

**ADDENDUM  
DANIA BEACH CITY COMMISSION  
REGULAR MEETING  
TUESDAY, OCTOBER 25, 2016 - 7:00 PM**

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ANY PERSON WHO DECIDES TO APPEAL ANY DECISION MADE WITH REGARD TO ANY MATTER CONSIDERED AT THIS MEETING OR HEARING WILL NEED A RECORD OF THE PROCEEDING, AND FOR SUCH PURPOSE MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDING IS MADE WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

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LOBBYIST REGISTRATION IS REQUIRED. PRIOR TO ENGAGING IN ANY LOBBYING ACTIVITIES, WHETHER OR NOT COMPENSATION IS PAID OR RECEIVED IN CONNECTION WITH THOSE ACTIVITIES, EACH LOBBYIST SHALL FILE WITH THE CITY CLERK AN ANNUAL REGISTRATION STATEMENT AND PAY AN ANNUAL ONE HUNDRED DOLLARS (\$100.00) REGISTRATION FEE FOR EACH PRINCIPAL OR EMPLOYER. REGISTRATION FORMS ARE AVAILABLE IN THE CITY CLERK'S OFFICE, OR ON THE CITY WEBSITE: WWW.DANIABEACHFL.GOV. (ORDINANCE #2012-019)

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT, PERSONS NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE CITY CLERK'S OFFICE, 100 W. DANIA BEACH BOULEVARD, DANIA BEACH, FL 33004, (954) 924-6800 EXTENSION 3624, AT LEAST 48 HOURS PRIOR TO THE MEETING.

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IN CONSIDERATION OF OTHERS, WE ASK THAT YOU:

- A. PLEASE TURN CELL PHONES OFF, OR PLACE ON VIBRATE. IF YOU MUST MAKE A CALL, PLEASE STEP OUT INTO THE ATRIUM, IN ORDER NOT TO INTERRUPT THE MEETING.
  - B. IF YOU MUST SPEAK TO SOMEONE IN THE AUDIENCE, PLEASE SPEAK SOFTLY OR GO OUT INTO THE ATRIUM, IN ORDER NOT TO INTERRUPT THE MEETING.
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## **1. PRESENTATIONS AND SPECIAL EVENT APPROVALS**

### **1. PRESENTATION ITEM #3.2**

Oasis Presentation - City Manager Baldwin

## **2. CONSENT AGENDA**

### **1. CONSENT AGENDA ITEM #7.9**

RESOLUTION NO. 2016-149

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, APPROVING A CONDITIONAL LOAN COMMITMENT TO PARTIALLY FINANCE DEVELOPMENT OF THE SARATOGA CROSSINGS HOUSING DEVELOPMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE FHFC'S LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION-LOAN FORM; PROVIDING FOR CONFLICTS; FURTHER PROVIDING FOR AN EFFECTIVE DATE.

## **3. PUBLIC HEARINGS**

1. PUBLIC HEARING ITEM #9.6

RESOLUTION NO. 2016-150

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A DEVELOPMENT AGREEMENT AND ANY ADDITIONAL DOCUMENTS PERTAINING TO THE AGREEMENT AND TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT, A COPY OF WHICH IS ATTACHED, AND MADE A PART OF AND INCORPORATED INTO THIS RESOLUTION BY THIS REFERENCE, WITH DANIA LIVE 1748, LLC FOR THE DEVELOPMENT OF DANIA POINTE; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

2. PUBLIC HEARING ITEM #9.7

RESOLUTION NO. 2016-151

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONTRIBUTION AGREEMENT AND ANY ADDITIONAL DOCUMENTS PERTAINING TO THE AGREEMENT AND TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT, A COPY OF WHICH IS ATTACHED, AND MADE A PART OF AND INCORPORATED INTO THIS RESOLUTION BY THIS REFERENCE, WITH DANIA LIVE 1748, LLC FOR A SEWER IMPACT FEE CREDIT RELATED TO THE DEVELOPMENT OF DANIA POINTE; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

# CITY OF DANIA BEACH

## Agenda Request Item

**Type of Request:** Consent Agenda

**Continued from:**

### Requested Action (Identify appropriate Action or Motion)

APPROVING A CONDITIONAL LOAN COMMITMENT TO PARTIALLY FINANCE DEVELOPMENT OF THE SARATOGA CROSSINGS HOUSING DEVELOPMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE FHFC'S LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION-LOAN FORM

### Purchasing Requests ONLY

Dept:

Acct #:

Amt:

Fund:

### Fiscal Impact/Cost Summary

### Exhibits Attached

Memo , Saratoga Apartments Funding Exhibit, Resolution , Resolution Exhibit A

# Memo

To: Tom Ansbro, City Attorney for Dania Beach

From: Eduardo M. Soto, Esq.

Date: October 20, 2016

Subject: Saratoga Crossings - Dania Beach

cc: Jamie A. Cole, Esq.

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You have asked for an analysis of a proposed transaction in which the City of Dania Beach (the “City”) will be committing to loan the sum of \$637,000 to SARATOGA CROSSINGS, LTD., a Florida limited partnership (“Saratoga”). Saratoga is an affiliate of Atlantic Pacific Communities which was selected by the Dania Beach Housing Authority (the “Authority”) in an unrelated transaction, to replace units of existing public housing known as Saratoga Apartments (located at 705 and 1005 West Dania Beach Boulevard, in the City of Dania Beach) and create an affordable housing community. Currently, Saratoga is seeking to build an affordable housing rental project within the City to be known as Saratoga Crossing (the “Project”). This analysis will consist of two parts: first, whether the City has the authority to enter into the loan transaction; second a summary of the anticipated financing arrangement in connection with the Project.

## **DOES THE CITY HAVE THE AUTHORITY TO ENTER INTO THE LOAN TRANSACTION?**

Yes, the City may enter into the loan transaction with the approval of the City Commission. We have reviewed an analysis of this question which was prepared by attorney Richard Perez who represents Saratoga. We agree with the conclusions stated in the email attached as Exhibit “A” to this memo. Please note however that the analysis produced by Mr. Perez was directed to his client, and not to the City and should not be deemed an opinion letter from Mr. Perez to the City. We have merely included the attached to confirm that we agree with the conclusions set forth therein. In addition, we have reviewed relevant portions of the City charter and Code of Ordinances and have found nothing which would preclude the City making a loan for the Project. Please note that ordinances or statutes governing conflicts of interest and necessary disclosures remain fully applicable and we have not analyzed whether any such conflict exists related to this Project.

## **WHAT IS THE ANTICIPATED FINANCING ARRANGEMENT?**

As a preliminary matter, the viability of the Project is contingent upon Saratoga receiving an allocation of Low-Income Housing Tax Credits (“Housing Credits”) to build the Project. The allocation of Housing Credits is a competitive application process administered by the Florida Housing Finance Corporation (“FHFC”). Recent changes to the FHFC’s application give preference to certain projects which receive funding from local governments; this is the main reason that Saratoga is seeking the City’s commitment for the loan, in order to make their bid for Housing Credits more competitive.

Saratoga is seeking a commitment from the City of a \$637,000 loan to be secured by a mortgage on the real property on which the Project will be constructed (the “Property”). Saratoga will seek additional construction financing from an institutional lender which will also be secured by a mortgage on the Property. The institutional lender will also almost certainly require that their mortgage have priority over the City’s mortgage meaning that in the event of a foreclosure, the City’s mortgage, and security interest in the Property, could be extinguished. This would only occur in the event that a lender having priority over the City’s mortgage successfully forecloses on the Property and wipes out all junior lienors (such as the City). The likelihood of such an event is impossible to determine as it would require a full analysis of the viability of the Project and the financial wherewithal of the borrower. It is worthwhile to note however that multiple layers of financing are common in affordable housing projects and an institutional lender, who will be lending significantly more than the City, is certain to perform extensive due diligence on the Project and the borrower.

In addition to the security for the mortgage, the City should also focus on the repayment of the debt. As is common when there are multiple levels of debt, the lenders will likely enter into some form of intercreditor agreement specifying the manner in which each of the lenders will be repaid. For instance, since the intention is that the Project will eventually generate income, the lenders can specify how the cash flow (collected rents) will be distributed on a monthly basis. As long as sufficient cash flow exists to pay each lender and the operating expenses of the Project, there are typically no issues. The issues arise when there are insufficient cash flows. These provisions are typically negotiated among the lenders and there are countless ways in which the repayment of the debt can be structured. Given the early stage of the Project, it is impossible to determine the terms of any intercreditor agreement. Accordingly, the resolution prepared in connection with the Project, if adopted, specifies that the City’s commitment to lend is conditioned upon the City, Saratoga, and any institutional lender agreeing upon satisfactory terms and conditions of the loan documents including agreements regarding repayment of the loans.

**EXHIBIT “A”**

**From:** Kenneth Naylor [<mailto:knaylor@apcommunities.com>]  
**Sent:** Friday, September 30, 2016 5:17 PM  
**To:** Ansbro, Tom  
**Cc:** Anne Castro; Liz Wong  
**Subject:** FW: Municipal Authority to Expend Funds for Affordable Housing

Tom –

I enjoyed meeting you yesterday. We will be getting you more context next week per your request.

In the meantime, I wanted to share the below email from Holland & Knight laying out their view as to the statutory authority of a municipality to expend funds aimed at increasing the supply of affordable housing within its municipal boundaries through a public-private partnership.

Hopefully that may help shortcut some of your research.

Best,

Ken

**KENNETH C. NAYLOR**  
**Chief Operating Officer**

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2950 S.W. 27th Avenue, Suite 200 | Miami, FL 33133  
Office: (305) 357.4713 | Fax: (305) 476.1557



**From:** [Richard.Perez@hklaw.com](mailto:Richard.Perez@hklaw.com) [<mailto:Richard.Perez@hklaw.com>]  
**Sent:** Friday, September 30, 2016 11:34 AM  
**To:** Kenneth Naylor <[knaylor@apcommunities.com](mailto:knaylor@apcommunities.com)>  
**Subject:** Municipal Authority to Expend Funds for Affordable Housing

You have asked whether a municipal government can enter into an agreement to provide grants from general revenue to an affordable housing developer with the express purpose of increasing the stock of affordable housing within its municipal boundaries.

The short answer is yes.

Section 166.021(4), Florida Statutes, affirms the intent of the Florida Legislature to allow municipalities the broad exercise of home rule powers granted by the Constitution, to extend to municipalities the exercise of powers for municipal governmental, corporate, or proprietary

purposes not expressly prohibited by the Constitution, general or special law, or county charter, and to remove any limitations, judicially imposed or otherwise, on the exercise of home rule powers other than those so expressly prohibited. However, with respect to expenditures, it is axiomatic that a municipality may only expend funds for any municipal purpose. *See* s. 10, Art. VII, Florida State Constitution.

Whether an expenditure constitutes a valid municipal purpose is a factual determination based on whether there is “some clearly identified and concrete public purpose as a primary objective, and a reasonable expectation that the purpose will be accomplished.” *See* Attorney General Opinion 83-06.

Florida Statutes recognize that private-public partnerships to increase the supply of affordable housing constitutes a valid public purpose. In fact, Section 166.04151, Florida Statutes, specifically provides the following:

Notwithstanding any other provision of law, a municipality may adopt and maintain in effect any law, ordinance, rule, or other measure that is adopted for the purpose of increasing the supply of affordable housing using land use mechanisms such as inclusionary housing ordinances.

Furthermore, Section 420.0002, Florida Statutes, concludes that “as a matter of public policy, special programs are needed to stimulate public and private enterprises to build and rehabilitate housing in order to provide decent, safe, and sanitary conditions for very-low-income persons, low-income persons, and moderate-income persons.” The statute goes on to find that the state should “enable local governments to meet local needs and to match federal funds.”

Based on the foregoing, the law is clear that the expenditure of funds by a municipality aimed at increasing the supply of affordable housing within its municipal boundaries through a public-private partnership constitutes a valid municipal and public purpose.

**Richard Perez | Holland & Knight**

Partner

Holland & Knight LLP

701 Brickell Avenue, Suite 3300 | Miami, FL 33131

Phone 305.789.7630 | Fax 305.789.7799

[richard.perez@hklaw.com](mailto:richard.perez@hklaw.com) | [www.hklaw.com](http://www.hklaw.com)

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Calculate the net present value of the stream of the various monthly payments over 30 years (360 months) using a 5.50 percent discount rate (\$126,615.93).

Subtract the net present value amount from the original principal loan amount to arrive at the value of the contribution (\$200,000.00 - \$126,615.93 = \$73,384.07 value).

Example: A Development is to be located in Orange County and has achieved a Local Government contribution valued at \$37,500. The County Contribution List states that a Development to be located in Orange County must obtain contributions valued at \$75,000 to achieve 5 points. Therefore, in this example, the Development would receive 2.5 points (( $\$37,500 / \$75,000$ ) X 5).

NOTE: Points will be rounded to two decimal places (3.345 rounded up to 3.35 and 3.3449 rounded down to 3.34).

