

Proposed Conditions of Approval

1. **Commencement of Construction.** The applicant, its successors and/or assigns (the “Applicant” or “Developer”) shall apply for and obtain a building permit for the vertical construction of the Project or portion thereof (the “First Building Permit”) prior to the expiration of the seventh (7th) year from the effective date of the Development Agreement. Prior to the issuance of a ~~certificate of occupancy~~ building permit for the vertical construction of the First Building Permit, the Applicant shall obtain design approval from the Florida Department of Transportation (FDOT) Access Management Board for an additional access point into the Project, which approval shall be for the design presented in the Concept Master Plan entitled “Intracoastal Mall Redevelopment” as prepared by Zyscovich Architects, dated ~~_____~~ May 20, 2020 (the “Master Plan”) or a comparable design which satisfies Section 24-58.7(O)(e) - Eastern Mixed-Use Waterfront District (MU/EWF) pertaining to an access point with direct east and west access to and from SR 826/NE 163rd Street and traffic mitigation such that the development does not over burden NE 35th Avenue (the “NE 36th Avenue Access”).
2. **Premium Transit.** Prior to the first Certificate of Occupancy for the final building in Phase I, the Applicant shall demonstrate through its plans the opportunity for improved or maintained levels of transit service to serve the Project, including accessibility and transferability between existing transit lines. The Applicant will maintain or enhance the current level of service by providing access in the form of a premium transit facility with collocated transit and trolley stops for the North Miami Beach and Sunny Isles Beach on ~~NW~~ NE 35th Avenue, subject to each agency's option. The premium transit facility shall include capacity for features including, but not necessarily limited to, premium shelters or facilities; digital routing displays, including real time information; seating; and ~~WiFi~~ WIFI hotspots. The premium transit facility shall be ADA compliant.
3. **Temporary Events.** Any site plan approval related to temporary event space, shall include design schematics, including any mechanisms for closures, for streets designated for potential temporary closures that demonstrates the ability to effect emergency access for all buildings at all times. Bollards and any other devices used to temporarily close primary and secondary streets shall be easily removable so as to effect quick and direct emergency vehicle access to all buildings on site.
4. **Public Infrastructure Assessment.** Prior to the issuance of a building permit for any phase of the Project involving the vertical construction of residential units, the applicant shall provide a Public Infrastructure Assessment on a per unit basis in the amount of Four Hundred Fifty Dollars (\$450.00) per residential unit, for a total contribution of Nine Hundred Thousand Dollars (\$900,000) (the “Public Infrastructure Assessment Payment”), minus any eligible credits related to public infrastructure and streetscape improvements as outlined in the development agreement. This shall satisfy the Public Infrastructure and Streetscape Assessment and Fund as outlined in Section 24-58.7(O)(1). The Public Infrastructure Assessment Payment fund may be used by the City for public infrastructure, streetscape improvements, and maintenance of that segment of NE 35th Avenue abutting the Project and that segment of NE 163rd Street abutting the Project, or as determined by the City Commission.
5. **Maintenance.** The Developer and City shall enter into an agreement prior to the issuance of the Certificate of Occupancy for the first building in Phase I to address Developer’s ongoing

maintenance of onsite and abutting streetscape improvements required by Section 24-58 and Section 24-58.7.

6. **Phase I Roadway and Open Space Improvements.** The NE 35 Avenue and SR 826/NE 163 Street off-site roadway improvements and the park and open space improvements shown in Blocks N1, S1, and the west half of C1 on the Open Space Plan (Sheet A1-27) of the Master Plan shall be completed prior to the issuance of a Certificate of Occupancy for the final building in Phase I. Said off-site roadway improvements are:
 - a. The addition of the signalized intersection of SR 826/NE 163rd Street and NE 36th Avenue. The proposed signalized intersection will operate as a continuous green T-intersection;
 - b. The addition of one (1) southbound left-turn lane, the addition of one (1) additional southbound right-turn lane, the addition of one (1) eastbound left-turn lane, and the addition of one (1) receiving lane to the west leg of the intersection of SR 826/NE 163rd Street and NE 36th Avenue;
 - c. The addition of one (1) eastbound left-turn lane at the intersection of SR 826/NE 163rd Street and NE 35th Avenue;
 - d. The elimination of the exclusive westbound left-turn lane along Frontage Road at NE 34th Street;
 - e. The intersection of SR 826/NE 163rd Street and NE 35th Avenue is proposed to be modified to remove the eastbound partial continuous green T-intersection as well as the exclusive pedestrian phase;
 - f. The reconfiguration of the intersection of SR 826/NE 163rd Street and NE 35th Avenue to include signalized eastbound through and left-turn lanes, signalized southbound left and right-turn lanes, and signalized westbound through and shared through/right-turn lanes;
 - g. The addition of sharrow pavement markings, a 10-foot shared-use path, and a buffered bicycle lane on NE 163rd Street westbound fronting the site; and
 - h. The addition of crosswalks on both the east and west sides of NE 35th Avenue at NE 164th Street.
 - i. In the event that the Applicant, after good faith efforts, does not receive the approval from the Florida Department of Transportation for the construction of the preferred alternative for NE 163rd Street and NE 35th Avenue prior to the issuance of the first building permit for vertical construction in this phase, the Applicant shall submit to the City a revised alternative plan, with traffic study, for review and approval by the City, that maintains or improves upon the level of standards as originally proposed.

