

LEWIS, LONGMAN & WALKER, P.A.
ATTORNEYS AT LAW

Reply To: Bradenton

December 7, 2006

The Honorable Wayne Poston
Mayor of the City of Bradenton
Members of the City Council
City of Bradenton
101 Old Main Street
Bradenton, Florida 34205-7865

RE: Report of Special Magistrate - Section 70.51 Florida
Statutes (2006) Administrative Action - Riviera
Southshore Ventures, LLC vs. City of Bradenton and the
City Council of the City of Bradenton, Florida

Dear Mayor Poston and Members of the City Council,

As you know, I was named Special Magistrate pursuant to a Request for Relief in the above-styled case under the provisions of Chapter 70.51 Florida Statutes.

In accordance with the statute, appropriate notice was given and two public hearings were conducted, the initial hearing on November 29, 2006, the second held on December 6, 2006. The Applicant was present and represented by counsel, and the city was represented by the City Attorney, the Planning Director and the Development Review Manager.

Each party and all persons present were invited to address the matters presented by the Request for Relief and the Reply by the city. Following the parties' opening remarks, a number of citizens addressed the hearing at the meeting of November 29, 2006. No participant objected to the proposed project overall; however, several expressed discreet subjective opinions as to how the project should be aligned and framed. All participants seemed to believe that the planned development was needed for the area and would be a boon to the "old Bradenton" neighborhood.

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1001 Third Avenue West
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Jacksonville, Florida 32202
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125 South Gadsden Street, Suite 300
Tallahassee, Florida 32301
p | 850-222-5702 • f | 850-224-9242

WEST PALM BEACH
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West Palm Beach, Florida 33401
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There has been considerable give and take as between the city and the developer, Riviera Southshore Ventures, LLC, both before and during the Florida Statute 70.51 proceedings. The developer has greatly reduced the initially proposed building heights and densities. After considerable negotiations, the condominium heights were agreed to by the parties, with the heights not to exceed one hundred eight feet (108'), with one building to be eighty-four feet (84') in height. These height determinations were said to permit the developer to reach its goal of economic viability and be reasonable under the city development guidelines.

Also worthy of note is the developers' willingness to make substantial contributions to improvements to the adjoining public park as well as contributions to the offsite roadway improvements.

All participants understood that this project would receive further review by the City Council and by its Architectural Review Board. It is believed that when final decisions have been made as to building dimensions and locations, that architectural renderings would be most helpful to the public minds eye view of the project.

A Settlement Agreement was reached between the participating parties and is attached to this report as Exhibit 1. By its terms, all pending litigation will be abated during further deliberations by the City Council and the required city procedures. The Applicant has agreed to the terms of the Settlement Agreement and the representatives of the city have agreed to recommend its approval to the City Council.

Having reviewed all documents submitted at the public hearings and heard testimony of the public and parties, it appears that this proposed planned development is in the best public interest of the City of Bradenton, and I recommend that the City Council approve the Settlement Agreement and allow this project to move forward under the terms expressed.

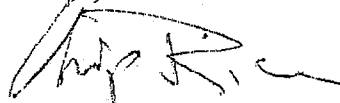
The Honorable Wayne Poston
Members of the City Council
December 7, 2006
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At the request of the Applicant, this concludes my services as Special Magistrate in this matter.

Respectfully submitted.

Yours most sincerely,

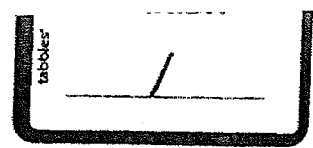
LEWIS, LONGMAN & WALKER, P.A.

A handwritten signature in black ink, appearing to read "H. Hamilton Rice, Jr.", written over a horizontal line.

H. Hamilton Rice, Jr.

HHR/cej
Enclosure

Final
#6/24



SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into by and between Riviera Southshore Ventures, LLC, hereinafter referred to as "RSV", and City of Bradenton, a municipal corporation of the State of Florida, hereinafter referred to as "City".

