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SECOND AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR THE RK DIPLOMAT CENTER

THIS SECOND AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR RK DIPLOMAT CENTER (this "**Second Amended Agreement**") is made and entered this 18th day of April, 2012, by and between **RK HALLANDALE LIMITED PARTNERSHIP**, a Florida limited partnership and **17070 COLLINS AVENUE SHOPPING CENTER, LTD.**, a Florida limited partnership, whose mailing address is 17100 Collins Avenue, Suite 225, Sunny Isles, Florida 33160 (collectively, the "**Developer**") and the **CITY OF HALLANDALE BEACH**, a municipal corporation of the State of Florida, whose mailing address is 400 South Federal Highway, Hallandale Beach, Florida 33009 ("**City**").

FINDINGS OF FACT:

This Agreement is predicated upon the following facts:

A. Developer is the owner of that property located in the City of Hallandale Beach commonly known as the RK Diplomat Center, located at 1725 E. Hallandale Beach Boulevard; and

B. The City and Developer's predecessor in interest, Hasam Realty, previously entered into a Development Agreement for Redevelopment of Diplomat Mall dated July 20, 1998 (the "**Original Agreement**") to set forth the terms and conditions for the proposed redevelopment of that property; and

C. The Developer's predecessor, Hasam Realty complied with all the requirements and conditions of the Original Agreement for the approval of Application# 5-98-DB attached as Exhibit "A"; and

D. The Developer entered into an Amended and Restated Development Agreement for Redevelopment of RK Diplomat Mall on April 22, 2004("The Amended Agreement") for the property more particularly described in Exhibit "B" hereto; and

E. The Developer complied with all the requirements and conditions of the Amended Development Agreement for the approvals of Application #92-02-DB attached as Exhibit "C" ; and

F. The Developer has submitted an application to the City to expand the Center and include the development of an outparcel substantially in the location shown on the Site Plan attached as Exhibit "D"; and

G. Section 32-174(d)(4) of the City of Hallandale Beach Zoning and Land Development Code, authorizes the City to enter into binding development

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agreements for the development of real property with persons having a legal or equitable interest in such property; and

H. In light of the revised development program proposed for the Property by the Developer as reflected in the Site Plan (Exhibit "D"), City and Developer desire to enter into this Second Amended Agreement to amend and restate the Amended Development Agreement and provide for the terms and conditions upon which the Property can be developed in accordance with the Site Plan.

I. The City of Hallandale Beach City Commission has found that this Development Agreement is consistent with the Comprehensive Plan, the Land Development Regulations, the approved Site Plan and all other applicable requirements, except as otherwise specifically provided in this Development Agreement.

NOW, THEREFORE, in consideration of the sum of Ten Dollars ($10.00) and other good and valuable consideration, the receipt of which is 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" or "Developer" shall mean RK Hallandale Limited Partnership, a Florida limited partnership and 17070 Collins Avenue Shopping Center LTD, a Florida Limited Partnership.

B. "Project" or "Proposed Development" shall mean the development as shown on the Site Plan approved by the City, generally including a 538 square feet addition to the existing shopping center and a 3,950 square feet freestanding building with drive-thru facilities for future building.

3. Description of Real Property. The legal description of the Property which is the subject of this Development Agreement is set forth on Exhibit "B."

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 date of this Development Agreement and not conflicting with the approvals memorialized herein, including the exceptions and variations enumerated in this Development Agreement, shall be applicable to the Project. The City and the Developer agree that the Project shall be governed in conformance with the following agreements, limitations, modifications, exceptions and variations.

5. **Permitted Uses and Development.**

The Property may be developed with those uses permitted in the Central City Business Zoning District and the Planned Redevelopment Overlay District. Notwithstanding the foregoing, nothing herein shall limit any future development of the Property subject to Developer obtaining any and all necessary permits and approvals from the City.

Commercial:

Existing Development: 327,860 square feet
New Freestanding Building: 3,950 square feet
New Center addition: 538 square feet
Total Proposed: 332,348 square feet

Residential:

Existing: 398 multifamily dwelling units with ancillary parking garage, clubhouse and amenities.
Future: Nine (9) Townhome dwelling units approved by the City Commission on April 15, 2009.

