required to meet the employment needs of both the Optima Plaza South and the Project at buildout. The Owner will implement or cause to be implemented the goal that ten (10%) percent of the anticipated permanent employees of the employees hired during the "Initial Hiring Period" (as such terms are defined below) for the Project will be residents of Hallandale Beach. "Initial Hiring Period"

means the period from pre-opening of the Project until the end of the first six (6) months of operation of the Project.

**b. Local Vender Utilization:**

- (i) Owner shall use commercially reasonable efforts to contract with companies that are owned by City residents or located within the City for goods and services, where such companies are otherwise qualified and competitive, in order to promote job growth in the City. A goal of the CBP will also be that Owner's general contractor (or construction manager) will work with the City to identify qualified City of Hallandale Beach contractors or businesses that are licensed, meet the terms and conditions required by any contractor, subcontractor, materialman or laborer and can be bonded and provide pricing that is competitive to bids received, so that ten (10%) percent of the direct hard construction costs are provided by City of Hallandale Beach contractors and/or businesses.

**c. Hallandale Opportunity Project (HOP) Collaboration:**

- (i) **Local Workforce:** Owner shall work with the HOP to identify the Construction and Permanent Local Workforce for the Project as follows:
- (a) **Construction Local Workforce:** Owner will include in its bid package for the Project a provision which advises potential bidders that the CBP will need to be implemented as part of this construction and the details for such CBP. The Owner will assure that its general contractor provides the HOP Administrator with a list of the types of jobs anticipated and the necessary qualifications sufficiently in advance of any hiring so that HOP can identify those residents meeting the identified qualifications. In the event HOP is unable to identify a sufficient pool of qualified resident candidates within one (1) month of the date of issuance of the building permit for the Project to meet the goal of ten (10%) percent of construction jobs being held by Hallandale Beach residents, Owner will have the option of contributing \$5,000.00 less \$500.00 for each resident hired for a construction job for the Project to the City to either fund training programs for Hallandale Beach residents seeking employment in the construction industry or to fund an apprenticeship program at the Project to pay for Hallandale Beach residents selected by Owner to work on construction of the Project or similar program to be mutually agreed upon by City and Owner.
- b. **Local Vendors:** HOP shall provide Owner with a list of all relevant Business Tax Receipts within the City, as well as a list of known local vendors utilized on previous projects within the City.

- c. **Reporting:** Owner shall report on a quarterly basis to the City, through the HOP Administrator, on the number of Construction and Initial Permanent Workers hired and how many of said workers are Hallandale Beach Residents. The first reporting quarter shall begin after the issuance of the building permit for the Project and conclude three (3) months after the issuance of the certificate of occupancy for the Project.
- 5) Subject to obtaining site plan approval pursuant to Sections 32-782 and 32-783 of the City Code and obtaining a building permit, a temporary sales center may be constructed either as a new free-standing structure or through renovation of all or a portion of the existing structure and such sales center may continue to operate for so long as active leasing for the Project continues. However, any portions of the sales center within a temporary structure will be demolished if the Major Development Approval for the Project expires.
- 6) All required trees shall be as delineated on the approved Landscaping Plan. Relocation of existing trees shall be conducted as specified in the Plans and shall comply with the City's Tree Preservation requirements.
- 7) Notwithstanding Owner seeking a parking variance for 366 cars Owner believes that the following represents the predicate for the waiver of any contribution by the Owner in connection with the variance request. Owner has provided a Cross Parking Agreement with Owner's existing LEED Platinum Building ("Optima South"), which building contains 455 parking spaces which will be used in conjunction with the North Building's 851 spaces, providing a total of 1,306 spaces. The Owner has agreed to provide valet parking for both Optima South and the Project, which in accordance with the valet parking plan submitted will increase available parking substantially depending upon the number of floors in the parking garage utilized for valet parking. Finally and more importantly the Parking and Traffic Study submitted to the City's traffic engineers, Keith and Schnars, by the Owner was reviewed by them and in their findings dated March 8, 2016 Keith and Schnars found that the alternate parking study presented by the Owner on February 24, 2016 reflecting a total parking supply of 851 spaces was consistent with current engineering practices and other parking studies approved by the City. (See Keith and Schnars Memorandum to the City dated March 8, 2016 attached and made a part hereof marked Exhibit "C".) Based on the foregoing alternative parking methods, which are not recognized as mitigation for the number of spaces required, Owner believes that no contribution is warranted.
- 8) Prior to the issuance of a building permit or TCO or CO, as the case may be, and as hereinafter provided for the Project, the Owner shall address the following in the Project Plans or by entering into one or more agreements acceptable to the City:
- a. Prior to the issuance of a building permit provide drainage calculations which comply with Broward County regulations and City criteria to retain five (5)

years, One (1) hour storm on-site. Owner shall thereafter, during Project construction, construct all on-site storm water improvements necessary to retain property drainage and run-off.