County Contribution List	
County in Which the Development Is to be Located	Value of Contribution Required to Achieve Maximum Points
Broward	\$100,000
Duval Hillsborough Orange Palm Beach Pinellas	\$75,000

b. **Local Government Areas of Opportunity Funding (10 points):**

In order for an Applicant to receive points, the Applicant must demonstrate a high level of Local Government interest in the project via an increased amount of Local Government contributions in the form of cash loans and/or cash grants, as outlined below. To that end, the Corporation will only award points to a proposed Development where a jurisdiction (i.e., the county or a municipality) has contributed cash loans and/or cash grants for any proposed Development applying in this RFA in an amount sufficient to qualify for these points. Any single jurisdiction may not contribute cash loans and/or cash grants to more than one proposed Development applying for these Local Government Areas of Opportunity Funding points. During the ranking process outlined in Section Four B of the RFA, if multiple Applications demonstrate Local Government loans and/or grants from the same jurisdiction in an amount sufficient to qualify for these points, then all such Applications will be deemed ineligible for these points.

The total amount of permanent funding resources, in the form of cash loans and/or cash grants from Local Government sources will, for purposes of this provision, be considered to be “Local Government Areas of Opportunity Funding.” In-kind donations or any other donation of property or assets or waiver of any fees, as well as any funding from the Corporation, will not be considered Local Government Areas of Opportunity Funding. In order to be eligible to be considered Local Government Areas of Opportunity Funding, the cash loans and/or cash grants must be demonstrated via one or both of the Florida Housing Local Government Verification of Contribution forms (Form Rev. 08-16), called “Local Government Verification of Contribution – Loan” form and/or the “Local Government Verification of Contribution – Grant” form. The forms must meet the requirements outlined in 10.a.(2) above, the qualifying funding must be reflected as a source on the Development Cost Pro Forma, and the applicable form(s) must be provided as Attachment 15 to the

Application. If the Applicant qualifies for Local Government Areas of Opportunity Funding points and is awarded funding under this RFA, the Applicant must provide and maintain an amount equal to or greater than the minimum qualifying amounts listed in the table below within the permanent sources of financing.

To qualify for Local Government Areas of Opportunity Funding points, the face amounts of any cash loans and/or cash grants shown on the aforementioned Local Government Verification of Contribution forms shall be totaled and the total of these amounts must equal or be greater than the amounts listed in the table below for the proposed Development’s Building Type.

If the total face amounts of any cash loans and/or cash grants shown on the Local Government Verification of Contribution form(s) total less than the amounts listed in the table below, the Application will not receive Local Government Areas of Opportunity Funding points, but may receive Local Government Contribution points as outlined in 10.a.(2) above, provided the Local Government Verification of Contribution forms meet the requirements outlined in 10.a.(2) above.

<b>Minimum Local Government Area of Opportunity Funding Amounts</b>		
<b>Building Type*</b>	<b>Total Amount of Loan(s)/Grant(s) for Duval, Hillsborough, Orange, Palm Beach and Pinellas Counties</b>	<b>Total Amount of Loan(s)/Grant(s) for Broward County</b>
Garden-Wood (NC)	\$458,250	\$480,750
Garden-Concrete (NC)	\$551,000	\$578,000
Mid-Rise-Wood (NC)	\$551,000	\$578,000
Mid-Rise-Concrete (NC)	\$607,500	<b>\$637,000</b>
High-Rise (NC)	\$739,500	\$775,500
Garden (Rehab)	\$385,250	\$404,000
Non-Garden (Rehab)	\$542,750	\$569,250

\* For purposes of this provision (i) Concrete refers to a “Yes” answer to question 5.c.(4) of Exhibit A; (ii) NC includes Development Categories of New Construction, Redevelopment and Acquisition and Redevelopment and Rehab includes Development Categories of Rehabilitation and Acquisition and Rehabilitation, as selected by the Applicant at question 5.c.(2) of Exhibit A; and (iii) Garden includes all Development Types other than Mid-Rise and High-Rise; Non-Garden includes Development Types of Mid-Rise with Elevator (4 stories, 5 stories, or 6 stories) and High-Rise (7 or more stories); Mid-Rise includes Development Types of Mid-Rise with Elevator (4 stories, 5 stories, or 6 stories); and High-Rise includes Development Type of High Rise (7 or more stories), as selected by the Applicant at question 5.d. of Exhibit A. In the case of mixed-type Developments, the Applicant should use the Building Type that will comprise the majority of the units in the Development.

**11. Funding:**

a. Eligible Housing Credit Request Amount:

The Applicant must state the amount of Housing Credits it is requesting.

The Eligible Housing Credit Request Amount will be the amount of Housing Credit Allocation the Applicant will tentatively be awarded should the Application be selected for funding. Such Eligible Housing Credit Request Amount will be based on the lesser of (i) the Applicant’s Housing Credit Request Amount (as provided by the Applicant in question 11.a. of Exhibit A) and (ii) the County Group Maximum Housing Credit Request Limit (as outlined in (7) below). Any Housing Credit equity proposal provided as an attachment to the RFA must reflect the Eligible Housing Credit Request Amount, as further described in Item 11.d.(2)(a) below.

In order for the Applicant’s Housing Credit Request Amount to be eligible to be greater than the limits indicated in Column A of the chart set out at (7) below, the proposed Development

## RESOLUTION NO. 2016-149

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, APPROVING A CONDITIONAL LOAN COMMITMENT TO PARTIALLY FINANCE DEVELOPMENT OF THE SARATOGA CROSSINGS HOUSING DEVELOPMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE FHFC'S LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION-LOAN FORM; PROVIDING FOR CONFLICTS; FURTHER PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, Saratoga Crossings, Ltd., a Florida limited partnership, and its affiliates (the "Applicant") propose to build a new multi-family development for affordable rental housing to be known as Saratoga Crossings (the "Housing") located at 1105 West Dania Beach Boulevard, Dania Beach, Broward County, Florida, with restrictions on the incomes of the residents and rents that can be charged; and

**WHEREAS**, the Applicant intends to submit an application to the Florida Housing Finance Corporation ("FHFC") for Competitive 9% Housing Credits ("Housing Credits") for the Housing; and

**WHEREAS**, a conditional loan commitment from the City of Dania Beach, Florida (the "City") in the amount of \$637,000.00 ("Request Amount"), considered to be a "Local Government Area of Opportunity Funding" by FHFC, will evidence a high level of interest in the Housing; and

**WHEREAS**, the conditional commitment to lend the Request Amount shall be contingent upon an award Housing Credits and the City entering into agreements which, to its satisfaction, secure the repayment of the Request Amount.

**NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA:**

**Section 1.** The City of Dania Beach hereby conditionally approves the Applicant's request for funding in the amount of \$637,000.00 to support the Housing. The funding shall consist of a loan evidenced by a promissory note and secured by a mortgage with a minimum term of five (5) years, subject to acceleration in the event of default, with collateral satisfactory to the City and subject to the City, Applicant, and other parties providing financing for the Housing entering into agreements which, to the satisfaction of the City, secure the repayment of the Request Amount.

**Section 2.** For and on behalf of the governing body of the City of Dania Beach, the City Manager, is hereby authorized to execute FHFC's Local Government Verification of

Contribution-Loan Form, attached as Exhibit “A”, which shall be effective through June 30, 2017.

**Section 3.** For and on behalf of the governing body of the City, the City Manager, is hereby authorized, empowered, and directed to negotiate with the Applicant on the funding transaction if the Applicant receives an award of Housing Credits.

**Section 4.** This Resolution shall become effective immediately upon its passage.

**PASSED and ADOPTED** on October 25, 2016.

ATTEST

\_\_\_\_\_  
LOUISE STILSON, CMC  
CITY CLERK

\_\_\_\_\_  
MARCO A. SALVINO, SR.  
MAYOR

APPROVED AS TO FORM AND CORRECTNESS:

\_\_\_\_\_  
THOMAS J. ANSBRO  
CITY ATTORNEY

**FLORIDA HOUSING FINANCE CORPORATION  
LOCAL GOVERNMENT VERIFICATION OF CONTRIBUTION – LOAN FORM**

Name of Development: \_\_\_\_\_

Development Location: \_\_\_\_\_  
(At a minimum, provide the address number, street name and city, and/or provide the street name, closest designated intersection and either the city (if located within a city) or county (if located in the unincorporated area of the county). If the Development consists of Scattered Sites, the Development Location stated above must reflect the Scattered Site where the Development Location Point is located.)

The City/County of \_\_\_\_\_, commits \$ \_\_\_\_\_ (which may be used as an FHFC Non-Corporation Funding Proposal in an Application for FHFC funding if it meets the required criteria) in the form of a reduced interest rate loan to the Applicant for its use solely for assisting the proposed Development referenced above.

The net present value of the above-referenced loan, based on its payment stream, inclusive of a reduced interest rate and the designated discount rate (as stated in the applicable RFA) is: \$ \_\_\_\_\_.

No consideration or promise of consideration has been given with respect to the loan. For purposes of the foregoing, the promise of providing affordable housing does not constitute consideration. The commitment for this loan must be effective as of the Application Deadline for the applicable RFA, and is provided specifically with respect to the proposed Development.

**CERTIFICATION**

I certify that the foregoing information is true and correct and that this commitment is effective at least through the date required in the applicable RFA.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print or Type Name

\_\_\_\_\_  
Print or Type Title

This certification must be signed by the chief appointed official (staff) responsible for such approvals, Mayor, City Manager, County Manager /Administrator/Coordinator, Chairperson of the City Council/Commission or Chairperson of the Board of County Commissioners. If the contribution is from a Land Authority organized pursuant to Chapter 380.0663, Florida Statutes, this certification must be signed by the Chair of the Land Authority. One of the authorized persons named above may sign this form for certification of state, federal or Local Government funds initially obtained by or derived from a Local Government that is directly administered by an intermediary such as a housing finance authority, a community reinvestment corporation, or a state-certified Community Housing Development Organization (CHDO). Other signatories are not acceptable. The Applicant will not receive credit for this contribution if the certification is improperly signed. To be considered for points, the amount of the contribution stated on this form must be a precise dollar amount and cannot include words such as estimated, up to, maximum of, not to exceed, etc.

If the Application is not eligible for automatic points, this contribution will not be considered if the certification contains corrections or 'white-out' or if the certification is altered or retyped. The certification may be photocopied.

Please note: This form may be modified by Florida Housing Finance Corporation per Section 67-60.005, F.A.C.

# CITY OF DANIA BEACH

## Agenda Request Item

**Type of Request:** Public Hearing

**Continued from:**

### Requested Action (Identify appropriate Action or Motion)

AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A DEVELOPMENT AGREEMENT AND ANY ADDITIONAL DOCUMENTS PERTAINING TO THE AGREEMENT AND TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT, A COPY OF WHICH IS ATTACHED, AND MADE A PART OF AND INCORPORATED INTO THIS RESOLUTION BY THIS REFERENCE, WITH DANIA LIVE 1748, LLC FOR THE DEVELOPMENT OF DANIA POINTE

### Purchasing Requests ONLY

Dept:	Acct #:	Amt:
Fund:		

### Fiscal Impact/Cost Summary

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### Exhibits Attached

Memo, Resolution , Exhibit A, Exhibit A1, Exhibit B, Exhibit C, Exhibit D, Exhibit E, Exhibit F



## MEMORANDUM

**DATE:** October 25, 2016

**TO:** Robert Baldwin, City Manager

**FROM:** Marc LaFerrier, AICP, Director of Community Development 

**SUBJECT:** **Development Agreement with Dania Live 1748, LLC for Off-Site Public Improvements Related to the Dania Pointe Development Project.**

The Dania Pointe project has been the subject of numerous public hearings and development approvals during the last year, including: rezonings, platting, development regulations, master plans and site plans. Specifically on May 24, 2016, pursuant to Ordinance No. 2016-008, the City Commission approved the rezoning and related Dania Pointe Development Design Guidelines (the "DDG"), including a Master Development Plan (the "MDP"), for a mixed use development containing approximately 103 acres of land.

The DDG requires that in connection with the development of the Dania Pointe Project the Developer shall enter into a development agreement with the City requiring the timely construction and coordinated completion of certain off-site public improvements. Furthermore, in accordance with the City's amended Land Development Code the Dania Pointe DDG require, the Developer to enter into a Development Agreement which specifically identifies certain off-site improvements and provides for the phased construction and completion of the off-site improvements. The required off-site improvements have been analyzed and defined by the City, Broward County and Florida Department of Transportation (FDOT) has the required off-site roadway and utility improvements for the project. In summary, these off-site improvements include:

- Off-site sewer force main
- Roadway improvements: Stirling Road off-ramp, Stirling Road/NW 18<sup>th</sup> Street intersection, Bryant Road/Old Griffin Road traffic circle, new intersection at Stirling Road/Compass Way, Bryant Road, all roadway frontage improvements, Old Griffin Road, Stirling Road/Bryant Road intersection, and participation in the future West Dania Beach Boulevard extension and bridge.