6. **Parking, Dimensional and Landscape Requirements.** The development of the Property with the Permitted Uses shall be in accordance with the parking requirements, setbacks, heights, landscaping and other site development standards set forth in the Site Plan attached as Exhibit "D" and as set forth in a complete plan set on file and maintained by the City Development Services Department.

Parking Provided

Commercial Uses	Residential
1,239 spaces	9 Townhomes- 36 spaces
	398 Multi-family Units – 770 spaces

7. **Modification of Code Regulations.** In consideration for compliance with the Special Conditions of Approval in Section 8 of this Agreement, the City agrees to grant modification of the following Code provisions:

A. Section 32-175(f) requiring a maximum 15 foot building front setback is modified to permit a building front setback of approximately 294 feet for the proposed freestanding building.

B. Section 32-175(f) requiring a minimum two-story/30-foot height requirement is modified to permit a one-story freestanding building.

C. Section 32-455(c)(18) requiring four parking spaces per 1,000 square feet for shopping center with 25-400,00 square feet or 1,330 spaces for the shopping center is modified to provide 1,239 parking spaces, a reduction of 91 spaces (6.8%) of the required parking.

8. **Special Conditions** The Developer, 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 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. The Developer acknowledges that the following are special conditions which must be adhered to throughout the development of project.

A. General Development Conditions.

1. All roof-mounted mechanical equipment for the new development shall be screened from view. The roof equipment shall be engineered and screened to reduce noise.

2. A landscaping plan which meets all requirements of Section 32-386, of the City's Landscape Ordinance, showing the location and character of proposed landscaping shall be submitted to the City at the time the building permit application is submitted to the City for the freestanding building.

3. The owner shall construct all utilities servicing the new freestanding building underground, including any existing above ground utilities within the scope of the project.

4. There shall be consistency in color scheme with the freestanding building and the shopping center.

5. The drive-thru facility shall be permitted as accessory only to a bank.

6. The Approvals are subject to the extension and expiration provisions of the Code of Ordinances.

9. **Unified Development.** The Property will be developed with a mixed use residential and commercial development with proposed separate ownership of the portion of the Property designated for residential development (the "**Residential Parcel**") and the portion of the Property designated for commercial development (the "**Commercial Parcel**"). The proposed residential use on the Residential Parcel and the commercial use on the Commercial Parcel are being approved under the single Site Plan as a unified development that will share certain features such as access, perimeter landscaping, and utility facilities. Therefore, it is the intent of this Second Amended Agreement to ensure that the Residential Parcel and the Commercial Parcel functionally operate as a single unified development. To that end, the Developer agrees for itself and any successor in interest to the Residential Parcel or the Commercial Parcel that prior to the issuance of the first certificate of occupancy for a residential unit on the Residential Property, the Developer and or such successor(s) in interest shall record appropriate easements in a form acceptable to the City Attorney to provide for cross access between the Residential Parcel and the Commercial Parcel, sharing of utility infrastructure if required and such other easements as may be necessary for the parcels to operate in an interdependent manner. In addition, prior to the issuance of a certificate of occupancy for the first residential unit on the Residential Parcel, the Developer shall provide to the City Attorney for review and approval an agreement between the Commercial Parcel owner and the Residential Parcel owner setting forth the maintenance obligations for all commonly used facilities. Such maintenance responsibility may be assigned in all or part to a property owners association, or may be undertaken in part by a condominium association for the Residential Parcel. Such agreement shall provide for enforcement rights by each party and the City in the event the other party fails to perform said party's maintenance obligations, including the right to lien the Property if maintenance is not performed. Nothing contained herein shall be constructed as to have the permitting and development process of the Residential Property dependent upon the permitting and development process of the Commercial Property. Likewise, nothing contained herein shall be constructed as to have the permitting and development process of the Commercial Property dependent upon the permitting process of the Residential Property.

10. **Controlling Documents**. The Site Plan is hereby incorporated by reference. There shall be strict adherence to this Second Amended Agreement and the Site Plan, subject to modification by the City Manager in his 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 Second Amended Agreement. In the event that the Site Plan or any portion thereof is found to be in conflict with this Second Amended Agreement, this Second Amended Agreement shall control.

11. **Building Permits and Certificates of Occupancy.** Subject to Developer's compliance with all applicable codes, ordinances, regulations, the Site Plan and this Agreement, the City agrees to issue to the Developer, 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 Proposed Development.