- b. Prior to the issuance of a building permit contract with the City of Hallandale Beach for roll out service and sanitation collection to be provided by the City so long as it is available. If a condominium form of ownership is contemplated, provisions acceptable to the City Attorney shall be included in the condominium documents addressing this requirement.
- c. The City has conducted "Project Modeling" for the Project which Modeling has determined that the Project, combined with additional flows from other proposed developments would adversely impact Lift Stations 7 and 8, and their respective force mains. As a result of the Project Modeling performed by the City and its consultants the required infrastructure and Lift Stations upgrades are preliminarily estimated at \$7,948,256.00. Based on the flow percentage, the Optima Project's share of the total upgrades required has been determined to be \$1,920,153.34 based upon the usage estimated by the City Engineers utilizing current Code provisions as more particularly set forth in the City Engineer's report, or approximately forty seven thousand (47,000) gallons per day.

The Code provisions correctly applied to this Project by the City Engineer in determining the water and sewer impact fee calculations, as well as the amount the Owner is to pay toward the infrastructure and Lift Stations upgrades does not however take into consideration the current water conservation requirements of the current Building Code, such as one gallon per flush toilets in lieu of three gallons, water saver faucets, together with a multitude of other innovations since the Code was adopted.

Additionally, the City's current Code does not account for consideration of LEED Platinum Certification; which when implemented, reduces the amount of water and sewer required and lessens the impact on the environment and the City's infrastructure, including its Lift Stations and underground force mains. The Owner, in order to accomplish LEED Platinum Certification, is required to expend an additional thirty (30%) per cent in its cost of construction, or the sum of Fifteen Million (\$15,000,000.00) Dollars for the Project. The same LEED Platinum Certification exists at Optima South, which is adjacent to this Project and is to be integrated with this Project. Optima South is one hundred fourteen thousand (114,000) square feet of office space with current water and sewer bills, at approximately one hundred (100%) per cent occupancy reflecting usage between five (5) to six (6) thousand gallons per day. The Optima Project is approximately 2.7 times the size of Optima South, however, assuming it to utilize three (3) times the amount used by Optima South would reflect a usage of eighteen thousand (18,000) gallons per day as opposed to forty seven thousand (47,000) gallons

per day contemplated by the existing Code Sections utilized by the City Engineer. Predicated on the reality of Optima South's current use as opposed to the theoretical use determined by the Code, Owner proposes a contribution of thirty five (35%) per cent of the amount proposed by the City for water and sewer impact fees and the upgrades for the infrastructure and Lift Stations 7 and 8. In addition, Owner proposes an annual review by the City of Owner's water and sewer consumption for a period of three (3) years beginning one (1) year from the date of issuance of a TCO or CO for the Project. In the event the Project's water and sewer bills reflect an average usage exceeding the amount utilized to determine the fees paid the City, Owner will within thirty days of such determination pay the City the additional difference. Failure to pay the amount due the City may, at City's option, result in the cancellation of the Project's TCO or CO as the case may be. In the event the amount determined is less than the amount paid to the City no reimbursement will be due the Owner. The City agrees it will accomplish the necessary upgrades of Lift Stations 7 and 8 and the infrastructure (force mains) in order to accommodate Owner's needs for water and sewer prior to Owner's entitlement to the issuance of a TCO or CO for the Project. Based upon the foregoing the Owner agrees to pay to the City Six Hundred Seventy Two Thousand Fifty Three and 67/100 (\$672,053.67) Dollars, representing thirty five (35%) per cent of the preliminary estimated costs referred to above, prior to the issuance of a Building Permit.