These off-site improvements have been identified in previous plans and approvals and are now included in the subject Development Agreement.

### RECOMMENDATION

Approve Resolution

**RESOLUTION NO. 2016-150**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A DEVELOPMENT AGREEMENT AND ANY ADDITIONAL DOCUMENTS PERTAINING TO THE AGREEMENT AND TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT, A COPY OF WHICH IS ATTACHED, AND MADE A PART OF AND INCORPORATED INTO THIS RESOLUTION BY THIS REFERENCE, WITH DANIA LIVE 1748, LLC FOR THE DEVELOPMENT OF DANIA POINTE; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the City of Dania Beach, Florida (the “City”) has established a Regional Activity Center (RAC) land use designation to provide for the development of mixed land uses of regional significance;and

**WHEREAS**, on October 13, 2015, pursuant to Ordinance No. 2015-022, the City established the Planned Mixed-Use Development District (PMUD); and

**WHEREAS**, Section 340-40(c) of the City of Dania Beach Land Development Code (the “LDC”) provides that no building permit for a structure or building may be issued pursuant to PMUD zoning except in conformance with City Commission approval of Development Design Guidelines, including a Master Plan;and

**WHEREAS**, on May 24, 2016, pursuant to Ordinance No. 2016-008, the City Commission approved the rezoning and related Dania Pointe Development Design Guidelines (the “DDG”), including a Master Development Plan (the “MDP”), for a mixed use development containing approximately 103 acres of land (the “Property”) all as more particularly set forth in the Dania Pointe DDG (collectively, the “Dania Pointe Project”);and

**WHEREAS**, the DDG requires that in connection with the development of the Dania Pointe Project, DANIA LIVE 1748, LLC (the “Developer”), shall enter into a development agreement with the City addressing the timely construction and coordinated completion of certain off-site improvements; and

**WHEREAS**, in accordance with the above referenced LDC, the approved rezoning and the Dania Pointe DDG, the Developer has requested the City enter into a Development

Agreement, which specifically identifies certain off-site improvements and provides for the phased construction and completion of certain off-site improvements;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA:**

**Section 1.** That the foregoing “Whereas” clauses are ratified and confirmed to be true and correct, and they are made a part of and are incorporated into this Resolution by reference.

**Section 2.** That the City Commission approves the execution of the Development Agreement, a copy of which is attached as Exhibit “A”, and made a part of and incorporated into this Resolution by this reference, necessary for the development of the Dania Pointe Project.

**Section 3.** That the appropriate City officials including the Mayor, City Manager and City Attorney are authorized to execute the Development Agreement and any additional documents pertaining to the Development Agreement and to take all action necessary to implement the terms and conditions of the Development Agreement.

**Section 4.** That all resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

**Section 5.** The City, or the Developer if so requested by the City Clerk, shall record this Resolution at the Developer’s sole expense in the Public Records of Broward County, Florida.

**Section 6.** That this Resolution shall be in force and take effect immediately upon its passage and adoption.

**PASSED AND ADOPTED** on October 25, 2016.

ATTEST:

\_\_\_\_\_  
LOUISE STILSON, CMC  
CITY CLERK

\_\_\_\_\_  
MARCO A. SALVINO, SR.  
MAYOR

APPROVED AS TO FORM AND CORRECTNESS:

\_\_\_\_\_  
THOMAS J. ANSBRO  
CITY ATTORNEY

**DEVELOPMENT AGREEMENT**  
**BETWEEN THE CITY OF DANIA BEACH, FLORIDA AND DANIA LIVE 1748, LLC**  
**FOR**  
**DANIA POINTE**

This Development Agreement (“Agreement”) is entered into this \_\_\_\_ day of October, 2016, between DANIA LIVE 1748, LLC, a Delaware limited liability company (Developer of the Dania Pointe project) (hereinafter “Developer”) and the CITY OF DANIA BEACH a municipal corporation and a political subdivision of the State of Florida (hereinafter “City”).

The term “Owner” as used hereafter shall mean Developer, its successors, assignees, tenants, agent, contractors, subcontractors and parties in interest.

WITNESSETH:

WHEREAS, the Developer (owning approximately 102 acres of land) and Discount Auto Parts, LLC, a Virginia limited liability company (owning approximately 1 acre of land) together own that certain property located in City, Broward County, Florida, more particularly described in **Exhibit A** attached hereto and made a part hereof, containing approximately 103 acres of land (the “Property”); and

WHEREAS, the City has established a Regional Activity Center (RAC) land use designation to provide for development of mixed land uses of regional significance; and

WHEREAS, on October 13, 2015, pursuant to Ordinance No. 2015-022, the City established the Planned Mixed-Use Development District (PMUD); and

WHEREAS, the PMUD is intended to encourage and facilitate quality development and redevelopment within the RAC by providing flexibility for large scale development accommodating a mix of uses in a complementary and integrated manner; and

WHEREAS, Section 340-40(c) of the City of Dania Beach Land Development Code (the “City Code”) provides that no building permit for a structure or building may be issued pursuant to PMUD zoning except in conformance with City Commission approval of Development Design Guidelines, including a Master Plan; and

WHEREAS, on May 24, 2016, pursuant to Ordinance No. 2016-008, the City Commission approved the Dania Pointe Development Design Guidelines (the “DDG”) for a mixed use development on the Property, including a Master Development Plan (“MDP”), all as more particularly set forth in the DDG (collectively, the “Project”); and

WHEREAS, the DDG requires that in connection with the development of the Project the developer shall enter into a development agreement addressing the timely construction and coordinated completion of certain off-site improvements as more particularly set forth herein; and

WHEREAS, pursuant to the Broward County plat approval process, the Developer shall be required to enter into an agreement with Broward County for the phased construction and completion

of certain off-site improvements (the “Broward County Improvements”) attached hereto and incorporated herein as **Exhibit B**; and

WHEREAS, the Developer has prepared and requested that City enter into this Agreement and proceedings have been taken in accordance with the aforementioned City rules and regulations as cited above; and

WHEREAS, the City Commission has determined this Development Agreement is consistent with the DDG, including the MDP and the City Code, except as otherwise provided for in this Agreement.

NOW THEREFORE, for and in consideration of the mutual terms and conditions contained in this Agreement, the sufficiency and adequacy of which are hereby acknowledged by the parties hereto, the parties to this Agreement do hereby agree as follows:

1. RECITALS. The foregoing recitations contained in the “Whereas Clauses” are true and correct and are incorporated into and made a part of this Agreement as specifically set forth herein. All exhibits to this Agreement are hereby deemed a part thereof.

2. 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. City and the Owner agree that the development of the Project will be governed in conformance with the following agreements, limitations, and modifications:

- a. Permitted Uses. The Project may include all those uses permitted in accordance with the approved Dania Pointe DDG, including the MDP and site plan improvements as may be amended in the future.
- b. Permitted Development. The Dania Pointe Project development shall consist of mixed land uses as more particularly set forth in the Dania Pointe DDG, including the MDP as may be amended in the future.
- c. Improvements. Owner shall construct off-site improvements as a part of the Project, as follows (collectively, “Improvements”), such Improvements to be constructed within the time frames set forth in this Agreement to completion (the term “completion” shall mean completion sufficient for the issuance of a certificate of completion or an equivalent certification by the applicable governmental authorities) unless expressly set forth below:
  1. Improvements as required by the Final Broward County Development Review Report for the Dania Pointe Plat, Plat No. 035-MP-15.
  2. Improvements necessary to satisfy those conditions set forth in the Florida Department of Transportation (“FDOT”) Access Letter for the Project dated May 9, 2016 (the “Letter”) attached hereto and incorporated herein as **Exhibit C** (collectively, subject to subsections a., b., c., d., e., f., and g. as referenced below, the “FDOT Improvements”). Notwithstanding the foregoing, City and Developer agree as follows with respect to the conditions in the Letter:

- a. Developer and FDOT are engaged in ongoing discussions concerning the conditions in the Letter, and if the Letter is subsequently revised to modify any conditions, Developer and City agree to replace the Letter with a replacement letter from FDOT (which will then become the “Letter” for purposes of this Agreement), as evidenced by a one-page “Certificate of Substitution” which refers to this Agreement and is recorded in the Public Records of Broward County, Florida, provided that such modified conditions are acceptable to City, in its reasonable discretion.
- b. Completion of the FDOT Improvements described in the Letter shall be a condition of City’s issuance of a certificate of occupancy for any on-site vertical Project improvements located either north of West Dania Beach Boulevard (such improvements located north of West Dania Beach Boulevard are referred to hereafter collectively as “North Project Improvements”), or south of West Dania Beach Boulevard (such improvements located south of West Dania Beach Boulevard are referred to hereafter collectively as “South Project Improvements”), as more particularly set forth in subsections c., d., e. and f. below.

By way of clarification, any delays in, or failure to complete the North Project Improvements shall not impede, delay or prevent the issuance of a certificate of occupancy for any South Project Improvements.

- c. Pursuant to Condition 1 of the Letter, Developer shall complete the FDOT Improvements to construct a second northbound right-turn lane on the I-95 northbound off-ramp at Stirling Road prior to the City’s issuance of a certificate of occupancy for any North Project Improvements.
- d. Pursuant to Condition 5 of the Letter, Developer shall complete the FDOT Improvements concerning all right-turn lanes and frontage improvements to Stirling Road prior to the City’s issuance of a certificate of occupancy for any South Project Improvements.
- e. Pursuant to Condition 4 of the Letter, Developer shall complete the FDOT Improvements concerning modified traffic signals and intersection improvements at the intersection of Bryan Road and Stirling Road prior to the City’s issuance of a certificate of occupancy for any South Project Improvements.
- f. Pursuant to Condition 3 of the Letter, Developer shall complete the FDOT Improvements concerning a new traffic signal and intersection improvements at the intersection of Stirling Road and Compass Way prior to the City’s issuance of a certificate of occupancy for any South Project Improvements.
- g. Pursuant to Condition 2 of the Letter, but notwithstanding subsection 2.c.2.b above, Developer shall complete the FDOT Improvements to reconstruct the intersection of SW 18<sup>th</sup> Avenue/Oakwood Plaza at Stirling Road to align the southbound and northbound approaches of the

intersection to eliminate the north/south split phased signal timing, construct a second eastbound left-turn lane, and lengthen the westbound right-turn lane within one-hundred fifty (150) days of the City's issuance of a certificate of occupancy for any anchor tenant containing at least 120,000 square feet.

3. A roundabout, related roadway modifications and sidewalks, or both at the intersection of Bryan Road and Old Griffin Road as substantially depicted on the drawing attached hereto and incorporated herein as **Exhibit D**. The work required in this Section 2.c.3. shall be completed prior to the issuance of a certificate of occupancy for any North Project Improvements, but completion of such work is not a condition of City's issuance of a certificate of occupancy for any South Project Improvements. Accordingly, any delays in, or failure to complete the work required under this Section 2.c.3. shall not impede, delay or prevent the issuance of a certificate of occupancy for any South Project Improvements.
4. Roadway expansion and modifications along the length of the Bryan Road Project frontage segment between Old Griffin Road and Stirling Road, including sidewalks, median improvements, turn lanes, and other elements as substantially depicted on the drawing attached hereto and incorporated herein as **Exhibit E**.
5. Roadway expansion and modifications along the length of the Stirling Road segment between I-95 and Bryan Road, including sidewalks, median improvements, turn lanes, and other elements, as substantially depicted in the drawing attached hereto and incorporated herein as **Exhibit F**.
6. Roadway modifications on Old Griffin Road west of the Bryan Road intersection (the "Griffin Improvements"), provided that the following conditions precedent shall be satisfied prior to the commencement of work by Developer, and it being acknowledged that the Griffin Improvements are not required by City, Broward County or any other governmental agency:
  - a. Developer shall prepare plans and obtain all necessary permits for Griffin Improvements to be performed pursuant to plans approved by City and Broward County.
  - b. City and Developer shall coordinate with FDOT and Broward County to ensure that there is no conflict between the Griffin Improvements and future FDOT and Broward County improvements.
  - c. All rights-of-way (ROW) necessary for Developer to perform the Griffin Improvements shall be in place at no cost to the Developer.
  - d. The cost of the Griffin Improvements (including, without limitation, all costs of materials and labor, and all costs of design, engineering

and permitting) shall be fully paid for through Broward County transit-oriented concurrency fee credits.