12. **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 water connection fees pursuant to City Code. The fee is not creditable toward other water/sewer impact fees.

B. Payment of City's water impact fee and sewer impact fee in accordance with City Code.

C. Payment of Eleven Thousand Seven Hundred Sixty Four ($11,764) dollars for traffic mitigation fees, to be paid prior to the issuance of the Certificate of Occupancy for the freestanding building.

13. **Amendments.** Any 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.

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

A. Developer is a limited partnership 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 Developer, and to enter into the transactions contemplated by this Agreement.

B. Developer's execution, deliver and performance of this Second Amended 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 Developer or Developer'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 Developer's knowledge) threatened against, or affecting Developer 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 Developer's ability to enter this Agreement or carry out the provisions of this Agreement.

D. This Agreement constitutes the valid and binding obligation of Developer, enforceable against Developer, 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. City's Representations and Warranties. The City makes the following representations and warranties to Developer, 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.

16. 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.

17. 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. The failure to fulfill any covenants and obligations under this Agreement and such failure 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 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; or

B. A voluntary petition is filed by Developer for relief under Title 11 of the United States Code, as amended or any other present or future federal or state insolvency, bankruptcy or similar law at any time subsequent to the date of this Agreement; or an involuntary petition for relief is filed, at any time subsequent to the date of this Agreement, against Developer under any such laws and such petition is not dismissed within ninety (90) days.

Upon a Developer Event of Default, 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, and the City shall be relieved from any and all obligations to reimburse the Developer for any amounts whatsoever.

18. **Hold Harmless.** Developer 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 Developer or those of the Developer's contractor, subcontractor, agent, employee, or other person acting on his behalf which relate to the Proposed Development. Developer agrees to and shall defend the City and its officers, 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 Developer's activities in connection with the Proposed Development.

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

19. **Monitoring Official.** The City of Hallandale Beach City Manager or his 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.

20. **Surety.** Bonding shall be provided as required by 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 institutions 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.

21. **Force Majeure.** In the event that Developer 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"), Developer 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 Developer 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 Developer may delay any act or performance of work due to a Permitted Delay shall be one hundred eighty (180) days.

22. **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.

23. **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 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) 457-1325 – phone
(954) 457-1342 – fax

With counterpart to:
City of Hallandale Beach
Attn: City Attorney
400 South Federal Highway
Hallandale Beach, FL 33009
(954) 457-1325 – phone
(954) 457-1342 – fax

With counterpart to:
City of Hallandale Beach
Attn: Development Services Director
400 South Federal Highway
Hallandale Beach, FL 33009
(954) 457-1375 – phone
(954) 457-1488 – fax

If to Developer: RK Associates
Attn: Mr. Raanan Katz
17100 Collins Avenue, Suite 225
Sunny Isles, FL 33160
(305) 949-4110– phone
(305) 948-3410 – fax

24. **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.

25. **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 agreements. In addition, nothing herein shall be considered zoning by contract.

26. **Assignment.** The Developer may not assign this Agreement to any other entity without the written consent of the City.

27. **Effective Date.** This Agreement shall become effective upon execution by all parties. **IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be signed by the proper officers the day and year above written.

CITY:

ATTEST:

Sheena James, City Clerk

Mark Antonio, City Manager

ENDORSED AS TO FORM
AND LEGALITY FOR THE
USE AND RELIANCE OF THE
CITY OF HALLANDALE BEACH ONLY

V L Whitfield 4/25/12

V. Lynn Whitfield, Esq., City Attorney
City Attorney

DEVELOPER:

RK HALLANDALE LIMITED PARTNERSHIP, a Florida limited partnership
by: RK Hallandale, Inc., its general partner

Witness: _____ By: _____
Print Name: Andrew Zide Print Name: MAANAN KATZ

Title: President

Witness: _____ Address: 17100 Collins Avenue, #205
Print Name: Dan Katz Sunny Isles Beach, Florida 33160

STATE OF Florida)
Miami-) SS:
COUNTY OF Dade)

The foregoing Second Amended Agreement was acknowledged before me this 13th day of April, by Raanan Katz, as President of RK Hallandale, Inc., on behalf of the RK Hallandale Limited Partnership. He/she is personally known to me or produced _____ as identification, and [did] [did not] take an oath.