- d. Prior to the issuance of a building permit pay the applicable water and sewer fees as required by the City Code; provided, however, the Owner shall be provided impact fee credits for any water and sewer facilities, including lines, installed by Owner for the Project, which improvements are already part of the capital improvement plan funded by such water and sewer impact fees. Applicable water and sewer fees shall be based upon Owner's usage calculations set forth in Paragraph 8) c. on Page 7.
- e. Prior to the issuance of a building permit provide two (2) charging stations in the parking garage to accommodate electric vehicles.
- f. The Project shall be designed and constructed to comply with Section 32-787 of the Code of Ordinances and obtain a Green Building certification from a recognized environmental agency. Prior to the issuance of the building permit for a Major Building, Owner shall provide evidence of the Project's registration or application seeking Platinum LEED certification, including an initial assessment of the planned achievements which are anticipated to result in such certification.
- g. Prior to the issuance of TCO or CO payment of Public Safety mitigation fees in accordance with City policy. 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 a major structure, the Owner will contribute an amount based upon the development program at the following rates: \$.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 Owner 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, and construction of an emergency services training facility. Based upon the current maximum build out scenario for the Project as set forth on the Site Plan (303,735 square feet of commercial development x \$.71), Owner's maximum public safety contribution will be \$215,651.00 (the "Maximum Public Safety Contribution"). 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 permit for any major building within the project 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 Owner will be credited for any over payment already made for buildings which were permitted prior to the adoption of the impact fee ordinance.

**B. Transportation and Mobility Commitments.**

1. Prior to the Owner's entitlement to a Temporary Certificate of Occupancy or a Certificate of Occupancy for the Project, and upon reasonable written notice from Owner to the City, the City within a reasonable time thereafter, will make improvements to S. E. Third Avenue and to S. E. Tenth Street: S.E. Third Avenue from the Southwest corner of the Property North to Southeast Ninth Street will be milled and overlaid with new asphalt, including new striping and reflective pavement markers. The same improvements will be made on Southeast Tenth Street from Third Avenue East to its end.
  2. Owner shall pay the applicable Municipal Transportation Mitigation Fee of \$386,928.00 prior to the issuance of a Temporary Certificate of Occupancy or Certificate of Occupancy being issued by the City for the Project. .
9. **Controlling Documents.** The Site Plan, described in Exhibit "B", is hereby incorporated herein by reference and made a part of this Agreement. There shall be strict adherence to this Agreement and the Site Plan, subject to minor modification by the City manager in his or her discretion, as same may be amended from time-to-time in accordance with the procedures set forth in the City's Zoning and Land Development Code or this Agreement. In the event that the Site Plan or any portion thereof is found to be in conflict with this Agreement, this Agreement shall control.
10. **Building Permits, Temporary Certificates of Occupancy and Certificates of Occupancy.** Subject to Owner's compliance with all applicable codes, ordinances,

regulations, the Site Plan and this Agreement, the City agrees to issue to Owner, upon application and approval, all required building permits, approvals or other required permits TCO or CO for the construction, use and occupancy of the Proposed Development.

11. **Fees.** 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, including but not limited to the following:
  - A. Payment of City's water impact fee and sewer impact fee in accordance with City Code (prior to Building Permit) and this Agreement.
  - B. Payment of water connection fees pursuant to City Code. The fee is not creditable toward other water/sewer impact fees.
12. **Amendments.** An amendment to this Agreement shall not be approved unless all parties subject to this Agreement agree to the amendment and such amendment is incorporated into the Agreement. All amendments not requiring City Commission approval shall be subject to the final approval by the City Manager on behalf of the City.
13. **Owner's Representations and Warranties.** Owner makes the following representations and warranties to the City, each of which shall survive the execution and delivery of this Agreement:
  - A. Owner is a limited liability company duly organized and validly existing under the laws of the State of Florida, and has full power and capacity to own the property, to carry on its business as presently conducted by Owner, and to enter into the transaction contemplated by this Agreement, together with the current owners who shall convey title to the Property prior to the commencement of construction.
  - B. Owner's execution, delivery and performance of this Agreement have been duly authorized by all necessary individual, partnership, corporate and legal actions and do not and shall not conflict with or constitute a default under any indenture, agreement or instrument to which Owner or Owner's property may be bound or affected.
  - C. Except as otherwise previously or concurrently disclosed to the City in writing, there are no actions, suits or proceedings now pending or (to the best of Owner's knowledge) now threatened against or affecting Owner or its property before any court of law or equity or any administrative board or tribunal or before or by any governmental authority which would prohibit, restrict or otherwise interfere with Owner's ability to enter this Agreement or carry out the provisions of this Agreement.