7. New off-site sanitary force-main line (the “Sewer Line”) provided that all costs of installation of the Sewer Line (the “Sewer Installation, Costs”) shall be credited against all applicable Project-related City-imposed sewer impact fees, which include connection fees as defined in the City Code, provided that (1) *Sewer Line has been constructed and installed in accordance with plans accepted and approved by City and* (2) *the total amount of sewer impact fee credits granted shall not exceed the total amount of City-imposed sewer impact fees due for the Project* as set forth within the terms of a separate contribution agreement between City and Developer authorized pursuant to Section 27-212 of the City Code. Owner shall attempt to cause the Sewer Line to be completed prior to the issuance of the final certificate of occupancy for the North Project Improvements. If the Sewer Line is not completed prior to the commencement of construction of any North Project Improvements, then at any time thereafter City may require that the Owner post security in the amount of the Sewer Installation Costs in a form reasonably acceptable to City (i.e., bond, letter of credit) (the “Security”). If Owner posts the Security and completes the Sewer Line prior to the date that City is ready to issue the final certificate of occupancy for the North Project Improvements then the Security shall be refunded in full to Owner (or canceled, as applicable). If Owner posts Security and does not complete the Sewer Line prior to the date that the final certificate of occupancy is ready to be issued for the North Project Improvements, then City may utilize the Security to cause the Sewer Line to be completed (it being understood that Owner’s entire obligation concerning the Sewer Line shall be limited to the amount of the Security).
8. A covered, lighted bus shelter with trash receptacles for all bus stops on Bryan Road and Stirling Road, at locations along the Project frontage only as required by the Broward County Transit Authority and consistent with applicable Broward County Code standards.

- d. West Dania Beach Boulevard Extension and C-10 Canal Bridge Design. Although not required for any governmental approvals for any governmental agency, the Owner has voluntarily agreed to design engineering plans at a ninety (90) % completion level sufficient for any governmental agency having jurisdiction for the roadway expansion and modifications to West Dania Beach Boulevard providing for an extension of the existing roadway segment west to Bryan Road, including a bridge over the C-10 Canal. Owner shall complete and submit engineering plans prior to January 15, 2020.

4. Satisfaction of Conditions. Owner may notify City asserting the completion of any of the conditions of this Agreement, and as necessary, furnish evidence of same. 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 City fails to take action within 45 days of notification, the completion shall be deemed approved.

5. Amendments. No modification, amendment, or release of the terms or conditions contained herein shall be effective unless contained in a written document executed by City and Owner.

6. Building Permits and Certificates of Occupancy. City agrees to issue to the Owner, upon application and approval, all required building permits, approvals or other required permits and Certificates of Occupancy for the construction, use and occupancy of the Project, subject to compliance with all applicable City Code provisions, permit conditions, this Agreement and the most current South Florida Building Code Broward County Edition, as amended from time to time.

7. Fees. Owner shall pay all fees as required by Code. Approvals are also based upon payment of City's usual and customary fees and charges for such applications, permits or services, in effect at the time of issuance of the permit or approval, and any financial contribution identified as part of this Agreement.

It is further understood and agreed that failure to fulfill any provision of this Agreement 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 City shall not be liable for any direct, indirect and/or consequential damages claimed for such non-issuance.

8. Exhibits. Notwithstanding anything herein to the contrary, **Exhibits B, D, E and F** hereto are subject to final approval by all applicable governmental agencies with jurisdiction over the Project, and are therefore subject to revision. Provided that such revisions are not material (as determined by City, in its reasonable discretion), this Agreement shall not be amended to refer to any such revisions.

9. Sale of Property. It is acknowledged and agreed that while Owner may convey portions of the Property to third parties, the Developer is obligated to cause the construction of the Improvements, subject to the terms and conditions herein; provided, however, that in the event that Developer conveys all or substantially all of the Property to a third party who expressly assumes the obligations of Developer hereunder, then Developer shall deliver not less than thirty (30) days' advance written notice of such conveyance to City. For clarification, owners of one or more condominium units and/or any condominium or homeowners' association lying within or controlling a portion of the Property are exempt from all duties and obligations under this Agreement (unless such owner or association is successor Developer for a reason other than its ownership or control of a condominium unit or condominium elements).

10. Binding Effect of Agreement. This Agreement shall be binding upon the Owner and 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.

11. Breach of Agreement. In the event that the Owner has materially breached this Agreement, prior to issuance of the Certificate of Occupancy, the Owner shall commence to cure the breach within thirty (30) days of notice by City (unless, with respect to any breach the nature of which cannot reasonably be cured within such thirty (30) day period, the Owner commences such cure within such thirty (30)-day period and thereafter diligently prosecutes such cure to completion). If the Owner fails to timely cure a breach following adequate notice, City shall have the right to pursue any remedies available at law or in equity for the purpose of curing the breach and enforcing this Agreement.

12. 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 City:

Robert Baldwin  
City Manager  
City of Dania Beach  
100 W. Dania Beach Boulevard  
Dania Beach, FL 33004

With a copy to:  
Thomas J. Ansbro, Esq.  
City Attorney  
100 W. Dania Beach Boulevard  
Dania Beach, FL 33004

(2) If to the Owner:

Dania Live 1748, LLC  
3333 New Hyde Park Road  
Suite 100  
New Hyde Park, NY 11042

With a copy to:

Dennis Mele, Esq.  
Greenspoon Marder, P.A.  
200 E. Broward Boulevard  
Suite 1800  
Fort Lauderdale, FL 33301

And a copy to:

Gary J. Bazydlo, Esq.  
Regional Counsel  
Kimco Realty Corporation  
6060 Piedmont Row Drive South, Suite 200  
Charlotte, NC 28287

13. Effective Date of the Agreement. This Agreement shall become effective upon City Commission approval and execution by the Owner and City.

14. Recording. This Agreement shall be recorded in the Public Records of Broward County, Florida, and shall run with the land. The Owner shall pay the cost of recording this Agreement.

15. 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.

16. Term of Agreement. This Agreement shall run with the land, remain in full force and effect, and be binding on all parties and all persons claiming under it for an initial term of 10 years from the Effective Date. The term hereof shall be automatically extended for additional, consecutive terms of 10 years each, except where the City and Owner jointly execute and record a document modifying the term hereof or terminating the term. Notwithstanding the foregoing, upon completion of all of Developer's obligations hereunder, City, through the City Manager (and without further notice from or action by City), shall promptly cause to be executed and delivered to Owner to record in the Public Records of Broward County, Florida, a certificate that is binding on the City stating that all of the Improvements have been completed to City's satisfaction, and Developer has no further obligations hereunder (the "Certificate of Completion"). The Certificate of Completion, when executed and recorded, shall be conclusive evidence of the termination of the Agreement and all obligations thereunder. In the event that Owner reasonably believes that all of its obligations hereunder have been satisfied, then Owner may deliver written notice to City asserting the completion of all such obligations (the "Notice"). City shall consider such Notice and inspect the work or proof of completion as it deems reasonably necessary, and within ninety (90) days of delivery of the Notice shall either deliver the Certificate of Completion to Owner, or, if City in good faith believes that any of the express obligations of Developer under this Agreement have not been completed, deliver a detailed and comprehensive list of all such unfinished obligations to Owner. Where the list of unfinished obligations is delivered to Owner, City and Owner shall diligently work together, in good faith and with best efforts, to resolve all such unfinished obligations and cause the Certificate of Completion to be issued as soon as possible thereafter.

17. Entire Agreement. This Agreement constitutes the entire understanding and agreement between the parties and supersedes all prior negotiations and agreements between them with respect to all or any of the matters contained herein.

18. Waiver. The failure of any party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach or of any future violation, breach, or wrongful conduct.

19. Parties to Agreement. This is an agreement solely between the City and Owner. The execution and delivery hereof shall not be deemed to confer any rights or privileges on any person not a party hereto other than the successors or assigns of the City or Owner.

20. Venue. All legal actions arising out of or connected with this Agreement must be instituted in the Circuit Court of Broward County, Florida. The laws of the State of Florida shall govern the interpretation and enforcement of this Agreement.

21. Attorneys' Fees. In the event of any controversy arising under or related to the interpretation or implementation of this Agreement or any breach thereof, the City or Owner, as the case may be, as the prevailing party, shall be entitled to payment for all reasonable attorneys' fees, paralegals' fees, experts' fees, mediation fees and cost incurred in connection therewith both at the trial and appellate levels.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have made this Amendment on the date first above written.

CITY:

CITY OF DANIA BEACH

By: \_\_\_\_\_  
Marco A. Salvino, Sr., Mayor

Dated: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Louise Stilson, CMC, City Clerk

APPROVED:

\_\_\_\_\_  
Thomas J. Ansbro, City Attorney

STATE OF FLORIDA )

: SS

COUNTY OF BROWARD )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of October, 2016, by **Marco A. Salvino, Sr.**, as Mayor of the City of Dania Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY PUBLIC:

(SEAL)

My Commission expires:

\_\_\_\_\_  
Print Name: \_\_\_\_\_



Signed, sealed and delivered in the presence of:

**DEVELOPER:**

**DANIA LIVE 1748, LLC**, a Delaware limited liability company

\_\_\_\_\_  
(Signature)

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_, its \_\_\_\_\_

\_\_\_\_\_  
(Signature)

Dated: \_\_\_\_\_

\_\_\_\_\_  
Print Name

**ACKNOWLEDGEMENT:**

STATE OF FLORIDA )

) SS

COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, as \_\_\_\_\_ of **DANIA LIVE 1748, LLC**, a Florida limited liability company, who is personally known to me or produced \_\_\_\_\_ as identification.

NOTARY PUBLIC:

(SEAL)

\_\_\_\_\_

My Commission expires:

Print Name: \_\_\_\_\_

**EXHIBIT A**

**PROPERTY**

**EXHIBIT B**

Broward County Improvements

**EXHIBIT C**

FDOT Letter

**EXHIBIT D**

**BRYAN ROAD/OLD GRIFFIN ROAD INTERSECTION IMPROVEMENTS**

**EXHIBIT E**

**BRYAN ROAD IMPROVEMENTS FROM OLD GRIFFIN ROAD TO STIRLING ROAD**

**EXHIBIT F**

STIRLING ROAD IMPROVEMENTS FROM I-95 TO BRYAN ROAD

## DANIA POINTE SURVEY BOUNDARY & PLAT

### LEGAL DESCRIPTION:

PARCEL OF LAND BEING A PORTION OF SECTION 33, TOWNSHIP 50 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA; SAID PARCEL CONTAINING ALL OF OR PORTIONS OF THE FOLLOWING DESCRIBED PLATS AND ROAD RIGHT-OF-WAYS:

ALL OF BLOCK 7 AND A PORTION OF BLOCK 8, TIGERTAIL GROVE RESUBDIVISION, RECORDED IN PLAT BOOK 30, PAGE 20; A PORTION OF TRACT "A", "RE-AMENDED PLAT OF HOLLYWOOD PALMS", RECORDED IN PLAT BOOK 36, PAGE 46; A PORTION OF TRACT "A", "THE GADDIS PLAT", RECORDED IN PLAT BOOK 112, PAGE 7; A PORTION OF PARCEL "A", DUKE & DUKE SUBDIVISION, RECORDED IN PLAT BOOK 124, PAGE 48; ALL OF PARCEL "A", DANIA OFFICE PARK, RECORDED IN PLAT BOOK 130, PAGE 29; ALL OF PARCEL "A", COMMERCE CENTER OF DANIA, RECORDED IN PLAT BOOK 135, PAGE 44; ALL OF PARCEL "A", SAN-MAR PLAT, RECORDED IN PLAT BOOK 142, PAGE 18; ALL OF PARCEL "A", "DANIA BEACH AIR & PORT COMMERCE CENTER", RECORDED IN PLAT BOOK 177, PAGES 81 THRU 83; A PORTION OF TIGERTAIL BOULEVARD (N.W. 1ST STREET) RIGHT-OF-WAY, LYING EAST OF THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4) OF SAID SECTION 33 AND WEST OF THE WEST RIGHT-OF-WAY LINE OF BRYAN ROAD; A PORTION OF DANIA BEACH BOULEVARD RIGHT-OF-WAY, LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE ROAD 9) AND WEST OF THE WEST RIGHT-OF-WAY LINE OF BRYAN ROAD; ALL OF THE ABOVE REFERENCED PLATS BEING RECORDED IN THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; SAID PARCEL AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4) OF SAID SECTION 33;

THENCE N.01°41'47" W., ALONG THE WEST LINE OF SAID SOUTHEAST ONE-QUARTER (S.E. 1/4), A DISTANCE OF 668.72 FEET, TO THE MOST NORTHERLY SOUTHWEST CORNER OF SAID PARCEL "A", SAN-MAR PLAT AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND;

THENCE S.87°32'08"W. ALONG THE SOUTH LINE OF PARCEL "A", DUKE & DUKE SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 124, PAGE 48 OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, A DISTANCE OF 49.21 FEET;

THENCE N.12°26'03"E., A DISTANCE OF 201.54 FEET, TO A POINT ON THE EAST LINE OF PARCEL "A", SAID DUKE & DUKE SUBDIVISION;

THENCE N.01°41'47"W., ALONG SAID EAST LINE AND THE WEST LINE OF PARCEL "A", OF SAID SAN-MAR PLAT, A DISTANCE OF 231.30 FEET;

THENCE S.88°18'13"W., A DISTANCE OF 513.30 FEET, TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF INTERSTATE 95 (S.R. 9), SAID POINT ALSO BEING ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE WEST, A RADIAL LINE OF SAID CURVE THROUGH SAID POINT HAVING A BEARING OF N.89°43'55"E.