WITNESETH:

WHEREAS, RSV and City are parties to that certain litigation pending in the Circuit Court of the Twelfth Judicial Circuit In and For Manatee City, Florida known as (i) 2006CA005343, and (ii) 2006CA005512 (hereinafter the "Pending Litigation"),

WHEREAS, RSV and City are participating in a dispute resolution proceeding pursuant to Section 70.51 of the Florida Statutes, (the "Dispute Resolution Proceeding"), and;

WHEREAS, RSV and City desire to provide for a settlement of the Pending Litigation and the Dispute Resolution Proceeding, all as more fully set forth herein,

NOW THEREFORE, in consideration of the sum of ten dollars (\$10.00), and other good and valuable consideration exchanged between the parties, the receipt of which is hereby acknowledged, the parties agree as follows:

1. **Recitals.** That the above recitals are true and correct and are hereby incorporated herein.

2. **Abatement.** The Pending Litigation shall be abated pending approval by the City of a rezoning, PDP plan approval, and street vacation as more fully set forth in paragraph 4 herein. Counsel for RSV and City shall execute such stipulations and/or motions as are necessary to cause the Pending Litigation to be abated, but not dismissed, and shall otherwise jointly cooperate with each other to accomplish the agreements set forth herein.

3. **Concept Plan and Stipulations.** The City (by virtue of an authorized person's recommendation to the City Council) and RSV do hereby approve the concept plan and recommended stipulations attached to this Agreement as a basis for settlement of the Pending Litigation, and as a conclusion to the Dispute Resolution Proceeding. The Special Magistrate shall recommend this Agreement to the City Council for approval which shall constitute the Special Magistrates written recommendation pursuant to the Florida Land Use and Environmental Dispute Resolution Act. This Agreement shall be

the act of the City upon approval by the City Council in accordance with its rules and procedures.

4. **Planning Efforts.** Within ninety (90) days following the execution and delivery of this Agreement, RSV shall amend its currently pending applications for land use approvals and authorizations known as (i) RV.05.0008; (ii) RV.05.0009; (iii) LU.05.0020, and (iv) PR.05.0017, to reflect a preliminary PDP plan and attachments substantially in accordance with the concept plan and stipulations attached to this Agreement, including the allocation of water view and on-water view residential units as provided for therein (collectively the "Entitlements"). City shall, to the greatest extent practicable, expedite the review, consideration and ultimate approval of the Entitlements to be issued by City, provided that: (a) such approval of the Entitlements shall be substantially in accordance with the concept plan and stipulations attached hereto, or otherwise acceptable to the City, and (b) in no event shall City apply any standard to such effort except that required by City's Comprehensive Plan and Land Development Code, consistently applied.

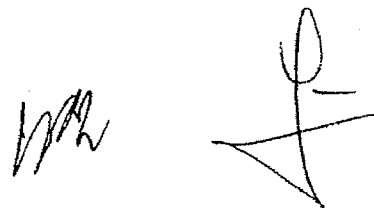
5. **Final Settlement.** This Agreement shall constitute a final settlement agreement ("FSA") upon receipt by RSV of all Entitlements. In the event the FSA is not obtained within one (1) year from the date of this Agreement, either party may withdraw from this Agreement by providing the other party not less than thirty (30) days notice of such intention. The withdrawal shall be effective upon receipt of such notice, but not earlier than one (1) year following the date hereof.

6. **FSA Implementation.** When this Agreement becomes a FSA as provided for herein RSV and City shall dismiss the Pending Litigation with prejudice

7. **NonEvidentiary.** This Agreement constitutes a settlement agreement under the Florida Evidence Code, and the Dispute Resolution Proceeding. As such, the parties understand, acknowledge and agreed that this Agreement shall not be admitted into evidence or otherwise attempted to be used as evidence in the Pending Litigation and/or any other proceedings existing between RSV and City.