- D. This Agreement constitutes the valid and binding obligation of Owner, enforceable against Owner, and its successors and assigns, in accordance with their respective terms, subject to bankruptcy, insolvency and other similar laws affecting the rights of creditors generally.
- E. Owner represents that in the event Owner shall institute parking charges for its Project resulting in the utilization of on-street parking in the surrounding neighborhood by visitors, patrons or employees of the Project Owner shall take appropriate action to relieve on-street parking by passing such parking charges on to the tenants in the building utilizing a stamp or voucher system whereby visitors to the building shall not be required to pay for their parking privileges.

14. **City's Representations and Warranties.** The City makes the following representations and warranties to Owner, each of which shall survive the execution and delivery of this Agreement:

- A. The City is a municipal corporation duly organized and validly existing under the laws of the State of Florida; and has full power and capacity to own its properties, to carry on its business as presently conducted by the City, and to enter into the transactions contemplated by this Agreement.
- B. The City's execution, delivery and performance of this Agreement have been duly authorized by all necessary legal actions and do not and shall not conflict with or constitute a default under any indenture, agreement or instrument to which the City is a party or by which the City or the City's property may be bound or affected.
- C. This Agreement constitutes the valid and binding obligation of the City, enforceable against the City, and its successors and assigns, in accordance with their respective terms, subject to bankruptcy, insolvency and other similar laws affecting the rights of creditors generally.

15. **Binding Effect.** This Agreement shall be recorded in the Public Records of Broward County, Florida, and the provisions of this Agreement shall be binding upon the parties hereto and their respective successors and assigns as a covenant running with and binding upon the Property. Upon completion of the Owner's obligations under this Agreement the City shall prepare and record a Release of the Owner from the obligations provided for in this Agreement, and the Property from the terms of this Agreement.

16. **Owner's Breach of Agreement and Remedies.** The occurrence of any one or more of the following events shall be deemed a "Owner 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 determines that such failure was beyond the reasonable control of Owner or did not result from a lack of good faith and Owner 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 an Owner 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 Owner, in which event the parties shall be released from all further obligations under this Agreement. In the event Owner commences construction of the Project and the City determines that the Project has been abandoned pursuant to Section 32-761 of the City Code, Owner 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.

17. **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 to personal injury including death and claims for property damage which may arise from the direct or indirect negligent operations of Owner or those of Owner's contractor, subcontractor, agent, employees, or other person acting on its behalf which relate to the Proposed Development. Owner agrees to and shall defend the City and its offices, agents, employees, and representatives from any and all claims, actions, proceedings, damages, losses, liabilities, costs and expenses (including, without limitation, reasonable attorneys' fees and costs of suit incurred in connection with such claims at all trial and appellate levels), caused or alleged to have been caused by reason of Owner's negligent activities in connection with the Proposed Development.

Owner agrees that it shall not allow any encumbrances and/or construction liens to be placed on or against any City property on which Owner is constructing any improvements pursuant to this Agreement. In the event that any encumbrances and/or construction liens are placed on or against City property, Owner agrees to take all necessary action to have said encumbrances and/or construction liens immediately removed. Failure of Owner to have said encumbrances and/or construction liens removed shall constitute a breach of this Agreement.

18. **Monitoring Official.** The City of Hallandale Beach City Manager or his or her designee is appointed as the City's monitoring official of this Agreement. The City's representatives shall monitor the activities specified in such a manner to ensure that all requirements of this Agreement are met.

19. **Force Majeure.** In the event that Owner is delayed or hindered in or prevented from the performance required hereunder by reason of strikes, lockouts, labor troubles, failure of power, riots, insurrection, war, acts of God, or other reason of like nature not the fault of the party delayed in performing work or doing acts (hereinafter, "Permitted Delay" or "Permitted Delays"), Owner shall be excused for the period of time equivalent to the delay caused by such Permitted Delay. Notwithstanding the foregoing, any extension of time for a Permitted Delay shall be conditioned upon Owner seeking an extension of time delivering written notice of such Permitted Delay to the City within ten (10) days of the event causing the Permitted Delay, and the maximum period of time which Owner may delay any act or performance of work due to a Permitted Delay shall be one hundred eighty (180) days.