(THE FOLLOWING TWO COURSES BEING COINCIDENT WITH THE EAST RIGHT OF WAY LINE OF SAID INTERSTATE 95 (S.R. 9);

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 04°00'14" AND A RADIUS OF 5,929.65 FEET, FOR AN ARC DISTANCE OF 414.38 FEET, TO A POINT OF TANGENCY;

THENCE N.04°16'19"W., ALONG A LINE TANGENT TO THE LAST DESCRIBED CURVE, A DISTANCE OF 1,158.32 FEET, TO THE NORTHWEST CORNER OF SAID PARCEL "A", COMMERCE CENTER OF DANIA;

THENCE N.87°26'02"E., ALONG NORTH LINE OF SAID PARCEL "A" AND THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER (S.W. 1/4) OF SAID SECTION 33, A DISTANCE OF 569.57 FEET, TO THE NORTHEAST CORNER OF THE SAID SOUTHWEST ONE-QUARTER (S.W. 1/4), SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID TRACT "A", "RE-AMENDED PLAT OF HOLLYWOOD PALMS";

THENCE N.01°41'47"W., ALONG THE WEST LINE OF THE NORTHEAST ONE-QUARTER (N.E. 1/4) OF SAID SECTION 33 AND THE WEST LINE OF SAID TRACT "A", A DISTANCE OF 295.03 FEET, TO A POINT ON THE NORTH LINE OF THE SOUTH 295.00 FEET OF SAID TRACT "A";

THENCE N.87°26'02"E., ALONG A LINE PARALLEL WITH THE SOUTH LINE OF SAID TRACT "A", A DISTANCE OF 1,324.07 FEET, TO A POINT ON THE EAST LINE OF SAID TRACT "A";

THENCE S.01°44'05"E., ALONG SAID EAST LINE, A DISTANCE OF 295.03 FEET, TO THE SOUTHEAST CORNER OF SAID TRACT "A";

THENCE S.87°26'02"W., ALONG THE SOUTH LINE OF SAID TRACT "A", A DISTANCE OF 15.00 FEET, TO THE NORTHEAST CORNER OF SAID PARCEL "A", DANIA OFFICE PARK;

THENCE S.01°29'36"E., ALONG A LINE 40 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF THE WEST ONE-HALF (W. 1/2) OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4), A DISTANCE OF 2,295.74 FEET;

THENCE S.05°20'43"W., A DISTANCE OF 100.78 FEET;

THENCE S.01°29'36"E., A DISTANCE OF 200.00 FEET, TO THE MOST NORTHERLY SOUTHEAST CORNER OF SAID PARCEL "A";

THENCE S.43°02'17"W., A DISTANCE OF 42.08 FEET, TO THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID PARCEL "A", (THE FOLLOWING THREE COURSES BEING COINCIDENT WITH THE SOUTH LINE OF SAID PARCEL "A");

THENCE S.87°34'11"W., A DISTANCE OF 53.26 FEET;

THENCE N.85°35'15"W., A DISTANCE OF 100.72 FEET;

THENCE S.87°34'11"W., A DISTANCE OF 200.03 FEET, TO THE MOST SOUTHERLY SOUTHWEST CORNER OF SAID PARCEL "A", SAID POINT ALSO BEING A POINT ON THE EAST LINE OF SAID TRACT "A", "THE GADDIS PLAT";

THENCE S.01°32'39"E., ALONG THE EAST LINE OF SAID TRACT "A", A DISTANCE OF 10.00 FEET, TO THE SOUTHEAST CORNER OF SAID TRACT "A";

THENCE S.87°34'11"W., ALONG THE SOUTH LINE OF SAID TRACT "A", A DISTANCE OF 2.85 FEET (THE FOLLOWING THREE COURSE BEING COINCIDENT WITH THE NORTH RIGHT-OF-WAY LINE OF STIRLING ROAD (S.R. 848) AS DEDICATED BY OFFICIAL RECORD BOOK 22110, PAGE 521 OF SAID PUBIC RECORDS);

THENCE N.78°56'04"W., A DISTANCE OF 51.42 FEET;

THENCE S.87°34'11"W., A DISTANCE OF 217.00 FEET;

THENCE S.02°25'49"E., A DISTANCE OF 12.00 FEET, TO A POINT ON THE SOUTH LINE OF SAID TRACT "A";

THENCE S.87°34'11"W., ALONG THE SOUTH LINE OF SAID TRACT "A", AND THE WESTERLY EXTENSION THEREOF, A DISTANCE OF 269.97 FEET;

THENCE S.01°32'39"E., A DISTANCE OF 2.00 FEET, TO A POINT ON A LINE 53.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SAID SOUTHEAST ONE-QUARTER (S.E.1/4);

THENCE S.87°34'11"W., ALONG SAID PARALLEL LINE A DISTANCE OF 30.14 FEET, TO A POINT ON THE SOUTHERLY EXTENSION OF THE EAST LINE OF PARCEL "A", "STIRLING ROAD PLAZA", RECORDED IN PLAT BOOK 178, PAGE 112, OF SAID PUBLIC RECORDS;

THENCE N.01°38'44"W., ALONG SAID SOUTHERLY EXTENSION, ALONG SAID EAST LINE AND ALONG THE EAST LINE OF PARCEL "A", HILTON GARDENS AT STIRLING ROAD, RECORDED IN PLAT BOOK 171, PAGE 14, OF SAID PUBLIC RECORDS, A DISTANCE OF 615.92 FEET, TO THE NORTHEAST CORNER OF SAID PARCEL "A";

THENCE S.87°32'08"W., ALONG THE NORTH LINE OF SAID PARCEL "A", A DISTANCE OF 335.53 FEET; TO THE POINT OF BEGINNING;

SAID LAND SITUATE WITHIN THE CITY OF DANIA BEACH, BROWARD COUNTY, FLORIDA, CONTAINING 102.03 ACRES, (4,444,235 SQUARE FEET), MORE OR LESS.

**EXHIBIT "B"**  
**LIST OF IMPROVEMENTS AND SCHEDULE**

<b>Improvement:</b>	<b>Completion Date</b>
24) Reconstruct Bryan Road to create a three lane cross section with turn lanes as required.	Certificate of Occupancy for Phase 1
25) Provide a raised median on Bryan Road beginning 25 feet south of the southern 50-foot opening and continuing north and concluding with a northbound left turn lane at the southern 80-foot opening with 200 feet of storage and 50 foot transition.	Certificate of Occupancy for Phase 1
26) Provide a raised separator median on Bryan Road between the north 50-foot opening and Northwest 1st Street with 200 feet of storage and 100 feet of transition.	Certificate of Occupancy for Phase 1
27) Provide a raised median on Bryan Road beginning 20 feet north of the northern 50-foot opening and continuing to the northern plat limits and tapered as required to merge with the existing lanes.	Certificate of Occupancy for Phase 1
28) Construct a roundabout at the intersection of Bryan Road and Old Griffin Road consistent with the minimum guidelines as established within the "Florida Intersection Design Guide 2015".	Certificate of Occupancy for phase 2
29) The removal of all existing driveways in locations not consistent with approved openings in the non-vehicular access line and the construction of curb, gutter, and sidewalk in these openings when necessary to complete the required improvement.	Certificate of Occupancy for Phase 1
<b>TURN LANE IMPROVEMENTS (Secure and Construct)</b>	
30) A westbound combination bus bay/right turn lane on Stirling Road (SR 848) with 50 feet of transition commencing twenty (20) feet west of the end of the radius at the intersection with Bryan Road and with storage continuing west through the 100-foot opening. The design of this turn lane is subject to the approval of FDOT.	Certificate of Occupancy for Phase 1
31) A westbound right turn lane on Stirling Road (SR 848) at the 60-foot opening with 135 feet of storage and 50 feet of transition.	Certificate of Occupancy for Phase 1
32) Reconstruction of the median along Stirling Road to eliminate and close the directional median opening centered approximately 680 west of Bryan Road. This construction will create a new median opening at the 100-foot opening and shall include construction of two (2) eastbound left turn lanes with 200 feet of storage and 50 feet of transition and a westbound U-turn lane with 180 feet of storage and 50 feet of transition.	Certificate of Occupancy for Phase 1

<b>Improvement:</b>	<b>Completion Date</b>
33) A southbound right turn lane on Bryan Road at the northern 50-foot opening with 200 feet of storage* and 100 feet of transition.	Certificate of Occupancy for Phase 1
34) A southbound right turn lane on Bryan Road at the northern 60-foot opening with 200 feet of storage and 100 feet of transition.	Certificate of Occupancy for Phase 1
35) Southbound right turn lanes on Bryan Road at all 80-foot openings with 200 feet of storage and 100 feet of transition.	Certificate of Occupancy for Phase 1
36) A southbound right turn lane on Bryan Road at the southern 50-foot opening with 200 feet of storage and 100 feet of transition.	Certificate of Occupancy for Phase 1
37) Two (2) southbound left turn lanes on Bryan Road at the intersection of Stirling Road with 150-feet of storage and 100-feet of transition.	Certificate of Occupancy for Phase 1
38) Northbound left turn lanes on Bryan Road at all 80-foot openings with 200 feet of storage# and 100 feet of transition. The length of the turn lane storage is measured from the end of the taper (transition) to the point of curvature of the driveway radius, or corner chord in the case of intersecting road right-of-way. Median opening design to include acceptable vehicular turning radii. The length of the storage lane is measured from the end of the taper to the pont of curvature of the median opening.	Certificate of Occupancy for Phase 1
SIDEWALK REQUIREMENTS (Secure and Construct)	
39) Along Stirling Road, as displaced by turn lane construction and/or damage during construction.	Certificate of Occupancy for Phase 1
40) Along Bryan Road adjacent to this plat.	Sidewalk adjacent to phase 1 prior to phase 1 CO. Sidewalk adjacent to phase 2 prior to phase 2 CO
SIDEWALK FOR BUS LANDING PAD (Secure and Construct)	

Improvement:	Completion Date
41) An 8-foot wide x 40-foot long expanded sidewalk for the bus landing pad on Stirling Road (SR 848) commencing 100 feet west of the east plat limits and continuing west for 40 feet. Design must extend to the face of curb and gutter, and is subject to review by the Service and Capital Planning Section of the Transit Division, the Paving and Drainage Section of the Highway Construction and Engineering Division and the Permits Section of the Florida Department of Transportation.	Certificate of Occupancy for Phase 1
42) An 8-foot wide x 40-foot long expanded sidewalk for the bus landing pad on Bryan Road commencing 540 feet south of the north plat limit and continuing south for 40 feet (along the east plat limit). Design must extend to the face of curb and gutter, and is subject to review by the Service and Capital Planning Section of the Transit Division and the Paving and Drainage Section of the Highway Construction and Engineering Division.	Certificate of Occupancy for Phase 1
SIGNALIZATION IMPROVEMENTS (Secure Construction)	
43) The owner of this plat shall fully execute and deliver a standard Traffic Signalization Agreement (CAF456) and provide security to extend to two (2) years after completion of the total development. During that time the Traffic Engineering Division will perform the required studies to determine the need for signalization. If no need is determined, the developer may be released from this obligation. Should a traffic signal be warranted, the Traffic Engineering Division will have an additional two (2) years to construct the traffic signal, and the security must be maintained for up to four (4) years.	Certificate of Occupancy for Phase 1
A) One hundred (100) percent of the installation cost of a mast arm traffic signal at the intersection of Stirling Road (SR 848) and the 100-foot opening in the amount of \$350,000.	Certificate of Occupancy for Phase 1
B) One hundred (100) percent of the installation cost of a mast arm traffic signal at the intersection of Stirling Road (SR 848) and Bryan Road in the amount of \$350,000	Certificate of Occupancy for Phase 1
44) Any necessary modifications to the existing traffic signal at the intersection of Sterling Road and Bryan Road to provide for the required improvements.	Certificate of Occupancy for Phase 1

**Phase 1: On-site vertical project improvements to be located south of proposed South Street (currently West Dania Beach Blvd).**

**Phase 2: On-site vertical project improvements to be located north of South Street (currently West Dania Beach Blvd).**



## Florida Department of Transportation

RICK SCOTT  
GOVERNOR

3400 West Commercial Blvd.  
Fort Lauderdale, FL 33309

JIM BOXOLD  
SECRETARY

May 9<sup>th</sup>, 2016

Christopher Heggen  
Kimley-Horn and Associates Inc  
1920 Wekiva Way, Suite 200  
West Palm Beach, Florida 33411

Dear Mr. Heggen:

RE: **May 9<sup>th</sup>, 2016 Access Management Review Committee to allow for Category G Driveway**  
Applicant & Property Owner: Dania Live 1748, LLC  
**Broward County, (Urban) City of Dania Beach, State Road: 848**  
**Section: 86016 MP: 5.7 Access Class: 05 Posted Speed: 45 mph Site Acreage: 80 Acres**  
**Proposed Land Use: Retail, Bank, Office, Hotel, Residential, Gas Station**  
**Maximum Square Footage: 893,000 SF Retail, 7,000 SF Bank with Drive-through, 506,000 SF Office, 300**  
**Hotel Units, 1,000 Multi-family Residential Units, 12 Fueling Positions Gas Station**  
**Project Name & Address: Dania Pointe – 181 South Bryan Road, Dania Beach, Florida 33004**  
**Date of Pre-application Review: May 14, 2015**

**Request: Access locations 1 through 4 are located on SR 848/Stirling Road.**

**Access to Public Right-of-Way 1: Maintain existing right-in/right-out access approximately 390 feet east of I-95 (SW 18<sup>th</sup> Court).**

**Access to Public Right-of-Way 2: Full-access signalized access (SW 18<sup>th</sup> Street approximately 190 feet east of Access to Public Right-of-Way 1.**

**Driveway 3: Right-in/right-out driveway approximately 360 feet east of SW 18<sup>th</sup> Street.**

**Driveway 4: Full access signalized driveway approximately 450 feet east of Driveway 3.**

This request is: **Approved with Conditions**

### Conditions: / Comments:

- 1) Construct a second northbound right-turn lane on the I-95 northbound off-ramp at Stirling Road. Prior to permit approval, submit and get approval of an Interchange Access Request (IAR) for the second northbound right-turn lane at I-95 and Stirling Road. An IAR must include sufficient transportation analysis and documentation to address operational and engineering issues consistent with FDOT policy, procedures, and Interchange Access request guidelines.
- 2) Reconstruct the intersection of SW 18<sup>th</sup> Ave / Oakwood Plaza at Stirling Road to align the southbound and northbound approaches of the intersection to eliminate the north/south split phased signal timing, construct a second eastbound left-turn lane, and lengthen the westbound right-turn lane.
- 3) At the proposed new signalized intersection on Stirling Road construct two eastbound left-turn lanes, one westbound left-turn lane, and one westbound right-turn lane.
- 4) At the intersection of Stirling Road and Bryan Road construct a second eastbound left-turn lane OR commit to contributing the cost of constructing a second eastbound left-turn lane and associated roadway/bridge widening.
- 5) Right turn lanes shall be provided at all driveways.

Mr. Heggen – (Dania Pointe) Access Variance

May 9<sup>th</sup>, 2016

Page 2

- Drainage mitigation is required for any impacts within FDOT right-of-way (i.e. increased runoff or reduction of existing storage).
- A Storm Water Pollution Prevention Plan must be submitted with the application if there will be more than one acre of "disturbed area" (as defined by the Florida Department of Environmental Protection (FDEP))
- If additional right-of-way is required to implement the proposed improvements, the applicant shall donate the right-of-way to the Department.
- All existing driveways not approved in this letter must be fully removed and the area restored.

**Comments:**

Please note that the dimensions between driveways are measured from the near edge of pavement to near edge of pavement and dimensions between median openings are measured from centerline to centerline unless otherwise indicated.

The purpose of this letter is to document the conceptual review of the approximate location of driveway(s) to the State Highway system and to note any required improvements. Earlier Department decisions on this request shall be voided unless expressly approved herein. If the above concept is approved, the applicant may submit engineering plans to the Department for permitting. The Department's personnel shall review these plans for compliance with this letter as well as current Department standards and/or specifications. Final design must consider the existing roadway profile and any impacts to the existing drainage system. **Please note that this letter does not guarantee permit approval.** The permit may be denied based on the review of the submitted engineering plans. Be aware that any approved median openings may be modified (or closed) in the future, at the sole discretion of the Department.

Committee approvals and conditions which are at variance with Department rules or standards are not binding in the permitting process for more than **12 months**.

Please submit a copy of this letter with your permit application. Contact Geysa Sosa, P.E. at the District Permits Office with any questions regarding the permit application at telephone number 954-777-4377, fax number 954-677-7893 or e-mail: [geysa.sosa@dot.state.fl.us](mailto:geysa.sosa@dot.state.fl.us).

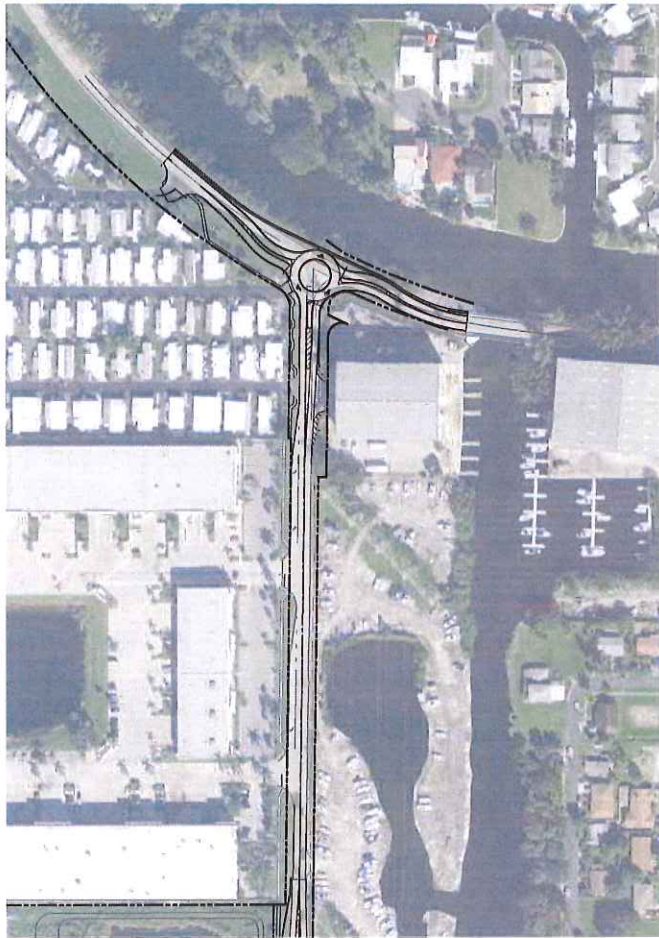
For right-of-way dedication requirements go to: <https://gis.dot.state.fl.us/OneStopPermitting>; Click on Statewide Permit News. Scroll down to District 4. Scroll down to Additional Information and Examples and choose Right-of-way Donations/Dedications.

**THE ACCESS MANAGEMENT REVIEW COMMITTEE**

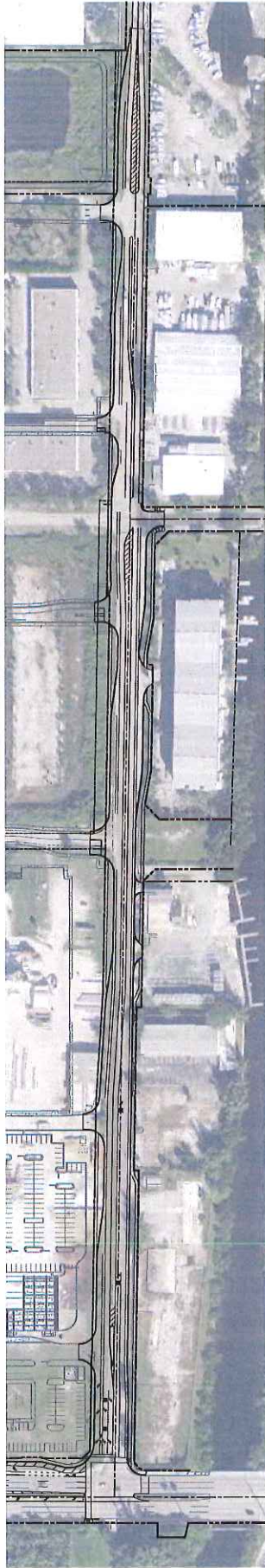
	With the above ruling I	Agree	Disagree
Howard Webb, P.E. District Design Engineer		<input checked="" type="checkbox"/>	<input type="checkbox"/> May 9, 2016
Mark Plass, P.E. District Traffic Operations Engineer		<input checked="" type="checkbox"/>	<input type="checkbox"/> May 9, 2016
Morteza Alian, P.E. District Maintenance Engineer		<input checked="" type="checkbox"/>	<input type="checkbox"/> May 9, 2016
Steven Braun, P.E. Planning & Environmental Engineer		<input checked="" type="checkbox"/>	<input type="checkbox"/> May 9, 2016

cc: Roger Lemieux

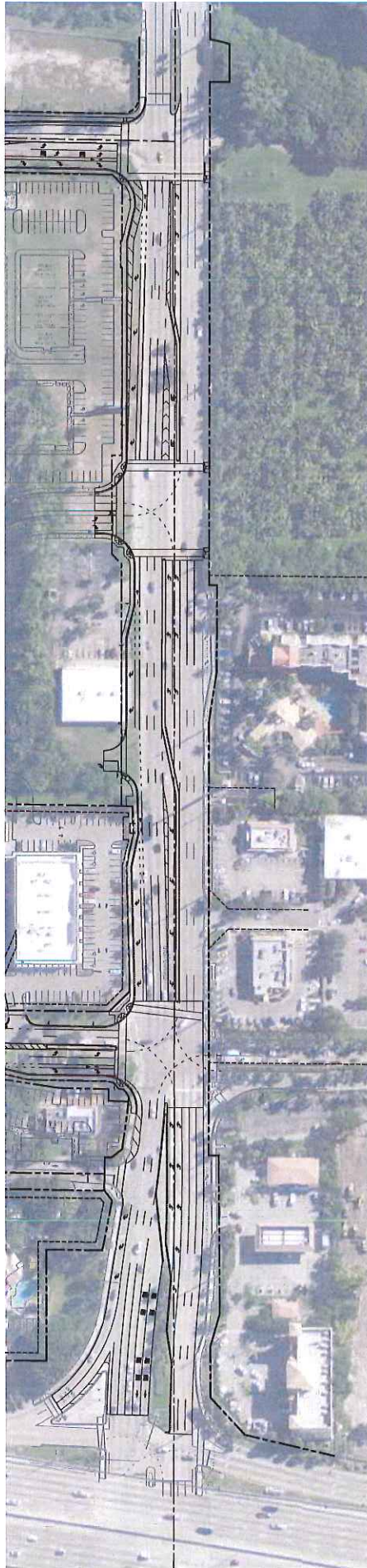
File: S:\Transportation Operations\Traffic Operations\Access Management\1. Pre-Apps and Variance\2016-04-07 & Variance\AMRC Meeting\Dania Pointe\86016 MP 5.700 SR 848\_Dania Pointe.docx



Bryan Road Roundabout Exhibit



Bryan Road Exhibit



Stirling Road Exhibit

# CITY OF DANIA BEACH

## Agenda Request Item

**Type of Request:** Public Hearing

**Continued from:**

### Requested Action (Identify appropriate Action or Motion)

AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONTRIBUTION AGREEMENT AND ANY ADDITIONAL DOCUMENTS PERTAINING TO THE AGREEMENT AND TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT, A COPY OF WHICH IS ATTACHED, AND MADE A PART OF AND INCORPORATED INTO THIS RESOLUTION BY THIS REFERENCE, WITH DANIA LIVE 1748, LLC FOR A SEWER IMPACT FEE CREDIT RELATED TO THE DEVELOPMENT OF DANIA POINTE

### Purchasing Requests ONLY

Dept:	Acct #:	Amt:
Fund:		

### Fiscal Impact/Cost Summary

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### Exhibits Attached

Memo, Resolution, Exhibit A, Exhibit A1



## MEMORANDUM

**DATE:** October 25, 2016

**TO:** Robert Baldwin, City Manager

**FROM:** Marc LaFerrier, AICP, Director of Community Development  
Brad Kaine, Director of Public Services

**SUBJECT:** **Contribution Agreement with Dania Live 1748, LLC for Sewer Impact Fee Credit Related to the Dania Pointe Development Project.**

The Dania Pointe Development project has received numerous land development approvals. This agenda item involves a Contribution Agreement and Resolution that requires the Developer to construct certain off-site sewer improvements for the development of Dania Pointe and that are also beneficial to the City.

The Developer has agreed to construct a new off-site sewer force-main line in conformance with the relevant provisions of the Development Agreement (the "Sewer Line"). The cost of construction and installation of the Sewer Line may be credited against city imposed sewer impact fees, arising from development of the Dania Pointe Project. Chapter 27, ARTICLE IV "Water And Sewer System Impact Fees," Section 27-212 "Developer Contribution Credit" of the City Code of Ordinances (the "City Code"), allows for impact fee credits to be granted by the City Commission for the construction and installation of sewer system facilities or improvements made as identified within the Contribution Agreement (attached hereto). City staff analysis finds that the proposed construction and installation of the Sewer Line is in conformity with the City's contemplated improvements and additions to the regional sewer system. The proposed Sewer Line, viewed in conjunction with other existing or proposed plans, will not create a detrimental imbalance between the treatment and transmission capabilities of the regional sewer system. The proposed time schedule for completion of the Sewer Line is consistent with the City's most recently adopted five-year capital improvement program for the regional sewer system. In accordance with Section 27.212 of the City Code, the Developer is entitled to a credit against City-imposed sewer impact fees for the construction and installation of the Sewer Line associated with the development of the Dania Pointe Project.

