

DEVELOPMENT AGREEMENT
FOR
H DEVELOPMENT, LLC

This agreement is entered into this 15th day of February, 2008, between H Development, LLC and the City of Hallandale Beach, a municipal corporation organized and existing under the laws of the State of Florida (City).

FINDINGS OF FACT

This agreement is predicated upon the following facts:

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

B. Pursuant to the Zoning and Land Development Code, Section 32-173 PDD Planned Development District and the Design Guidelines Manual, the City has adopted rules and regulations establishing procedures and requirements for Development Agreements;

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

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

NOW THEREFORE, THE PARTIES AGREE:

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

a. Project shall mean the Major Development Plan approved by the City of Hallandale Beach for construction of a mixed use retail, office and parking garage facility. Approximately 13,021 square feet of retail use, 160,446 square feet of office use, and 624 parking spaces are proposed located in the City of Hallandale Beach in Broward County, Florida. Applicant seeks to build on the property located at 804 South Federal Highway, Hallandale Beach, Florida. The net lot area on this property is 33,680.85 square feet (.773 acres) and is legally described in Exhibit A attached here to.

b. Owner shall mean H Development, and includes the property owners, successors, assignees, tenants, agent, contractors, subcontractors and parties in interest.

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

a. The name of the project is Domus Hallandale Office Building.

b. The property is owned by H Development, LLC, and the applicant, manager, and developer is Domus Investment Group, LLC, which is the manager of H Development, LLC.

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

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

b. Permitted Development. 19 story building consisting of mixed use retail/office use as follows:

Retail use: 13,021 gross floor area

Office use: 160,446 net floor area

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 City Clerks Office.

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

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

4. Satisfaction of Conditions. The Owner may notify the City asserting the

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

5. Sidewalks. H Development LLC agrees to construct sidewalks in accordance with the attached Exhibit B.

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

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

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

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

d. There shall be strict adherence to this Development Agreement and the Major Development Plan. Any substantive change or amendment to the aforementioned Exhibits shall be addressed in conformance with Zoning and Land Development Code, Article IV, Section 22.10(a)-(c).

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

8. Building Permits and Certificates of Occupancy. The City agrees to issue to the Owner, upon application and approval, all required building permits, approvals or other required permits and Certificates of Occupancy for the construction, use or 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.

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

It is further understood and agreed that failure to fulfill any provision of this agreement, the Major Development Plan, or the conditions of approval, including any conditions of a specific building permit, may result in non-issuance of Certificates of Occupancy,

Certificates of Completion, or other regulatory approvals until such time as all conditions of the specific building permit and this agreement are complied with, and that the City shall not be liable for any direct, indirect and/or consequential damages claimed for such non-issuance.

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

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

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

13. Hold Harmless. Owner agrees to and shall hold the City, its officers, agents, employees, and representatives harmless from liability for damage or claims for damage for personal injury including death and claims for property damage which may arise from the direct or indirect operations of the Owner or those of the property owners contractor, subcontractor, agent, employee, or other person acting on his behalf which relate to the project. Property owner agrees to and shall defend the City and its officers, agents, employees, and representatives from actions for damages caused or alleged to have been caused by reason of property owners activities in connection with the project.

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

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

However, nothing herein shall prevent the City, in its discretion, from accepting

bonds or letters of credit in lieu of any specific improvement, on site or off site, being completed within a specified time period.

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

(1) If to the City:

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

(2) If to the Owner:

Leo Peicher
H Development, LLC
540 NW 165th Street Road
Suite 310
Miami, FL 33169
(305) 944-8844 - Phone
(305) 944-8828 - Fax

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

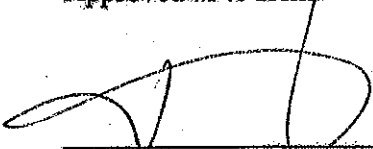
18. Recording. This agreement or a memorandum shall be recorded in the Public Records and shall run with the land.

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


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

Approved as to form:


CITY OF HALLANDALE BEACH



David Jove, City Attorney



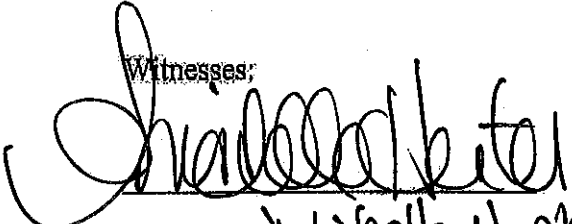
By: Mike Good, City Manager

Attest: 

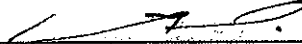
E. Dent McGough, City Clerk

Witnesses:

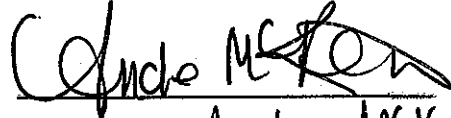
H DEVELOPMENT, LLC



Print Name: Michelle Hunter

By: 