[NOTARIAL SEAL]

Notary Public State of Florida
Kimberly Zeno
My Commission DD971595
Expires 03/15/2014

Notary: _____
Print Name: Kimberly Zeno
Notary Public, State of Florida
My commission expires: March 15, 2014

17070 COLLINS AVENUE SHOPPING CENTER, LTD., a Florida limited partnership
by: 17070 Collins Avenue Shopping Center, Inc, its general partner

Witness: _____
Print Name: Andrew Zidel

By: _____
Print Name: RAANAN KATZ

Title: President

Witness: _____
Print Name: Dan Katz

Address: 17100 Collins Avenue, #205
Sunny Isles Beach, Fl. 33160

STATE OF Florida)
) SS:
COUNTY OF Miami-Dade)

The foregoing Second Amended Agreement was acknowledged before me this 13th day of April, by Raanan Katz, as President of 17070 Collins Avenue Shopping Center, Inc on behalf of the 17070 Collins Avenue Shopping Center, LTD. He/she is personally known to me or produced _____ as identification, and [did] [did not] take an oath.

[NOTARIAL SEAL]

Notary Public State of Florida
Kimberly Zeno
My Commission DD971595
Expires 03/15/2014

Notary: _____
Print Name: Kimberly Zeno
Notary Public, State of Florida
My commission expires: March 15, 2014

EXHIBIT "A'

CONDITIONS OF COMMISSION APPROVAL

Application # 5-98-DB by Diplomat Mall

General Comments:

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, South Florida Building Code, the City Design Guidelines Manual, any other applicable Code, and the approved Major Development Plan.

1. The exterior colors of Winn Dixie shall match the existing Mall. Architectural compatibility and continuous facade treatment as required by Article VII Section 6.05 and 7.08 and the City's Design Guidelines Manual Section 2.1 will be adhered to.

2. The existing conditions of the front parking lot will be corrected as follows:

   a. Provide one tree in all existing landscape islands.

   b. Restriping of the parking lot from 10 feet to 9 feet in width to allow for 5 foot wide interior and terminal landscape islands in the parking lot wherever feasible.

   c. Install a hardy ground cover, hedge, or shrubbery in landscape islands which are bare and in need of sodding.

   d. Install an irrigation system to all landscaped areas.

   e. Remove all existing ficus trees along East Hallandale Beach Boulevard and install Royal Palms of a minimum of 20 feet in height planted to provide one tree every 20 feet.

   f. Replace all dead or unhealthy trees in the parking lot.

   g. Fix all areas in the parking lot damaged by uprooting, sealcoat and restripe parking lot.

   h. In addition to required trees, all parking islands adjoining circulation driveways shall be landscaped with decorative ground cover and shrubbery, not just sodded.

3. The bascart area in the entrance to the store shall be enclosed as required by Code. Cart maintenance shall provide that no carts are to be stored under the covered walk, or outside. Carts will be cleared from the parking lot every 30 minutes, and cleared from the cart corrals once an hour during open hours. Cart corrals shall be cleared more frequently if they become 3/4 full. No carts shall remain in the parking lot after hours.

4. Loading areas shall not be used for any outside storage, display or sale including but not limited to storage of paper or cardboard, trash outside of designated enclosures, cargo, goods, or carts.

5. Parking lots, walkways, covered walks, and landscape areas shall not be used for outside sales except as provided by law.

6. Existing trees not in islands shall be landscaped and curbed as possible without interfering with parking.

7. Trees planted in new parking islands shall be consistent with other landscaping on site. The landscape plan shall be subject to the City Manager's approval.

8. The bus shelters referenced in item #6 of this agreement shall be relocated to the new easement area by the City. The Applicant shall contribute $4,500 towards the cost of relocating the shelters.

EXHIBIT "B"

Legal Description

PARCEL I:

The West one-half (W-1/2) of the Southwest one-quarter (SW-1/4) of the Northwest one-quarter (NW-1/4) of the Northwest one-quarter (NW 1/4) of Section 26 Township 51 South, Range 42 East, lying in Broward County, Florida; LESS THEREFROM the West 35 feet thereof and the South 50 feet thereof.