8. **Status Quo.** The parties expect and intend that, despite execution of this Agreement, the status quo will be maintained between the parties subject to the terms hereof, and that this Agreement shall become a FSA, on a self-executing basis, solely upon satisfaction of the conditions precedent provided for herein. If this Agreement does not become an FSA, then the parties shall be returned to their original positions existing prior to the execution and delivery hereof, and each shall be permitted to pursue their respective rights under the Pending Litigation, which shall not thereafter be abated by virtue of this Agreement.

(Signature Page to Follow)

Two handwritten signatures in black ink are located at the bottom right of the page. The signature on the left is a cursive-style name, possibly 'W. R. V.', and the signature on the right is a stylized, blocky name, possibly 'J. F.'.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day, month and year set forth below.

CITY:

City of Bradenton, a municipal corporation of the State of Florida

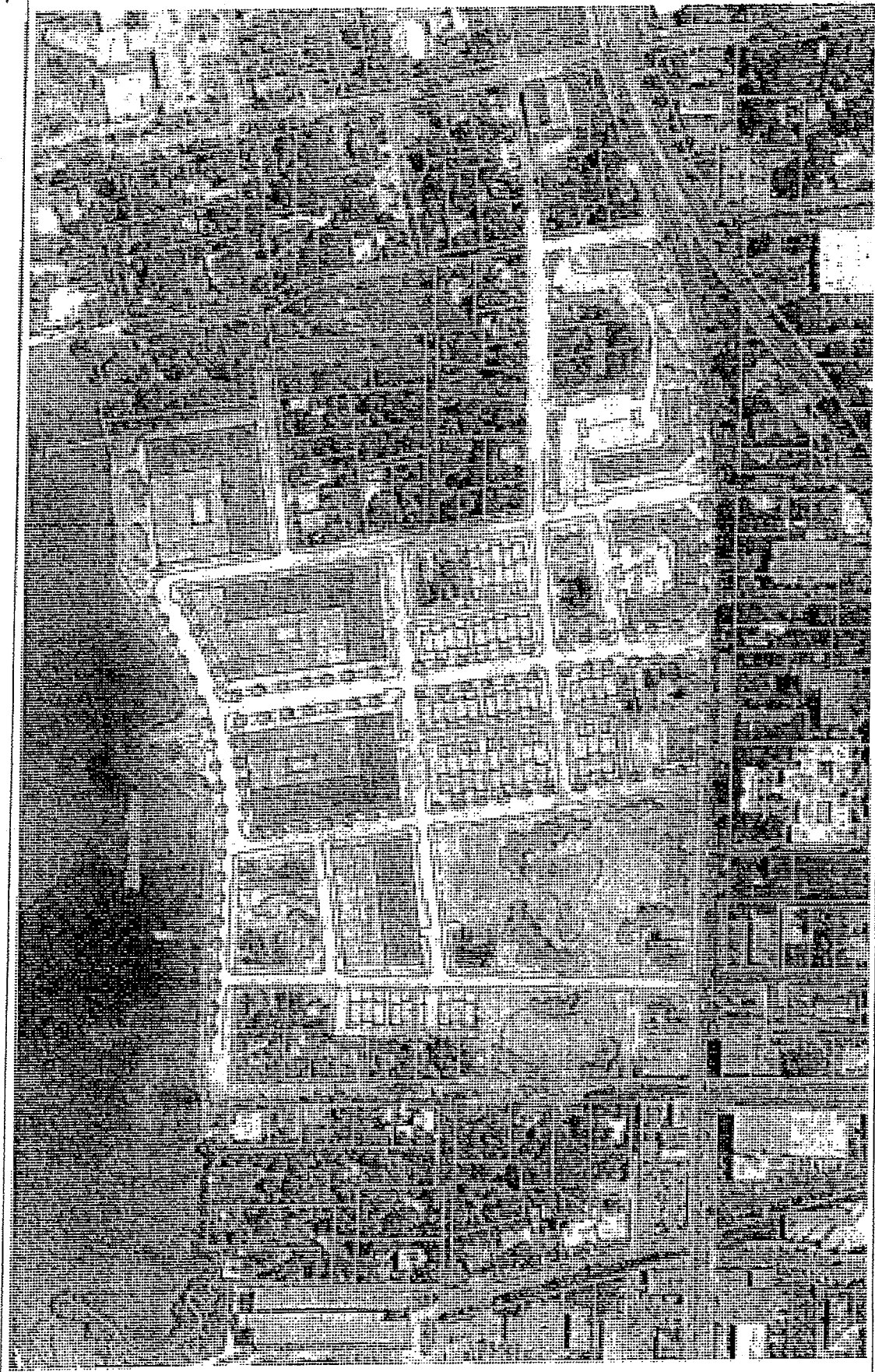
By: *William R. Smith*
Print Name: William R. Smith
Its: Attorney