Approval of the Resolution and Contribution Agreement will allow the Developer to build the off-site sewer improvements approved by the City and needed for the Dania Pointe project. Upon final approval of the improvements, the new sewer facilities will be conveyed to the City. The estimated value of construction for the off-site sewer improvements is \$1.6M. These improvements will also add additional capacity to the sewer transmission system that subsequent development projects in the area will utilize.

utilize. Furthermore, the new sewer improvements will provide a redundancy attribute to our sewer transmission system that will also be beneficial to the City.

The Contribution Agreement provides the Developer a credit for City sewer impact-fees (approximately \$650k) to offset the proportionate share of the City's benefit and use of the new sewer transmission facilities.

## **RECOMMENDATION**

Approve Resolution

**RESOLUTION NO. 2016-151**

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA, AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A CONTRIBUTION AGREEMENT AND ANY ADDITIONAL DOCUMENTS PERTAINING TO THE AGREEMENT AND TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT, A COPY OF WHICH IS ATTACHED, AND MADE A PART OF AND INCORPORATED INTO THIS RESOLUTION BY THIS REFERENCE, WITH DANIA LIVE 1748, LLC FOR A SEWER IMPACT FEE CREDIT RELATED TO THE DEVELOPMENT OF DANIA POINTE; PROVIDING FOR CONFLICTS; FURTHER, PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, on May 24, 2016, pursuant to Ordinance No. 2016-008, the City Commission approved the rezoning and related Dania Pointe Development Design Guidelines (the “DDG”) for a mixed use development containing approximately 103 acres of land (the “Property”) in accordance with a Master Development Plan (the “MDP”), all as more particularly set forth in the Dania Pointe DDG (collectively, the “Dania Pointe Project”); and

**WHEREAS**, the City of Dania Beach, Florida (the “City”) and Dania Live 1748, LLC (the “Developer”) entered into a Development Agreement dated October 25, 2016 and approved by Resolution No. 2016-\_\_\_\_\_, wherein Developer has agreed to construct certain off-site improvements pursuant and subject to the terms and conditions therein (the “Development Agreement”); and

**WHEREAS**, the Developer has agreed to construct a new off-site sanitary force-main line in conformance with the relevant provisions of the Development Agreement (the “Sewer Line”) provided, among other things, that the cost of construction and installation of the Sewer Line may be credited against City-imposed sewer impact fees, arising from development of the Dania Pointe Project; and

**WHEREAS**, Chapter 27, ARTICLE IV “Water And Sewer System Impact Fees,” Section 27-212 “Developer Contribution Credit” of the City Code of Ordinances (the “City Code”), allows for impact fee credits to be granted by the City Commission for the construction and installation of sewer system facilities or improvements made as identified within the Contribution Agreement attached hereto as Exhibit “A” and incorporated herein; and

**WHEREAS**, the City Commission finds that the proposed construction and installation of the Sewer Line is in conformity with the City’s contemplated improvement and additions to the regional sewer system; and

**WHEREAS**, the City Commission finds that the proposed Sewer Line, viewed in conjunction with other existing or proposed plans, will not adversely impact the cash flow or liquidity of the sewer system impact fee reserve account in such a way to frustrate or interfere with other planned or ongoing growth-necessitated capital improvements and additions to the regional sewer system; and

**WHEREAS**, the City Commission finds that the proposed Sewer Line, viewed in conjunction with other existing or proposed plans, will not create a detrimental imbalance between the treatment and transmission capabilities of the regional sewer system; and

**WHEREAS**, the proposed plan is consistent with the public interest; and

**WHEREAS**, the proposed time schedule for completion of the Sewer Line is consistent with the City’s most recently adopted five-year capital improvement program for the regional sewer system; and

**WHEREAS**, in accordance with Section 27.212 of the City Code, the Developer is entitled to a credit against City-imposed sewer impact fees for the construction and installation of the Sewer Line associated with the development of the Dania Pointe Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DANIA BEACH, FLORIDA:**

**Section 1.** That the foregoing “Whereas” clauses are ratified and confirmed to be true and correct, and they are made a part of and are incorporated into this Resolution by reference.

**Section 2.** That the City Commission approves the execution of the Contribution Agreement, a copy of which is attached as Exhibit “A”, and made a part of and incorporated into this Resolution by this reference, authorizing a credit against City-imposed sewer impact fees for the construction and installation of the Sewer Line associated with the development of the Dania Pointe Project.

**Section 3.** That the appropriate City officials including the Mayor, City Manager and City Attorney are authorized to execute the Contribution Agreement and any additional

documents pertaining to the Contribution Agreement and to take all action necessary to implement the terms and conditions of the Contribution Agreement.

**Section 4.** That all resolutions or parts of resolutions in conflict with this Resolution are repealed to the extent of such conflict.

**Section 5.** That this Resolution shall be in force and take effect immediately upon its passage and adoption.

**Section 6.** That the City Clerk shall record this Resolution in the official records of Broward County within fourteen (14) days after the parties have executed the Contribution Agreement.

**PASSED AND ADOPTED** on October 25, 2016.

ATTEST:

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LOUISE STILSON, CMC  
CITY CLERK

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MARCO A. SALVINO, SR.  
MAYOR

APPROVED AS TO FORM AND CORRECTNESS:

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THOMAS J. ANSBRO  
CITY ATTORNEY

**CONTRIBUTION AGREEMENT BETWEEN THE CITY OF DANIA BEACH,  
FLORIDA AND DANIA LIVE 1748, LLC**

This Contribution Agreement (“Contribution Agreement”) is made as of this \_\_\_\_ day of October, 2016 by and between DANIA LIVE 1748, LLC, a Delaware limited liability company (“Developer”) and the CITY OF DANIA BEACH, a municipal corporation and political subdivision of the State of Florida (“City”) as follows:

**WHEREAS**, Developer (owning approximately 102 acres of land) and Discount Auto Parts, LLC, a Virginia limited liability company (owning approximately 1 acre of land), together own that certain property located in City, Broward County, Florida, more particularly described in **Exhibit A** attached hereto and made a part hereof, containing approximately 103 acres of land (the “Property”); and

**WHEREAS**, on May 24, 2016, pursuant to Ordinance No. 2016-008, the City Commission approved the Dania Pointe Development Design Guidelines (the “DDG”) for a mixed use development on the Property, including a Master Development Plan (the “MDP”), all as more particularly set forth in the Dania Pointe DDG (collectively, the “Project”); and

**WHEREAS**, City and Developer have entered into that certain development agreement dated October \_\_\_\_\_, 2016, and approved by Resolution No. 2016-150, wherein Developer has agreed to construct certain off-site improvements pursuant and subject to the terms and conditions therein (the “Development Agreement”); and

**WHEREAS**, Section 27-212 of the City Code of Ordinances (the “City Code”), provides that a developer contribution credit against City-imposed sewer connection fees and impact fees may be granted in exchange for the construction and installation of sewer system facilities or improvements and additions to them; and

**WHEREAS**, pursuant to Section 27-212 of the City Code, credits against connection fees and impact fees are to be issued pursuant to a contribution agreement between City and the developer party; and

**WHEREAS**, Developer has agreed to construct a new off-site sanitary force-main line in conformance with the relevant provisions of the Development Agreement (the “Sewer Line”), provided, among other things, that the cost of construction and installation of the Sewer Line (the “Sewer Installation Costs”) shall be credited against City-imposed sewer connection and impact fees arising from development of the Project subject to the terms and conditions as more particularly set forth herein; and

**WHEREAS**, the proposed construction and installation of the Sewer Line is in conformity with the City’s contemplated improvement and additions to the regional sewer system; and

**WHEREAS**, the Sewer Line is consistent with both the public interest and with the City’s Comprehensive Plan; and

**WHEREAS**, the City and Developer agree and acknowledge this Contribution Agreement shall not be construed or characterized as a development agreement under F.S. §§ 163.3220 through 163.3243 (the "Florida Local Government Development Agreement Act"); and

**WHEREAS**, in accordance with Section 27-212 of the City Code, the Developer is entitled to a credit against City-imposed sewer connection fees and impact fees for the construction and installation of the Sewer Line associated with the development of the Project.

**NOW, THEREFORE**, in consideration of mutual covenants herein contained, the legal sufficiency of which is hereby acknowledged, the parties agree as follows:

1. The foregoing recitations contained in the "Whereas Clauses" are true and correct and are incorporated into and made a part of this Agreement as specially set forth herein.

2. Developer, or its successors or assigns pursuant to Section 6 below, hereby agrees to install, or cause to be installed, the Sewer Line and to pay all Sewer Installation Costs. In consideration of such payment and the timely performance of Developer's obligations (as provided in the Development Agreement), City hereby agrees to apply all Sewer Installation Costs against any City-imposed sewer impact fees, which include connection fees as defined in the City Code, arising from the development of the Project, subject to the standards of valuation and limitations set forth in Section 27-212(b) of the City Code.

3. Unless otherwise agreed between Developer and City pursuant to an amendment to this Contribution Agreement or another cost sharing agreement, City and Developer agree that the total amount of sewer impact fee credits granted shall not exceed the total amount of City-imposed sewer impact fees due for the Project. City and Developer further agree that Sewer Installation Costs which exceeds the total amount of City-imposed sewer impact fees due for the Project shall not be eligible or qualify as a future reimbursement or sewer impact fee credit to Developer.

4. This Contribution Agreement shall be constructed and governed in accordance with the laws of the State of Florida. All parties to this Contribution Agreement have participated fully in the negotiation and preparation hereof and accordingly; this Contribution Agreement shall not be more strictly construed against any one of the parties hereto. All parties agree particularly that this Contribution Agreement is bound by the terms of Chapter 27, ARTICLE IV "Water and Sewer Impact Fees" of the City Code (the "Impact Fee Ordinance") and other applicable ordinances. Any and all applicable terms of those Ordinances shall be considered incorporated herein by reference. If there is any inconsistency found between this Contribution Agreement and such Ordinances or applicable law, those Ordinances or law shall prevail and be applicable; provided, however, that if such an inconsistency is found, City and Developer shall, in good faith and with reasonable diligence, modify this Contribution Agreement to comply with such Ordinances or applicable law in a manner which best reflects the intent of this Contribution Agreement.

5. No modification, amendment, or release of the terms or conditions contained herein shall be effective unless contained in a written document executed by City and Developer. In the event state or federal laws are enacted after the execution of this Contribution

Agreement, which are applicable to and preclude in whole or in part the parties' compliance with the terms or conditions of this Contribution Agreement, then in such event this Contribution Agreement shall be modified or revoked as is necessary to comply with such laws, in a manner which best reflects the intent of this Contribution Agreement.

6. The rights and obligations under this Contribution Agreement shall inure to Developer's successors and assigns; provided, however, that in the event that Developer conveys all or substantially all of the Property to a third party who expressly assumes the obligations of Developer hereunder, then Developer shall deliver not less than thirty (30) days' advance written notice of such conveyance and assumption to City.

7. It is understood and agreed that this Contribution Agreement incorporates and includes all prior negotiations, agreements or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Contribution Agreement that are not contained in this document, except for the relevant provisions of the Development Agreement concerning the Sewer Line and Sewer Installation Costs as previously referenced herein. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

8. 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 City:

Robert Baldwin  
City Manager  
City of Dania Beach  
100 W. Dania Beach Boulevard  
Dania Beach, FL 33004

With a copy to:

Thomas J. Ansbro, Esq.  
City Attorney  
100 W. Dania Beach Boulevard  
Dania Beach, FL 33004

(2) If to the Owner:

Dania Live 1748, LLC  
3333 New Hyde Park Road  
Suite 100  
New Hyde Park, NY 11042

With a copy to:

Dennis Mele, Esq.  
Greenspoon Marder, P.A.  
200 E. Broward Boulevard  
Suite 1800  
Fort Lauderdale, FL 33301  
And a copy to:

Gary J. Bazydlo, Esq.  
Regional Counsel  
Kimco Realty Corporation  
6060 Piedmont Row Drive South, Suite 200  
Charlotte, NC 28287

9. The parties agree that this Contribution Agreement may be executed in counterparts, and that collectively the counterparts shall be considered an original agreement and shall be deemed legally sufficient and binding upon the parties.

10. The Developer agrees to provide for and retain adequate records and supporting documentation, which concern the Sewer Line and reflect the Sewer Installation Costs. This information shall be available to the City, or its duly authorized agent or representative, for audit, inspection or copying, for a minimum of five (5) years from the termination of this Contribution Agreement.

11. The parties agree to comply with the City's risk management guidelines which may be established by the City's Risk Manager from time to time, including but not limited to, insurance and indemnification acceptable to the City, provided that such guidelines are reasonable and otherwise reasonably conform with risk management guidelines for municipalities in South Florida.