21. **Venue.** In the event of any litigation arising under or in any manner related to this Agreement, venue for such litigation shall be Broward County, Florida. The parties hereto agree to waive the right to trial by jury.

20. **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 or registered mail, return receipt requested, and shall be deemed to be received by the addressee one (1) business day after sending, if sent by overnight delivery service and three (3) business days after mailing, if sent by certified mail or registered mail. Notices shall be addressed as provided below:

If to the City: City of Hallandale Beach  
Attn: City Manager  
400 South Federal Highway  
Hallandale Beach, FL 33009  
(954) 457-1300 – phone  
[CityManagerOffice@Hallandalebeachfl.gov](mailto:CityManagerOffice@Hallandalebeachfl.gov)

With counterpart to: City of Hallandale Beach  
Attn: City Attorney  
400 South Federal Highway  
Hallandale Beach, FL 33009  
(954) 457-1325 - phone  
[CityAttorneyDL@cohb.org](mailto:CityAttorneyDL@cohb.org)

With counterpart to: City of Hallandale Beach  
Attn: Development Services Director  
400 South Federal Highway  
Hallandale Beach, FL 33009  
(954) 457-1375 – phone  
[developmentservicesdl@hallandalebeachfl.gov](mailto:developmentservicesdl@hallandalebeachfl.gov)

If to Owner: Optima International North, LLC  
Attn: Ariel Bromberg

21500 Biscayne Boulevard  
Suite 301  
Aventura, FL 33180

With counterpart to:

Alan S. Rosenthal, Esq.  
Rosenthal Rosenthal Rasco Kaplan, LLC  
20900 NE 30<sup>th</sup> Avenue  
Suite 600  
Aventura, FL 33180  
(305) 937-0300  
[asr@rrrkllaw.com](mailto:asr@rrrkllaw.com)

- 21. **Severability.** Invalidation of any provision of this Agreement shall not affect any other provision of this Agreement, which shall remain in full force and effect.
- 22. **Regulatory Powers.** City cannot, and hereby specifically does not, waive or relinquish any of its regulatory approval or enforcement rights and obligations as it may relate to regulations of general applicability which may govern the Project. Nothing in this Agreement shall be deemed to create an affirmative duty of City to abrogate its sovereign right to exercise its police powers and governmental powers by approving or disapproving or taking any other action in accordance with its zoning and land use codes, administrative codes, ordinances, rules and regulations, federal laws and regulations, state laws and regulations, and grant agreement. In addition, nothing herein shall be considered zoning by contract.
- 23. **Effective Date.** This Agreement shall become effective on the later of: (i) the date that all of the Approvals become final and not subject to appeal; or (ii) the date this document is executed by all parties.
- 24. **Assignment/Acknowledgement.** Owner agrees that in the event Owner conveys an interest in the Property to other necessitating an assignment of this Agreement and the development rights it governs as to any portion of the Property, Owner will provide the City with:
  - A. The name and address of such entity within five (5) business days of any such assignment and a description of the development experience of such entity and/or its principles; and
  - B. An acknowledgement by instrument executed by such assignee(s) evidencing its acceptance of the financial obligations in this Agreement which relate to the portion of the Project in which it has an interest and such acceptance shall be in recordable form.
- 25. **Waiver of Jury Trial and Objections To Venue.** The parties hereby knowingly, voluntarily and intentionally waive the right any of them may have to a trial by jury in respect of any litigation based upon this Agreement or arising out of, under or in