RIVIERA SOUTHSORE VENTURES, LLC

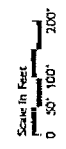
Witnesses:

William R. Smith
Blaise Johnson

By: *[Signature]*
Its: MANAGER



GI Proj. No.: 770010
Date: November 21, 2006



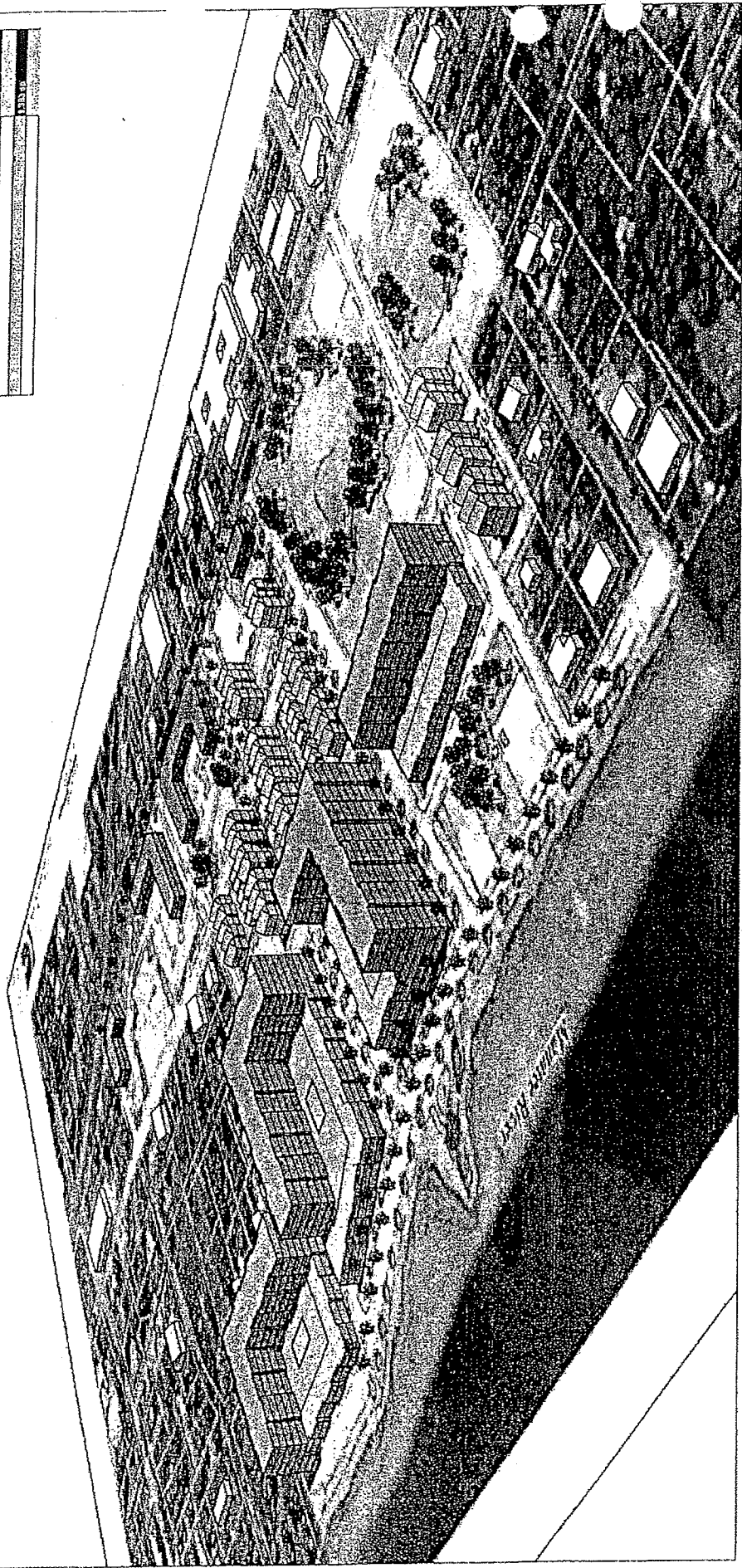
City of Bradenton Downtown Design Review
River's Southshore - Preferred Option