Said Phase I park and open space improvements are delineated on the Open Space Plan (Sheet A1-27) of the Master Plan and more specifically described as:

- a. Block N1: Green areas and open spaces.
- b. Block S1: Green areas and open spaces.
- c. West half of Block C1: Park space and green areas.

Each of the above-described roadway improvements are under FDOT jurisdiction, shall be subject to FDOT approval. The construction of the Roadway Improvements occurring within the public rights-of-way shall comply with the bond requirements set forth by the agencies having jurisdiction over said rights-of-way. All other on-site roadway and parks and open space improvements not listed above shall be constructed in accordance with the Phasing Plan (Sheet A1-28) of the Master Plan.

7. Maintenance of Traffic. The Developer shall submit a Maintenance of Traffic Plan or Temporary Traffic Control Plan ("MOT Plan") to the City, and, if applicable, to the FDOT for review and approval prior to the commencement of construction of any building in Phase I. Subject to FDOT approval, if applicable, the MOT Plan shall encourage construction traffic resulting from the development of the Project to use NE 36th Avenue or any existing temporary road in the proximate location of future NE 36th Avenue. Any necessary improvements to NE 36th Avenue required by FDOT in connection with the MOT Plan shall be completed prior to the issuance of a building permit for the vertical construction of the first building in Phase I.

8. ~~7.~~ Phase I Bicycle Facility Improvements. Prior to the issuance of a Certificate of Occupancy (C.O.) for the final building in Phase I, the Developer shall seek FDOT approval to provide bicycle facilities along eastbound 826/NE 163rd Street between NE 34th Avenue and NE 35th Avenue consistent with FDOT's standards and the proposed FDOT RRR roadway improvement project.

9. ~~8.~~ Eastern Shores Entrance. The Developer shall, prior to the issuance of a Certificate of Occupancy for the final building in Phase I, permit and construct or cause the construction of the following improvements for the entrance features to the Eastern Shores neighborhood (hereinafter collectively referred to as the "Entrance Feature Improvements"):

- a. One (1) guard house on NE 164th Street, west of NE 35th Avenue.
- b. One (1) guard house on NE 35th Avenue, north of NE 165th Street.
- c. Entry feature on NE 35th Avenue, at NE 164th Street.

Said guard houses shall be in the same location and size as the existing guard houses and shall include a workspace, a toilet facility, air conditioning, gate arms, security cameras, internet access, and landscaping, and shall be built (i) of a scope generally in accordance with the plans entitled "Miami Dade EDP Guardhouse," as prepared by Revuelta Architecture International, dated May 5, 2014 ~~(the "Entrance Feature Plans"), and (ii) in the same location and size as the existing guard houses. Permitting and construction of.~~ The approval of site plans for the Entrance Feature Improvements shall be subject to the authority of the City Commission and approval of the Entrance Feature Improvements shall not be unreasonably withheld. The City represents that the Eastern Shores Security Guard Special Taxing District Advisory Board has shall been given the opportunity to review the design of proposed site plans for the Entrance Feature ~~Plans. The denial by~~ Improvements. In the event that the City Commission of denies the Developer's application for site plan, ~~permitting, or construction approval~~ of the Entrance Feature Improvements shall be deemed as a waiver of Developer's or it is determined by the City Commission that the Entrance Feature Improvements are no longer required, the obligation to construct the Entrance Feature Improvements shall be waived.

