

RESOLUTION No. 21-248

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF
THE CITY OF DORAL, FLORIDA, APPROVING THE FIFTH
AMENDMENT TO THE SETTLEMENT AGREEMENT BETWEEN
CENTURY MIDTOWN PROPERTIES, LLC AND THE CITY OF
DORAL; PROVIDING FOR RECORDATION; AND PROVIDING FOR
AN EFFECTIVE DATE**

WHEREAS, a Settlement Agreement dated June 25, 2005, was entered into by the City of Doral and Atlas Developers Property I, LLC and Atlas II, LLC, the then owners of a ±465 acre parcel of land located in Section 8, Township 53 South, Range 40 East ("Section 8") in the City of Doral to address concerns of the City with respect to the development of the land; and

WHEREAS, the City of Doral approved an amendment to the Settlement Agreement on February 12, 2007, pursuant to Resolution No. 07-06; and

WHEREAS, on May 28, 2014, the City of Doral approved the Third Amendment to the Settlement Agreement pursuant to Resolution No. 14-78; and

WHEREAS, on October 21, 2015, the City of Doral approved the Fourth Amendment to the Settlement Agreement pursuant to Resolution No. 15-209; and

WHEREAS, the Fourth Amendment to Settlement Agreement provides for a maximum residential density of 4,175 dwelling units within the Section 8 Residential Lands; and

WHEREAS, over time, the subject property of the Agreement has been divided into smaller parcels and interest in the Property has been transferred to various owners; and

WHEREAS, Century Midtown Properties, LLC (the "Applicant") has requested the Fifth Amendment to the Settlement Agreement; and

WHEREAS, the intent of the Fifth Amendment to Settlement Agreement is to

modify Paragraph 6 of the agreement to allow for an increase of 170 residential dwelling units; and

WHEREAS, on October 27, 2021, the Mayor and City Council held a public hearing and after careful review and deliberation hereby find it to be in the best interest of its residents to approve the Fifth Amendment to the Settlement Agreement between Century Midtown Properties, LLC and the City of Doral.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are confirmed, adopted, and incorporated herein and made as part hereof by this reference.

Section 2. Approval. The City Council of the City of Doral hereby approves the Fifth Amendment to the Settlement Agreement, attached hereto and incorporated herein as "Exhibit A."

Section 3. Recordation. This Resolution and the Fifth Amendment to Settlement Agreement (Exhibit "A") shall be recorded in the public records of Miami-Dade County, Florida, with the Applicant to pay the cost thereof.

Section 4. Effective Date. This Resolution shall become effective immediately upon its adoption.

The foregoing Resolution was offered by Councilmember Puig-Corve who moved its adoption. The motion was seconded by Councilmember Cabral and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Pete Cabrera	Absent/Excused
Councilwoman Digna Cabral	Yes
Councilwoman Claudia Mariaca	Yes
Councilman Oscar Puig-Corve	Yes

PASSED AND ADOPTED this 27 day of October, 2021.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CONNIE DIAZ, MMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



LUIS FIGUEREDO, ESQ.
CITY ATTORNEY

EXHIBIT “A”

This instrument was prepared by:

Name: Alejandro J. Arias, Esq.
Address: Holland & Knight LLP
701 Brickell Avenue
Suite 3300
Miami, Florida 33131

(Space reserved for Clerk of Court)

FIFTH AMENDMENT TO SETTLEMENT AGREEMENT

THIS FIFTH AMENDMENT to Settlement Agreement ("Fifth Amendment") is entered into by and between Century Midtown Properties, LLC, a Florida limited liability company ("Century Midtown"), and the City of Doral, a Florida municipal corporation (the "City").

WHEREAS, a Settlement Agreement, dated as of June 12, 2005, was entered into by the City and the then owners of that certain ± 465 acre parcel of land located in Section 8, Township 53 South, Range 40 East in the City of Doral, Florida (the "Original Parcel") to address the concerns of the City with respect to the development of the Original Parcel, and which was subsequently amended by that certain Amendment to Settlement Agreement, approved by the City of Doral on February 12, 2007, pursuant to Resolution No. 07-06, that certain Second Amendment to Settlement Agreement, recorded in Official Records Book 26842 at Page 4067 of the Public Records of Miami-Dade County, Florida, that certain Third Amendment to Settlement Agreement, recorded in Official Records Book 29252 at Page 1882 of the Public Records of Miami-Dade County, Florida, and that certain Fourth Amendment to Settlement Agreement, pursuant to Resolution No. 15-209, passed and adopted by the City on October 21, 2015 (collectively, the "Agreement");