WPM

AS

Downtown Bradenton Design Review Services
 Riviera Southshore Development
 Preferred Option
 Development Program

1/23/2006	Grand Total
319,807,440.00	68 DU
1,400,000.00	34,400 SF
1,800,000.00	1,800 SF
1,200,000.00	1,200 SF
1,200,000.00	1,200 SF



GI Proj. No.: 19550.0
 Date: November 21, 2006

DRAWING NOT TO SCALE

City of Bradenton Downtown Design Review
 Riviera Southshore - Preferred Option

AG
 WBL

Downtown Bradenton Design Review Services
 Riviera Southshore Development
 Preferred Option

Updated: 11/21/2006

Development Program	Block 01	Block 02	Block 03	Block 04	Block 05	Block 06	Block 07	Block 08	Block 09	Block 10	Block 11	Grand Total
River View Units	40 DU	87 DU	128 DU	83 DU	0 DU	0 DU	0 DU	0 DU	0 DU	0 DU	0 DU	338 DU
Other Units												669 DU
Other SF												64,400 SF
Other SR												7,365 SR
Other SP												1,393 SP



GJ Proj. No.: 19320.0
 Date: November 21, 2006

City of Bradenton Downtown Design Review
 Riviera Southshore - Preferred Option

AS *WBR*

RIVIERA SOUTHSHORE PLANNED DEVELOPMENT PROJECT

SHALL BE APPROVED BUT

1. The total number of residential units within the Riviera PDP project shall not exceed SIX HUNDRED NINETY ONE (691) units.

2. Deleted.

MEASURED FROM BASE FLOOD ELEVATION TO THE TOP OF THE CEILING SLABS OF THE HIGHEST LIVING FLOOR.

~~3. The heights of the proposed riverfront buildings shall be limited to a maximum of _____ () stories of residential over two stories of structured parking.~~

4. All parking facilities shall comply with the parking requirements of the City of Bradenton Land Use Regulations. The Administrative Official may grant up to a twenty-five percent (25%) reduction in such requirements as the PDP is located with the Downtown Mixed Use Future Land Use Category..

5. Significant architectural detail and features must be added to the faces of the parking structures which do not have liner residential units to assist in masking the nature of the structures as garages.

6. Deleted.

7. All of the paved pedestrian sidewalks and on-street parking within the 100 year floodplain shall be constructed with pervious paving material, or such other material as approved by the Public Works Director.

8. The architectural design and features of the proposed buildings, parking garages, and amenities, including pedestrian features shall be adhered to as reviewed and approved by the City Council following recommendations and input from the Architectural Review Board. Such reviews and approvals shall occur before the final PDP approval may be granted.