TOGETHER WITH:

Tract "A" and Tract "B", Block 1, of DIPLOMAT GOLF ESTATES, according to the Plat thereof, as recorded in Plat Book 46, Page 24, of the Public Records of Broward County, Florida;

TOGETHER WITH:

A portion of Block 11, of said DIPLOMAT GOLF ESTATES, according to the Plat thereof , as recorded in Plat Book 46, Page 24, of the Public Records of Broward County, Florida, being more particularly described as follows:

Beginning at the Northwest corner of Tract "A", Block 1, of said DIPLOMAT GOLF ESTATES; thence East on an assumed bearing along the North line of said Tract "A" for 500 feet to the Northeast corner of Tract "A"; thence South 25 feet to the Northwest corner of Tract "B" of said Block 1; thence East along the North line of said Tract "B" for 1285.89 feet to the Northeast corner of Tract "B", said corner also being the Southeast corner of said Block 11; thence Northerly along the Easterly line of said Block 11 and along the arc of a curve to the right having a radius of 530 feet and central angle of 13° 19' 44", for an arc distance of 123.29 feet to a point of tangency; thence North 27° 41' 49" East for 141.37 feet; thence West for 1418.72 feet; thence South 66° 30'18" West for 200.69 feet; thence North 89° 59'42" West for 200.25 feet; thence South 00° 48'42" East for 83. 18 feet; thence West for 93.04 feet to the Northeast corner of the West one-half (W-1/2) of the Southwest one-quarter (SW-1/4) of the Northwest one-quarter (NW-1/4) of the Northwest one-quarter (NW-1/4), in Section 26, Township 51 South, Range 42 East Broward County, Florida; thence South 00° 57'22" West along the east line of said West one-half (W-1/2) a distance of 51.84 feet to the Point of Beginning.

LESS AND EXCEPT THEREFROM a portion of said Tract "B", Block 1 together with a portion of Block 11, as shown on the Plat of DIPLOMAT GOLF ESTATES, as recorded in Plat Book 46, Page 24, of the Public Records of Broward County, Florida, being more particularly described as follows:

Commencing at the Southeast corner of said Tract "B", thence North 00° 00'00" East, along the Westerly right-of-way line of Diplomat Parkway, as shown on said Plat, a distance of 331.18 feet to the Point of Beginning; thence departing said Westerly right-of-way line North 90° 00'00" West, a distance of 57.00 feet, thence North 45°00'00" West, a distance of 15.97 feet, thence North 90°00'00" West, a distance of 60.00 feet; thence South 45°00'00" West a distance of 16.97 feet; thence North 90° 00'00" West, a distance of 137.36 feet; thence North 45° 00'00" West, a distance of 16.97 feet; thence North 90° 00'00" West, a distance of 60.00 feet; thence South 45°00'00" West, a distance of 16.97 feet; thence South 90°00'00" West a distance of 56.38 feet; thence North 45° 00'00" West , a distance of 12.22 feet; thence North 00° 00' 00" East a distance of 262.14 feet to a Point of Curvature; thence Northerly, Northwesterly, and Westerly along a circular curve to the left having a radius of 35.00 feet, a central angle of 90 00 00 for an arc distance of 54.98 feet to a Point of Tangency; thence South 90° 00' 00" West, a distance of 85.20 feet to a Point of Curvature; thence Westerly, Northwesterly, and Northerly along a circular curve to the right, having a radius of 10.00 feet, a central angle of 90° 00' 00" for an arc distance of 15.71 feet to a Point of Tangency; thence North 00° 00'00" East, a distance of 138.08 feet; thence North 90° 00' 00" East, a distance of 684.00 feet to a point on the Westerly line of said right-of-way; thence along said Westerly line the following three courses; thence South 27° 41'49" West, a distance of 141.37 feet to a Point of Curvature; thence Southwesterly and Southerly along a curve to the left having a radius of 530.00 feet a central angle of 27 41 49 for an arc distance of 256.20 feet to a Point of Tangency; thence South 00° 00'00" West, a distance of 82.34 feet to the Point of Beginning.