WHEREAS, the Agreement was entered into by the parties to assure the City of the performance of certain obligations and the commitment to certain restrictions on the Original Parcel, including infrastructure improvements, as a settlement to litigation proceedings between the parties;

WHEREAS, over time the Original Parcel has been divided into smaller parcels and conveyed to various owners;

WHEREAS, more recently, a Modification to the Master Development Agreement Recorded at Official Records Book 29422 at Page 4516 of the Public Records of Miami-Dade County, Florida, dated February 12, 2020, was entered into between 107 Avenue Doral Properties, LLC, a Florida limited liability company, New Doral 107, LLC, a Delaware limited liability company, MTD Unit 3-503, LLC, a Florida limited liability company, MTD Unit 3-307 LLC, a Florida limited liability company, MTD Unit 3-208 LLC, a Florida limited liability company, and Century Midtown (the "Development Agreement Modification");

WHEREAS, the Development Agreement Modification applied to that certain ± 30 acre parcel of the Property, encompassing a proposed phased mixed-use development site known as "Midtown Doral", with a maximum of 1,548 dwelling units, 300,000 square feet of gross leasable

area of commercial use, 75,000 square feet of net leasable area of office use, and a 47,000 square foot clubhouse (the "Midtown Doral Project");

WHEREAS, the Development Agreement Modification reallocated the remaining development rights of the Midtown Doral Project to a number of parcels, which remained unbuilt, under a new phased development schedule;

WHEREAS, as part of the Development Agreement Modification, 107 Avenue Doral Properties, LLC transferred its interests in that certain property described in Exhibit A to this Fifth Amendment to Century Midtown (the "Century Midtown Property");

WHEREAS, the development of the Century Midtown Property is "Phase II" of the development program described in the Development Agreement Modification;

WHEREAS, Century Midtown intends to develop the Century Midtown Property under a phased development program that consists of a 47,000 square foot clubhouse, 93,000 square feet of gross leasable commercial use, and 675 dwelling units;

WHEREAS, in order to realize this development program, Century Midtown wishes to amend Section 6 of the Agreement, as it affects the Century Midtown Property, in accordance with the terms and conditions set forth below:

FROM:

"Maximum Residential Density within the TND and the Section 8 Residential Lands. Notwithstanding the approval of the Zoning Application, the CDMP Application, or future applications, Flordade and 107 Avenue agree that the maximum number of dwelling units within the Section 8 Residential Lands shall not exceed a total density (as defined in the Land Use Element of the CDMP) of four thousand one hundred seventy five (4,175) dwelling units. Further, the maximum gross residential density, as defined in the Land Use Element of the CDMP, on the TND Property shall not exceed three thousand six hundred thirty four (3,634) dwelling units. In addition, Flordade agrees that it shall set aside sufficient land within the Section 8 Residential Lands Property to permit the future development of a minimum of (i) three hundred and eighty four (384) detached single family homes on lots with an average size of 5,000 square feet of area, including a minimum of sixty (60) units within that portion of the Property known as the Grand Bay South Planned Units Development, and (ii) four hundred forty (440) platted, fee simple townhomes. Lastly, no more than fifty percent (50%) of the multi-family units within the Section 8 Residential Lands may be designed and offered as rental units."

TO:

"Maximum Residential Density within the TND and the Section 8 Residential Lands. Notwithstanding the approval of the Zoning Application, the CDMP Application, or future applications, Flordade and 107 Avenue agree that the maximum number of dwelling units within the Section 8 Residential Lands shall not exceed a total density (as defined in the Land Use Element of the CDMP) of four thousand one hundred seventy five (4,175) dwelling units. Further, the maximum gross residential density, as defined in the Land Use Element of the CDMP, on the TND Property shall not exceed three thousand six hundred thirty four (3,634) dwelling units. In addition, Flordade agrees that it shall set aside sufficient land within the Section 8 Residential Lands Property to permit the future development of a minimum of (i) three hundred and eighty four (384) detached single family homes on lots with an average size of 5,000 square feet of area, including a minimum of sixty (60) units within that portion of the Property known as the Grand Bay South Planned Units Development, and (ii) four hundred forty (440) platted, fee simple townhomes. Lastly, no more than fifty percent (50%) of the multi-family units within the Section 8 Residential Lands may be designed and offered as rental units.