**EXHIBIT "A"**  
**LEGAL DESCRIPTION:**

A PORTION OF LOT 4, BLOCK 14, OF "THE TOWN OF HALLANDALE", IN SECTION 27, TOWNSHIP 51 SOUTH, RANGE 42 EAST, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "B", PAGE 13, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA; TOGETHER WITH LOTS 1 THROUGH 5, INCLUSIVE, OF BLOCK 23, AND LOTS 1 THROUGH 5, INCLUSIVE, OF BLOCK 24, TOGETHER WITH A PORTION OF THE "RESERVED" PARCEL, OF "HALLANDALE PARK", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 5, PAGE 20, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, ALL BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE SOUTHWEST 1/4 OF SAID SECTION 27, TOWNSHIP 51 SOUTH, RANGE 42 EAST; THENCE SOUTH 89°55'42" WEST ON THE SOUTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 27 FOR 124.33 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 89°55'42" WEST ON SAID SOUTH LINE, ALSO BEING THE SOUTH LINE OF SAID LOT 4, BLOCK 14, ALSO BEING THE SOUTH LINE OF LOTS 1 THROUGH 5, INCLUSIVE, OF SAID BLOCK 24, AND THE SOUTH LINE OF LOTS 1 THROUGH 5, INCLUSIVE, OF SAID BLOCK 23 FOR 673.64 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1, BLOCK 23; THENCE NORTH 00°05'08" WEST ON THE WEST LINE OF SAID BLOCK 23, ALSO BEING THE EAST RIGHT-OF-WAY LINE OF SOUTHEAST 3RD AVENUE, 109.08 FEET TO THE NORTHWEST CORNER OF SAID BLOCK 23; THENCE NORTH 89°55'42" EAST ON THE NORTH LINE OF SAID BLOCK 23, ALSO BEING THE SOUTH RIGHT-OF-WAY LINE OF SOUTHEAST 10TH STREET, 299.97 FEET TO THE NORTHEAST CORNER OF SAID LOT 5, BLOCK 24; THENCE NORTH 00°05'08" WEST ON THE WEST LINE OF THE "RESERVED" PARCEL SHOWN ON SAID PLAT OF "HALLANDALE PARK" 1.53 FEET TO THE SOUTHWEST CORNER OF PARCEL "A" OF "SOFFER PLAT", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 170, PAGE 178 OF SAID PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE NORTH 89°24'33" EAST ON THE SOUTH LINE OF SAID PARCEL "A" 52.30 FEET; THENCE NORTH 90°00'00" EAST CONTINUING ON SAID SOUTH LINE 344.47 FEET TO THE INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF FEDERAL HIGHWAY (U.S. HIGHWAY NO. 1) (STATE ROAD NO. 5), AS SHOWN ON STATE OF FLORIDA STATE ROAD DEPARTMENT RIGHT OF WAY MAP, PROJECT NO. 78-A, SECTION 86010-2301, A POINT ON THE ARC OF A CIRCULAR CURVE, CONCAVE WESTERLY, THE RADIUS POINT OF WHICH BEARS NORTH 79°14'11" WEST; THENCE SOUTHWESTERLY ON SAID WEST RIGHT-OF-WAY LINE AND ON THE ARC OF SAID CURVE, HAVING A RADIUS OF 3,446.00 FEET, A CENTRAL ANGLE OF 01°52'46", FOR AN ARC DISTANCE OF 113.04 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF HALLANDALE BEACH, BROWARD COUNTY, FLORIDA, AND CONTAINING 75,467 SQUARE FEET (1.7325 ACRES).



**EXHIBIT "B"**

Exhibit "B" consists of the Development Plans dated February 26, 2016 for the Optima Plaza North Project, approved by the City Commission on May 18, 2016, and which are maintained in the City of Hallandale Beach Development Services Department.





**KEITH and SCHNARS, P.A.**  
 FLORIDA'S *Big* LOCAL FIRM

## MEMORANDUM

**TO:** Christy Dominguez  
 Allhea P. Jefferson, AICP

**COPIES TO:** Jose Rodriguez, P.E.  
 John Krane, P.E.

**FROM:** Fadi Emil Nassar, Ph.D., P.E., PTOE

**DATE:** March 8, 2016

**SUBJECT:** Optima Plaza North -- Review Summary of Parking & Traffic Study  
 K&S Project No. 18213.01

Keith and Schnars, P.A. (K&S) has reviewed the updated plans for the Optima Plaza North project. The following is a review summary of the project's traffic and parking analysis.

### Project Description

Optima Plaza North project is an office high-rise building located west of South Federal Highway just north of the Broward/Miami-Dade County Line. The project includes the following land uses:

Office: 272,382 square feet  
 Bank: 12,586 square feet  
 Amenities: 18,767 square feet

The project consists of 28 story office building. The first eight floors are reserved for parking, except for a bank located at the northeast corner of the building first two levels. Amenities are located on Level 9 and the remaining floors are office space. The traffic impact study for the Optima Plaza North project has been performed by Kimley-Horn and Associates, Inc. (KHA).