ALL OF SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA

PARCEL II:

Non-exclusive easement for drainage and retention and detention purposes for the benefit of Parcel 1 hereinabove, as described in that Easement Agreement recorded in Official Records Book 29134, Page 204, of the Public Records of Broward County, Florida, over and across the lands contained on Exhibit "A" thereto, and further described as follows:

A portion of said Tract " B", Block 1, together with a portion of Block 11, as shown on the Plat of DIPLOMAT GOLF ESTATES, as recorded in Plat Book 46 Page 24, of the Public Records of Broward County, Florida, being more particularly described as follows:

Commencing at the Southeast corner of said Tract "B", thence North 00°00'00" East, along the Westerly right-of-way line of Diplomat Parkway, as shown on said Plat, a distance of 331.18 feet to the Point of Beginning; thence departing said Westerly right – of-way line North 90°00'00" West, a distance of 57.00 feet; thence North 45°00'00" West, a distance of 16.97 feet; thence North 90°00'00" West a distance of 50.00 feet thence South 45°00'00" West, a distance of 16.97 feet; thence North 90° 00 00 West, a distance of 139.30 feet thence North 45°00'00" West a distance of 16.97 feet; thence North 90°00'00" West, a distance of 80.00 feet; thence South 45°00'00" West, a distance of 16.07 feet; thence South 90° 00'00" West, a distance of 56.36 feet; thence

North 45°00'00" West, a distance of 12.22 feet; thence North 00° 00'00" East, a distance of 282.14 feet to a Point of Curvature; thence Northerly, Northwesterly, and Westerly along a circular curve to the left, having a radius of 35.00 feet, a central angle of 90°00' 00" for an arc distance of 54.98 feet to a Point of Tangency; thence South 90° 00' 00" West, a distance of 85.20 feet to a Point of Curvature; thence Westerly, Northwesterly, and Northerly along a circular curve to the right having a radius of 10.00 feet, a central angle of 90° 00' 00" for an are distance of 15.71 feet to a Point of Tangency; thence North 00° 00' 00" East, a distance of 138.08 feet; thence North 90° 00' 00" East, a distance of 684.00 feet to a point on the Westerly line of said right-of-way; thence along said Westerly line the following three courses; thence south 27° 41' 49" West, a distance of 141.37 feet to a Point of Curvature; thence Southwesterly and Southerly along a curve to the left having a radius of 530.00 feet, a central angle of 27° 41' 49" for an arc distance of 258.20 feet to a Point of Tangency; thence South 00° 00 00 West, a distance of 82.34 feet to the Point of Beginning.

ALL OF SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY FLORIDA.

EXHIBIT "C"

CONDITIONS OF COMMISSION APPROVAL

Application #92-02-DB

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 following list incorporates conditions as stipulated in the Development Services Staff Report of Application #92-02-DB dated December 10, 2003. The developer shall comply with the list of conditions as specified herein:

As to the Residential Developers:

1. The temporary sales center shall be removed at the owner's expense if construction does not commence within one year from the date of the Major Development Plan (site plan) approval.

2. The maximum number of residential units in the development shall not exceed 400 units.

3. Roof-mounted mechanical equipment shall be screened from view, engineered and screened to reduce noise from roof equipment.

4. No required tree shall be less than 15 feet in overall height and a three inch caliper, Florida No. 1 grade or better, as set forth on the approved landscape plan.

5. The unit size of the one-bedroom units shall have a minimum of 1000 square feet in floor area.

6. Drainage calculations will be required at time of permitting. Must comply with DPEP regulations and City criteria to retain 5-year, 1-hour storm onsite.

7. The garage parking spaces in the development shall not be converted to any other use than parking, provided, however, the garage may include storage space and equipment for the residential use.

8. The residential development shall not be a rental community. The units shall be sold as a condominium.

9. The developer shall pay for the purchase of additional sewer capacity required of the Hollywood Treatment Plant as a result of the new construction. The cost is at $ 385,000 based on the Impact study sewer capacity presented by the Developer which shall be paid to the issuance of the building permit. Additionally, any required upgrades to the sewer system and lift stations to be done by the developer.

10. The developer shall make improvements to 14 Avenue from East Hallandale Beach Boulevard to Atlantic Shores Boulevard including preparations of plans for city approval. Such improvements shall include on-street parking, drainage, curbing, landscaping, sidewalks and bus turn out. The plans shall be improvements shall be commenced immediately upon issuance of the permit for the work, subject to force majeure, and complete with 3 months.*(This item was satisfied by payment by developer of $75,000 to the City.)*

11. All financial contribution unless otherwise specified herein shall be paid to the City simultaneously upon issuance of the Building Permit for the residential development. The funds will be placed in a separate interested bearing escrow account upon the closing of the sale of the residential land between the current owner and the residential developer. The monies along with accrued interest will be funded to the City simultaneously upon the issuance of the permit for the construction of the 400 unit project.