9. The Final PDP shall address all of the project stipulations and those imposed by further review of the Architectural Review Board and the City Council as provided for herein. In addition, the developer shall make a fair share contribution to off-site roadway improvements of \$48,900.00.

10. Deleted. *Any deviation from the applied requirements may require a PDP amendment.*

11. The developer agrees to participate in a conceptual plan for public improvements to Glazier Gates Park and contribute \$250,000.00 to future upgrades to be implemented prior to the issuance of a final Certificate of Occupancy in the first riverfront (mid-rise) building constructed. The contribution may be funded by a community development district as and when formed by developer, *but shall not be impact fee creditable.*

NOX The maximum height shall be:
a. Building A (Block B) - 108'
b. Building E (Block 2) - 108'
c. Building C (Block 4) - 108'
d. Building D (Block 1) - 84'

WAZ

12. Significant additional landscaping shall be added along the driveway adjacent to Lot 1 and Lot 8 so as to buffer the impact of automobile headlights on the adjacent residences, which additional landscaping shall (i) be installed prior to certificate of occupancy for such units, and (ii) achieve an eighty-five percent (85%) opacity within one year from the date of planting.

13. Within thirty days following preliminary approval of the PDP, the developer shall deliver to the City Clerk of the City of Bradenton performance security (i.e. cash, bond, irrevocable letter of credit) and a disbursement agreement acceptable in form to the City Clerk and the City Attorney. The performance security shall be in the amount of five hundred thousand dollars (\$500,000.00). The performance security shall act as collateral for the developers obligation to timely accomplish the removal and renovation conditions described below, and, failing same, shall be released to the City under the terms of the disbursement agreement so that the City may accomplish such work at the developers cost and expense. The work to be accomplished is set forth below:

a. Obtain demolition permits for 15 existing dilapidated homes as authorized by existing Certificate of Appropriateness no later than 45 days following approval of the preliminary PDP approval.

b. Complete demolition and removal of homes, and accessory structures such as sheds, fences, etc., and, complete sewer cap work no later than 125 days following approval of the preliminary PDP approval. The Director of Development Services may extend this deadline if required by field conditions, provided that (i) a report of such extension is provided to City Council, and (ii) developer is exercising good faith and best efforts to timely accomplish the work.

c. All trash and debris (excluding the homes and accessory structures described above) shall be removed no later than 45 days following approval of the PDP. Thereafter, the entire area shall be regularly mowed with vegetation trimmed on a pro-active basis.

Upon completion of the items described in subparagraphs a and b above, the performance security can be reduced to twenty five thousand dollars (\$25,000).

14. If required by final action of the City Council following further public hearings conducted by the Architectural Review Board and the City Council, the developer shall dedicate and construct an extension of 11th Street East and 12th Street East, connecting westward along the waterfront to existing Riverside Drive East. The design of such extension shall be pedestrian friendly and significantly landscaped.

15. Any roadway vacation approved by the City Council as part of the PDP approval shall be conditioned upon the developer contributing by conveyance or dedication to the public not less than one-hundred fifty percent (150%) of public space and rights of way in excess of the amount vacated. Public rights of way and public space may be contributed to and funded by a community development district as and when formed by

WMM



developer. Despite such dedication, Developer shall maintain access to its privately owned waterfront property, if any.

The northernmost one half (1/2) BLOCK OF 10th St. E ADJACENT TO THE ATWOOD PROPERTY SHALL NOT BE USED FOR ROADWAY.

16. The first phase of the PDP project shall include, at least, the development of (i) 11th Street East from Manatee Avenue to its northern terminus as determined by the City Council as set forth herein; (ii) 3rd Avenue East from 10th Street East to 12th Street East; (iii) the townhomes along 11th Street East, and (iv) the commercial development pod along Manatee Avenue between 11th Street East and 12th Street East.

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