12. The Developer acknowledges that the failure of the Contribution Agreement to address any permit, condition, term or restriction shall not relieve either the Developer, or their successors, of the necessity of complying with any law, ordinance, rule or regulation governing permitting requirements, conditions, terms or restrictions.

13. An annual review and audit of performance under this Contribution Agreement shall be performed by the City to determine whether or not there has been demonstrated good faith compliance with the terms of this Contribution Agreement and to report the credit applied toward payment of City-imposed sewer impact fees and the balance of available unused credit. If the City Commission, in good faith, finds, on the basis of competent substantial evidence reasonably related to the Sewer Line, that there has been a failure to comply with the terms of this Contribution Agreement, the Contribution Agreement may be revoked or modified by the City.

14. In the event of a dispute under this Contribution Agreement, either party may file an action for injunctive relief in the Circuit Court of Broward County, Florida, to enforce the terms of this Contribution Agreement, said remedy being cumulative with any and all other remedies available to the parties for the enforcement of this Contribution Agreement.

15. This Contribution Agreement shall be recorded by the City in the Official Records of Broward County, Florida, within fourteen (14) days of execution of this Contribution Agreement by the parties. The Developer shall pay all costs of recording this Contribution Agreement.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have made this Amendment on the date first above written.

CITY:

CITY OF DANIA BEACH

By: \_\_\_\_\_  
Marco A. Salvino, Sr., Mayor

Dated: \_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Louise Stilson, CMC, City Clerk

APPROVED:

\_\_\_\_\_  
Thomas J. Ansbro, City Attorney

STATE OF FLORIDA        )  
  : SS  
COUNTY OF BROWARD    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of October, 2016, by **Marco A. Salvino, Sr.**, as Mayor of the City of Dania Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY PUBLIC:

(SEAL)

My Commission expires: \_\_\_\_\_

Print Name: \_\_\_\_\_

STATE OF FLORIDA        )  
                                  : SS  
COUNTY OF BROWARD    )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of October, 2016, by **Louise Stilson.**, as City Clerk of the City of Dania Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY PUBLIC:

(SEAL)

My Commission expires:

\_\_\_\_\_

Print Name: \_\_\_\_\_

Signed, sealed and delivered in the presence of:

**DEVELOPER:**

**DANIA LIVE 1748, LLC**, a Delaware limited liability company

\_\_\_\_\_  
(Signature)

By: \_\_\_\_\_

\_\_\_\_\_  
Print Name

\_\_\_\_\_, its \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Print Name

**ACKNOWLEDGEMENT:**

STATE OF FLORIDA        )  
  ) SS  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2016, by \_\_\_\_\_, as \_\_\_\_\_ of **DANIA LIVE 1748, LLC**, a Florida limited liability company, who is personally known to me or produced \_\_\_\_\_ as identification.

(SEAL)

NOTARY PUBLIC:

My Commission expires:

\_\_\_\_\_

Print Name: \_\_\_\_\_

**EXHIBIT “A”**  
**(the “Property”)**

## DANIA POINTE SURVEY BOUNDARY & PLAT

### LEGAL DESCRIPTION:

PARCEL OF LAND BEING A PORTION OF SECTION 33, TOWNSHIP 50 SOUTH, RANGE 42 EAST, BROWARD COUNTY, FLORIDA; SAID PARCEL CONTAINING ALL OF OR PORTIONS OF THE FOLLOWING DESCRIBED PLATS AND ROAD RIGHT-OF-WAYS:

ALL OF BLOCK 7 AND A PORTION OF BLOCK 8, TIGERTAIL GROVE RESUBDIVISION, RECORDED IN PLAT BOOK 30, PAGE 20; A PORTION OF TRACT "A", "RE-AMENDED PLAT OF HOLLYWOOD PALMS", RECORDED IN PLAT BOOK 36, PAGE 46; A PORTION OF TRACT "A", "THE GADDIS PLAT", RECORDED IN PLAT BOOK 112, PAGE 7; A PORTION OF PARCEL "A", DUKE & DUKE SUBDIVISION, RECORDED IN PLAT BOOK 124, PAGE 48; ALL OF PARCEL "A", DANIA OFFICE PARK, RECORDED IN PLAT BOOK 130, PAGE 29; ALL OF PARCEL "A", COMMERCE CENTER OF DANIA, RECORDED IN PLAT BOOK 135, PAGE 44; ALL OF PARCEL "A", SAN-MAR PLAT, RECORDED IN PLAT BOOK 142, PAGE 18; ALL OF PARCEL "A", "DANIA BEACH AIR & PORT COMMERCE CENTER", RECORDED IN PLAT BOOK 177, PAGES 81 THRU 83; A PORTION OF TIGERTAIL BOULEVARD (N.W. 1ST STREET) RIGHT-OF-WAY, LYING EAST OF THE WEST LINE OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4) OF SAID SECTION 33 AND WEST OF THE WEST RIGHT-OF-WAY LINE OF BRYAN ROAD; A PORTION OF DANIA BEACH BOULEVARD RIGHT-OF-WAY, LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF INTERSTATE 95 (STATE ROAD 9) AND WEST OF THE WEST RIGHT-OF-WAY LINE OF BRYAN ROAD; ALL OF THE ABOVE REFERENCED PLATS BEING RECORDED IN THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; SAID PARCEL AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4) OF SAID SECTION 33;

THENCE N.01°41'47" W., ALONG THE WEST LINE OF SAID SOUTHEAST ONE-QUARTER (S.E. 1/4), A DISTANCE OF 668.72 FEET, TO THE MOST NORTHERLY SOUTHWEST CORNER OF SAID PARCEL "A", SAN-MAR PLAT AND THE POINT OF BEGINNING OF THE HEREIN DESCRIBED PARCEL OF LAND;

THENCE S.87°32'08"W. ALONG THE SOUTH LINE OF PARCEL "A", DUKE & DUKE SUBDIVISION ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 124, PAGE 48 OF THE PUBLIC RECORDS OF BROWARD COUNTY FLORIDA, A DISTANCE OF 49.21 FEET;

THENCE N.12°26'03"E., A DISTANCE OF 201.54 FEET, TO A POINT ON THE EAST LINE OF PARCEL "A", SAID DUKE & DUKE SUBDIVISION;

THENCE N.01°41'47"W., ALONG SAID EAST LINE AND THE WEST LINE OF PARCEL "A", OF SAID SAN-MAR PLAT, A DISTANCE OF 231.30 FEET;

THENCE S.88°18'13"W., A DISTANCE OF 513.30 FEET, TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF INTERSTATE 95 (S.R. 9), SAID POINT ALSO BEING ON THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE WEST, A RADIAL LINE OF SAID CURVE THROUGH SAID POINT HAVING A BEARING OF N.89°43'55"E.

(THE FOLLOWING TWO COURSES BEING COINCIDENT WITH THE EAST RIGHT OF WAY LINE OF SAID INTERSTATE 95 (S.R. 9);

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE TO THE LEFT, HAVING A CENTRAL ANGLE OF 04°00'14" AND A RADIUS OF 5,929.65 FEET, FOR AN ARC DISTANCE OF 414.38 FEET, TO A POINT OF TANGENCY;

THENCE N.04°16'19"W., ALONG A LINE TANGENT TO THE LAST DESCRIBED CURVE, A DISTANCE OF 1,158.32 FEET, TO THE NORTHWEST CORNER OF SAID PARCEL "A", COMMERCE CENTER OF DANIA;

THENCE N.87°26'02"E., ALONG NORTH LINE OF SAID PARCEL "A" AND THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER (S.W. 1/4) OF SAID SECTION 33, A DISTANCE OF 569.57 FEET, TO THE NORTHEAST CORNER OF THE SAID SOUTHWEST ONE-QUARTER (S.W. 1/4), SAID POINT ALSO BEING THE SOUTHWEST CORNER OF SAID TRACT "A", "RE-AMENDED PLAT OF HOLLYWOOD PALMS";

THENCE N.01°41'47"W., ALONG THE WEST LINE OF THE NORTHEAST ONE-QUARTER (N.E. 1/4) OF SAID SECTION 33 AND THE WEST LINE OF SAID TRACT "A", A DISTANCE OF 295.03 FEET, TO A POINT ON THE NORTH LINE OF THE SOUTH 295.00 FEET OF SAID TRACT "A";

THENCE N.87°26'02"E., ALONG A LINE PARALLEL WITH THE SOUTH LINE OF SAID TRACT "A", A DISTANCE OF 1,324.07 FEET, TO A POINT ON THE EAST LINE OF SAID TRACT "A";

THENCE S.01°44'05"E., ALONG SAID EAST LINE, A DISTANCE OF 295.03 FEET, TO THE SOUTHEAST CORNER OF SAID TRACT "A";

THENCE S.87°26'02"W., ALONG THE SOUTH LINE OF SAID TRACT "A", A DISTANCE OF 15.00 FEET, TO THE NORTHEAST CORNER OF SAID PARCEL "A", DANIA OFFICE PARK;

THENCE S.01°29'36"E., ALONG A LINE 40 FEET WEST OF AND PARALLEL WITH THE EAST LINE OF THE WEST ONE-HALF (W. 1/2) OF THE SOUTHEAST ONE-QUARTER (S.E. 1/4), A DISTANCE OF 2,295.74 FEET;

THENCE S.05°20'43"W., A DISTANCE OF 100.78 FEET;

THENCE S.01°29'36"E., A DISTANCE OF 200.00 FEET, TO THE MOST NORTHERLY SOUTHEAST CORNER OF SAID PARCEL "A";

THENCE S.43°02'17"W., A DISTANCE OF 42.08 FEET, TO THE MOST SOUTHERLY SOUTHEAST CORNER OF SAID PARCEL "A", (THE FOLLOWING THREE COURSES BEING COINCIDENT WITH THE SOUTH LINE OF SAID PARCEL "A");

THENCE S.87°34'11"W., A DISTANCE OF 53.26 FEET;

THENCE N.85°35'15"W., A DISTANCE OF 100.72 FEET;

THENCE S.87°34'11"W., A DISTANCE OF 200.03 FEET, TO THE MOST SOUTHERLY SOUTHWEST CORNER OF SAID PARCEL "A", SAID POINT ALSO BEING A POINT ON THE EAST LINE OF SAID TRACT "A", "THE GADDIS PLAT";

THENCE S.01°32'39"E., ALONG THE EAST LINE OF SAID TRACT "A", A DISTANCE OF 10.00 FEET, TO THE SOUTHEAST CORNER OF SAID TRACT "A";

THENCE S.87°34'11"W., ALONG THE SOUTH LINE OF SAID TRACT "A", A DISTANCE OF 2.85 FEET (THE FOLLOWING THREE COURSE BEING COINCIDENT WITH THE NORTH RIGHT-OF-WAY LINE OF STIRLING ROAD (S.R. 848) AS DEDICATED BY OFFICIAL RECORD BOOK 22110, PAGE 521 OF SAID PUBIC RECORDS);

THENCE N.78°56'04"W., A DISTANCE OF 51.42 FEET;

THENCE S.87°34'11"W., A DISTANCE OF 217.00 FEET;

THENCE S.02°25'49"E., A DISTANCE OF 12.00 FEET, TO A POINT ON THE SOUTH LINE OF SAID TRACT "A";

THENCE S.87°34'11"W., ALONG THE SOUTH LINE OF SAID TRACT "A", AND THE WESTERLY EXTENSION THEREOF, A DISTANCE OF 269.97 FEET;

THENCE S.01°32'39"E., A DISTANCE OF 2.00 FEET, TO A POINT ON A LINE 53.00 FEET NORTH OF AND PARALLEL WITH THE SOUTH LINE OF THE SAID SOUTHEAST ONE-QUARTER (S.E.1/4);

THENCE S.87°34'11"W., ALONG SAID PARALLEL LINE A DISTANCE OF 30.14 FEET, TO A POINT ON THE SOUTHERLY EXTENSION OF THE EAST LINE OF PARCEL "A", "STIRLING ROAD PLAZA", RECORDED IN PLAT BOOK 178, PAGE 112, OF SAID PUBLIC RECORDS;

THENCE N.01°38'44"W., ALONG SAID SOUTHERLY EXTENSION, ALONG SAID EAST LINE AND ALONG THE EAST LINE OF PARCEL "A", HILTON GARDENS AT STIRLING ROAD, RECORDED IN PLAT BOOK 171, PAGE 14, OF SAID PUBLIC RECORDS, A DISTANCE OF 615.92 FEET, TO THE NORTHEAST CORNER OF SAID PARCEL "A";

THENCE S.87°32'08"W., ALONG THE NORTH LINE OF SAID PARCEL "A", A DISTANCE OF 335.53 FEET; TO THE POINT OF BEGINNING;

SAID LAND SITUATE WITHIN THE CITY OF DANIA BEACH, BROWARD COUNTY, FLORIDA, CONTAINING 102.03 ACRES, (4,444,235 SQUARE FEET), MORE OR LESS.