12. The developer/owner shall bear the cost of any signal modifications or physical improvements to the FDOT roadway proposed to the Layne Boulevard intersection to allow for inbound and outbound traffic unless otherwise agreed with FDOT. The City shall bear no cost for such improvements. Any modification to FDOT right-of-way areas shall be the responsibility of the developer/owner.

13. The developer shall contribute $1,618,524 for park, infrastructure and program improvements including marketing study, the minibus system, burying of electrical lines, bus shelters, and other City programs. The funds will be residential land between the current owner and the residential developer. The monies along with accrued interested will be funded to the City simultaneously upon the issuance of the permit for the construction of the 400 unit project. Any additional work required under this agreement, unless specified herein, shall be completed prior to the issuance of the Certification of Occupancy on the residential complex.

14. Developer/owner shall be responsible for the maintenance of the 10" water main line on site. The developer shall vacate the existing utility easement on the proposed location of the residential development prior to the issuance of the building permit.

15. Drainage on site shall be modified to meet requirements for the new buildings and outfall must be repaired/rehabilitated pursuant to DPEP regulations.

16. The residential developer, in undertaking its construction, shall use its best efforts to enlist the services of subcontractors and labor who are residents of the City of Hallandale Beach in order to promote job growth in the City.

As to the Commercial Developer:

1. All existing nonconforming pole sign on the property shall be removed within 6 months of approval of the subject application. Freestanding signage shall be limited to as follows:

a. One 20 sq. ft. sign 8 feet in height on NE 14 Avenue to identify the proposed residential use.

b. One 20 sq. ft. sign 6 feet in height at the corner of NE 14 Avenue and East Hallandale Beach Boulevard identifying the residential and commercial uses.

c. One 30 sq. ft. sign 6 feet in height on East Hallandale Beach Boulevard and NE 16 Avenue.

d. One 56 sq. ft. sign 8 feet in height at the main entrance to the mall at East Hallandale Beach Boulevard and Layne Boulevard.

e. One 30 sq. ft. sign 6 feet in height at the corner of East Hallandale Beach Boulevard and Diplomat Parkway.

2. The sidewalk along the storefronts east of Winn Dixie has been expanded and bricked an additional 12 feet as presented in plans.

3. Developer shall use its "best efforts" to have the exterior colors of Boston Market shall be repainted to match the existing Mall. Architectural compatibility and continuous façade treatment as required in Article VII Sections 6.05 and 7.08 and the City's Design Guidelines Manual Section 2.1 will be adhered to. Owner will demonstrate to the City that they have used their best efforts to accomplish this.

4. The driveway east of Golden Isles Drive entrance shall be closed. Developer shall use its best effort to work with City National Bank to close the eastern most driveway entrance on Hallandale Beach Blvd to assist in traffic flow on Hallandale Beach Blvd. Owner will demonstrate to the City that they have used their best effort to accomplish this.

5. All areas in the parking lot damaged by uprooting shall be fixed. The parking lot shall be resealed and coated, and restriped in all areas as needed. All requirements of the building code shall be adhered to, including installation and maintenance of all wheel stops as required thereunder.

6. The developer shall dedicate 25 foot turning radius at the intersection of Diplomat Parkway and Hallandale Beach Boulevard and NE 14 Avenue and Hallandale Beach Boulevard. In the event FDOT does not provide new sidewalks in these areas in conjunction with their Hallandale Beach Blvd improvements, the developer shall complete this work.

7. Provided the City provides an indemnification and hold harmless to the Developer, the City will be permitted to use the front shopping center parking lot up to four times per year for Public Events, within reason, provided the use of the area does not adversely affect tenants ability to conduct its business. Additionally, The City will be responsible for all cleanup and maintenance of the area following the public event.