### Access

The project shares two access driveways on South Federal Highway with the Hampton Inn located to the north and the Aventura Optima Plaza to the south. The Hampton Inn access is left-in, right-in and right-out. The Aventura Optima Plaza access is right-in and right-out. The project has also access the back roads at SE 3<sup>rd</sup> Avenue and SE 10<sup>th</sup> Street that are also used for service trucks. FDOT has approved the proposed access driveways on South Federal Highway.

### Trip Generation

The trip generation for the project was estimated using trip equations for Office and Bank obtained from ITE 9<sup>th</sup> Edition Trip Generation Handbook. Amenities were assumed reserved for internal use. No credit was applied for the existing pre-school learning center. The estimated net project trips at full occupancy after accounting for pass-by trips from the Bank are the following:

Daily: 3,338 trips (1,669 trips IN and 1,669 trips OUT)

6500 North Andrews Avenue • Ft. Lauderdale, Florida 33309-2132  
 (954) 776-1616 • (800) 488-1255 • Fax (954) 771-7690

Exhibit "C"

Optima Plaza North  
 Parking & Traffic Analysis –Review Summary  
 Keith and Schnars Project No. 18213  
 March 8, 2016 – Page 2

AM Peak Hour: 473 trips (404 trips IN and 69 trips OUT)  
 PM Peak Hour: 469 trips (106 trips IN and 363 trips OUT)

### Operational Analysis

The traffic analysis evaluated existing 2015 conditions and future 2020 conditions. Future volumes were developed by applying an annual background growth rate of 0.5 percent plus traffic generated by approved projects in the vicinity of this site. HCS 2000 was used for intersection and queuing analysis. Roadway link analysis was performed for 2020 traffic conditions on major roadways located within one mile of the site.

The intersection analysis indicated that the intersections of Hallandale Beach Boulevard/Federal Highway, SE 3<sup>rd</sup> Street/Federal Highway, SE 9<sup>th</sup> Street/Federal Highway and SE 3<sup>rd</sup> Street/Dixie Highway are projected to operate at Level of Service (LOS) E or F during future background conditions without project trips. Only the intersection of Hallandale beach Boulevard/Federal Highway changes from LOS E in 2015 to LOS F in 2020 before adding project trips. All other intersections are projected to operate a LOS D or better. No additional roadways or intersections that are currently operating at LOS D or better will degrade to LOS E or F with the addition of project trips. The project is required to contribute to a transportation mitigation payment to the City.

### Queuing

The intersection queuing analysis at failing intersections and project access driveways indicates that the projected future queues can be accommodated within available storage space at all intersections except at the intersection of Hallandale Beach Boulevard/Federal Highway.

### Circulation

The Applicant has revised the project plans to incorporate review comments regarding signage and circulation of vehicles and pedestrians within the site. The final revised plans address all review comments and provide adequate circulation and signage for vehicles, pedestrians and service trucks.

### Parking

The project is located in a RAC zone where the parking requirement is 1 space per 300 square feet for Office, Bank and Amenity. Total required parking based on the RAC code is 1,013 parking spaces. However, since the developer is vested in the old code that specifies a parking requirement of 1 space per 250 square feet, the applicable parking requirement is for 1,217 parking spaces.

An alternate parking study presented by the Applicant on February 24, 2016 based on ITE Parking Generation, 4<sup>th</sup> Edition, resulted in parking requirement of 825 spaces for the site. The parking rate for Office and Amenity was calculated as an average between the Urban and Suburban Office rates from ITE (Land Use 701) or 2.66 spaces per 1,000 square feet. The Bank parking rate from ITE (Land Use 912) of 4 spaces per 1,000 square feet was also used. The total parking supply of 851 spaces (30% variance from applicable Code and 16% variance from RAC code) is shown on the site plan. The alternate parking study was reviewed by the City's traffic consultant and found to be consistent with current engineering practices and other parking studies approved by the City.



KEITH and SCHNARS, P.A.  
 FLORIDA'S Big LOCAL FIRM