Leo Peicher (Title)



Print Name: Andie McMeney

EXHIBIT "A"

LEGAL DESCRIPTION:

LOTS 1, 2, 3, 4, 5 AND THE NORTH 12-1/2 FEET OF LOT 6, LESS THE EAST 13 FEET OF LOTS 1, 2, 3, 4, 5 AND THE EAST 12-1/2 FEET OF LOT 6, AND ALL OF LOTS 49, 50, 51, 52, 53 AND 54, BLOCK "B", "HALLANDALE PARK NO. 4", ACCORDING TO THE AMENDED PLAT THEREOF, RECORDED IN PLAT BOOK 8, PAGE 42, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

EXHIBIT "B"

Exhibit B are the development plans dated July 19th, 2007 for the Domus project which are maintained in the Development Services Department

EXHIBIT "C" – H DEVELOPMENT

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 Owner shall comply with the list of conditions as specified herein:

Prior to the issuance of a building permit for the proposed development, the Owner shall make the following contributions and commitments to the City to mitigate the impacts of the proposed development upon City Services and facilities:

1. The Owner shall pay to the City \$10,000 to cover the cost associated with re-flying and re-generation an aerial photography of the aerial photo of the property after construction.
2. The Owner shall dedicate a minimum continuous utility easement along the property line as follows:
 - 12' on North Side
 - 15' on East Side
 - 0' on South Side
 - 10' on West Side
3. The Owner shall contract with the City of Hallandale Beach Sanitation Division for roll out service and sanitation collection, now and in perpetuity. This agreement shall be recorded as a covenant running with the land, and incorporated and recorded as part of the deed to said property. The agreement will define the owner's responsibility to provide placement of the dumpsters in an area deemed by the City to be safe for the purpose of emptying the containers. Such area will accommodate the forward motion of the sanitation vehicle as the horizontal and vertical clearance necessary for the safe operation of the vehicle.
4. The Owner shall contribute \$ 250,000.00 towards the rehabilitation/upgrade of the wastewater lift station, force main system and gravity mains as necessary.
5. The Owner shall contribute \$ 100,000.00 towards the improvement/upgrade of the City's water main system.
6. The Owner shall pay connection fees for water and sewer according to City Ordinance.
7. The Owner shall pay \$75,000.00 as its charge for the sewer plant capacity at the Hollywood Treatment Plant pursuant to the terms of the City's Large User Agreement with the City of Hollywood.

8. The Owner shall submit drainage calculations and shall cause to be constructed all on-site Storm Water Systems Improvements necessary to maintain proper drainage and run-off. Design shall be in accordance with City Ordinance and shall retain a 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.
9. The Owner shall contribute \$8,674.00 towards the cost of hydraulic analysis of water and sewer based on 34,694 GPD of Wastewater generated. The analysis shall demonstrate the impact of the proposed development on the City's water and sewer infrastructure and what if any upgrades to the existing systems are needed to support the proposed development.
10. The Owner shall construct all utilities servicing the buildings underground, including any existing above ground utilities to be utilized within the scope of the project.
11. The Owner 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.
12. The development shall be an environmentally sensitive project and in compliance with the certification for LEED (Leadership, Energy and Environmental Design) standards.
13. The Owner shall contribute \$20,000.00 for the Water Conservation Infrastructure Program.
14. The Owner shall contribute \$100,000.00 for the City's Parking Fund.
15. The Owner shall contribute \$50,000.00 for Citywide Affordable Housing.

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

1. The Owner shall pay to the City \$25,000.00 for purposes of athletic field improvements.
2. The Owner shall be responsible for complete reconstruction of City maintained roadways adjacent to the project site on SE 8th Street. This shall include widening existing pavements, drainage, curb and gutter sidewalks and relocating existing utilities underground. A paver brick crosswalk shall also be installed on SE 8th Street.
3. The Owner shall contribute \$25,000.00 to the City for the reconstruction and realignment of SE 9th Street.
4. The Owner shall contribute \$ 17,000.00 to the city bus shelter program.
5. The Owner shall contribute \$25,000.00 to the City's transit system; provided; however, that in the event that the City enacts a future exaction, pursuant to paragraph 10 of the Development Agreement, that this \$25,000.00 shall be credited towards that future exaction

related to transportation.

6. The Owner shall contribute \$25,000.00 for the City's expense incurred in the preparation of the Master Transportation Study.
7. The Owner shall contribute \$10,000.00 for Pedestrian Crossover on US 1.
8. The Owner shall be responsible for contributing \$25,000.00 to the City's Crime Prevention Programs.
9. The Owner shall contribute \$25,000.00 to the City's Historic Preservation Fund.
10. The Owner shall contribute \$75,000.00 to the City for park improvements.
11. The Owner shall pay for any legal expenses incurred by the City related to any challenges to the City's approval of this project.