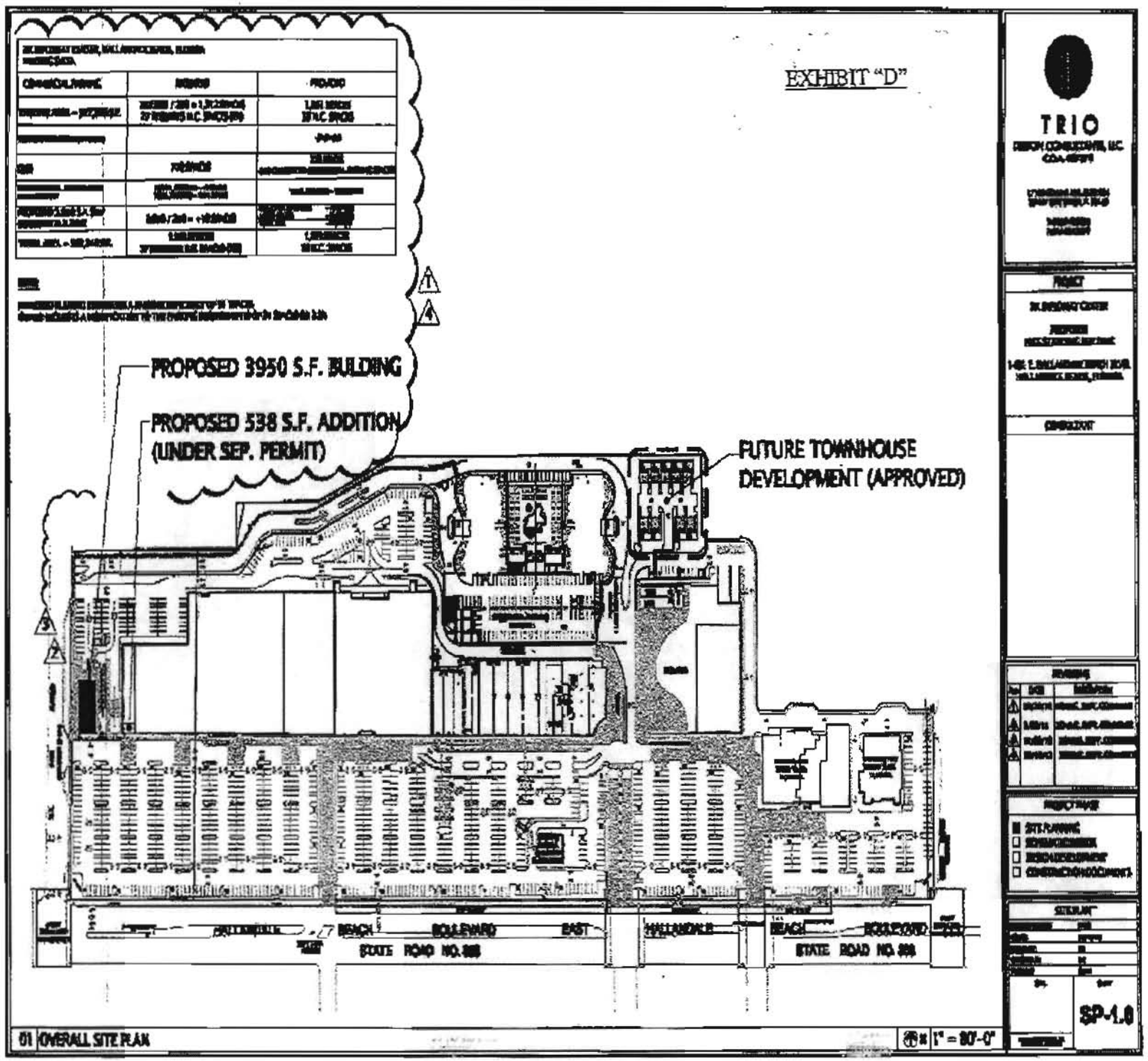
8. At the time of the application for construction of the 9,000sf addition to the shopping center which has been approved as part of the site plan, exhibit "C", the City shall evaluate and the developer shall address the traffic circulation in the rear of the addition and how the new building will impact, if any, the driveway directly behind the new building on the North side abutting the golf course.

<u>As to both the Residential and the Commercial Developer:</u>

1. In addition to the required tree in islands, all landscaped islands adjoining circulation driveways shall be landscaped with decorative ground cover and shrubbery, not just sodded.

2. Developer shall work with the City in a reasonable manner to provide for any required utility easement that may be required in the future around the perimeter of the property.

EXHIBIT "D"



X:\Shared Planning Documents\Major Development\RK Diplomat\RK Associates Appl# 72-10-DB\Development Agreement\Revision - Second Development Agreement 2K Diplomat Center 2.10.12.doc