- 10. ~~9.~~ Termination of Existing Declaration of Restrictions.** The development agreement shall supersede and terminate that certain Declaration of Restrictions approved pursuant to Resolution R-1984-113 and recorded on June 7, 1985 in Official Records Book 12533, Page 1322 of the Public Records of Miami-Dade County, Florida, as amended by that Amendment to Declaration of Restrictions recorded in Official Records Book 13960, Page 1577 of the Public Records of Miami-Dade County, Florida, and said Declaration of Restrictions shall hereby be terminated and released.
- 11. ~~10.~~ Police Substation Lease Terms:** Prior to the issuance of a Certificate of Occupancy (C.O.) for the building in Phase I where the substation is located, Developer and City shall agree on lease terms for the police substation shown on the Master Plan. The lease shall: (i) establish the term of the lease agreement such that, at a minimum, it shall not be less than the term of the development agreement unless mutually agreed to by both City and Developer; (ii) establish that the city shall only pay common area maintenance fees typically charged to Developer's tenants and maintain insurance as required by the lease agreement; (iii) that any additional beneficial lease terms agreed to by the Developer between the County or the City shall be equally applied to both City and County; (iv) if at any time relocation is necessary, the costs shall be borne by the Developer and the same terms shall be made available to the City; and (v) any other terms mutually agreed upon between City or County, and Developer.
- 12. ~~11.~~ Miami-Dade County Fire Rescue Station.** Prior to the issuance of a Certificate of Occupancy for the building in Phase I where the Miami-Dade County Fire Rescue Station is located pursuant to the Master Plan, the Developer shall coordinate with the Miami-Dade County to design and construct or cause the construction of a fire rescue station in accordance with the terms and schematic details provided by the Miami-Dade County Fire Rescue Department. The Developer expressly acknowledges that Miami-Dade County may impose a cap on credit for contribution in lieu of impact fees equivalent to the cost of construction for said fire rescue station. The Developer shall enter into a separate agreement with Miami-Dade County to define the construction and occupancy terms for the fire rescue station.
- 13. ~~12.~~ Truck Traffic.** Commercial truck traffic circulation shall be in compliance with the Circulation Ingress and Circulation Egress Plans (Sheets A1-21 and A1-22) of the Master Plan. Commercial vehicles shall be prohibited from entering and exiting the site at the northern most access point on NE 35th Avenue.
- 14. ~~13.~~ Public Art.** The Developer shall provide artwork with a total aggregate value of at least One Hundred Thousand Dollars (\$100,000). The artwork, which may consist of murals, graphics, interactive fountains, streetscape designs, or similar pieces of artwork to be provided by Developer shall consist of a minimum of two (2) pieces of art to be installed on-site or on adjacent rights of way or public property and shall be of a quality and design reasonably acceptable to the City Manager, or designee, with a recommendation by the Director of the Community Development or successor department.
- 15. ~~14.~~ Local Jobs.** The Developer shall work with the City of North Miami Beach Human Resources Department to advertise employment opportunities and use good faith efforts to promote the hiring of City residents to fill employment positions within the development during all phases of construction and development.
- 16. ~~15.~~ NE 35th Avenue Streetscape Improvements.** The Developer shall design the proposed NE 35th Avenue streetscape and infrastructure improvements to be consistent with the City's

designs in the NE 35th Avenue Roadway Enhancements Project and the Mixed Use District zoning regulations, less any adjustments required by FDOT or Miami-Dade County.

17. ~~16.~~ **Hotel Standards.** Any hotel use developed within the Project shall be rated with a minimum of a AAA Three Diamond rating, which indicates comprehensive amenities, style, and comfort level, in order to ensure overall quality, range of facilities and level of hospitality offered in connection with this use.
18. ~~17.~~ **Annual Reporting.** Pursuant to Section 24-214(12), the Developer shall provide an Annual Report to the Community Development Director within six (6) months of approval of the development agreement and then annually on October 1st. The annual report shall, at a minimum, include the following information:

 - a. Compliance with the terms of the development agreement;
 - b. Identification of any substantial changes warranting an amendment or revocation of the development agreement;
 - c. List any substantial local, state and federal permits which have been obtained, applied for, or denied during this reporting period. Specify the agency, type of permit, and duty for each.
 - d. Attach copies of approved or modifications of development orders such as, but not limited to, site plans, Resolutions, building permits, environmental permits, or any other development orders or permits received by Developer in the reporting year.
 - e. Provide a summary comparison of development activity proposed pursuant to the phasing plan and actually conducted for the reporting year as well as a cumulative total of development proposed and actually conducted to date.
19. ~~18.~~ **Impact Fees and Connection Charges.** The Developer shall pay the Park Impact Fee associated with the Project to the City in accordance with Article XVII of the Land Development Regulations (2020). The Developer shall pay the Police Impact Fee associated with the Project to the City in accordance with Article XVIII of the Land Development Regulations (2020). Water and sewer connections for the Project shall be made in accordance with the Chapter XIX of the City Code (2020) and applicable Miami-Dade County regulations.
20. ~~19.~~ **Concurrency Reservations.** The Project has been determined to meet the concurrency requirements set forth by and in compliance with Article XIV of the Land Development Regulations. Pursuant to Section 24-214(10), the development agreement provides that the entire development or any phase thereof be commenced or completed in a phased manner.
18. **Canal Approval.** In the event that the Applicant, after good faith efforts, cannot receive the approvals for the construction of ~~a~~ the central canal shown in the Master Plan, the Applicant shall submit to the City a revised open space plan for review and approval by the City Manager, or designee. Completion of an approved revised open space plan, if needed, shall be deemed to meet this condition.
19. **Extension of Time-Frames.** Extensions of all time-frames listed above may be granted administratively by the City Manager, or designee, with a recommendation of the Community Development Director following the demonstration of good cause and good faith efforts by the Developer. Such extensions shall not be unreasonably withheld. Said time-frames shall also be extended in accordance with Section 252.363, Florida Statutes. Finally, said

time-frames shall be tolled in the event of litigation which prevents development of the Project from proceeding in accordance with the Master Plan and Phasing.

20. **Contribution In Lieu of Miami-Dade County Impact Fees.** The City and Developer shall work cooperatively obtain impact fee contribution in lieu credits for Miami-Dade County roadway/transportation and transit impact fees.

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