Notwithstanding the foregoing, (i) an additional one hundred and seventy (170) dwelling units may be developed on the Century Midtown Property; and (ii) units on the Century Midtown Property may be designed and offered for either sale or rent."

In addition, to help mitigate the impact of the construction of the Additional Units on the City's park and recreation facilities, Century Midtown has identified for future conveyance to the City that certain parcel of land, consisting of approximately fifty (50) acres, which is located generally on the north side of NW 74 Street and west of NW 107 Avenue and which is currently being maintained as a preservation area, as more particularly described in Exhibit "B" (the "Off-Site Parcel"). As a condition to the approval of this Amendment, Century Midtown shall cause the conveyance of the Off-Site Parcel to the City at no cost to the City. The City and Century Midtown acknowledge that the City's intended use of the Off-Site Parcel as a passive recreational area, including public view corridors (the "City's Intended Use"), may require the approval of a modification of that certain conservation easement in favor of the South Florida Water Management District (the "SFWMD"), as amended, which is recorded at Official Records Book 27780, Pages 4630-4750 of the Public Records of Miami-Dade County (the "Modification"). The City shall have one-hundred and eighty (180) days (unless such time is extended by mutual agreement of Century Midtown and the City) following final approval of the Amendment to secure the approval of the Modification by the SFWMD and, if applicable, the US Army Corps of Engineers and the County's Division of Environmental Resources Management (the "Environmental Agencies"). Century Midtown shall cooperate fully with the City, including by promptly signing any applications and documents required by the Environmental Agencies in connection with the approval of the Modification. Century Midtown shall cause the conveyance of the Off-Site Parcel to the City at

no cost to the City in its “as is, where is” condition, subject to all existing exceptions and encumbrances and to be held as public park land, within ten (10) business days following the approval of the Modification. As additional consideration, Century Midtown agrees not to seek certificates of occupancy for more than 505 units until such time as the City has secured the approval of the Modification.

NOW, THEREFORE, for and in consideration of the premises hereof and for other good and valuable consideration, the sufficiency of which is hereby acknowledged, the parties to hereby agree as follows:

1. The above recitals are true and correct and are incorporated herein by this reference. All capitalized terms used in this Fifth Agreement without separate definition shall have the same meanings assigned to them in the Agreement.

2. Section 6 of the Agreement is hereby amended effective as of the date hereof and shall hereinafter read as follows:

"Maximum Residential Density within the TND and the Section 8 Residential Lands. Notwithstanding the approval of the Zoning Application, the CDMP Application, or future applications, Flordade and 107 Avenue agree that the maximum number of dwelling units within the Section 8 Residential Lands shall not exceed a total density (as defined in the Land Use Element of the CDMP) of four thousand one hundred seventy five (4,175) dwelling units. Further, the maximum gross residential density, as defined in the Land Use Element of the CDMP, on the TND Property shall not exceed three thousand six hundred thirty four (3,634) dwelling units. In addition, Flordade agrees that it shall set aside sufficient land within the Section 8 Residential Lands Property to permit the future development of a minimum of (i) three hundred and eighty four (384) detached single family homes on lots with an average size of 5,000 square feet of area, including a minimum of sixty (60) units within that portion of the Property known as the Grand Bay South Planned Units Development, and (ii) four hundred forty (440) platted, fee simple townhomes. Lastly, no more than fifty percent (50%) of the multi-family units within the Section 8 Residential Lands may be designed and offered as rental units.

Notwithstanding the foregoing, (i) an additional one hundred and seventy (170) dwelling units (the “Additional Units”) may be developed on the Century Midtown Property; and (ii) units on the Century Midtown Property may be designed and offered for either sale or rent.”

In addition, to help mitigate the impact of the construction of the Additional Units on the City’s park and recreation facilities, Century Midtown has identified for future conveyance to the City that certain parcel of land, consisting of

approximately fifty (50) acres, which is located generally on the north side of NW 74 Street and west of NW 107 Avenue and which is currently being maintained as a preservation area, as more particularly described in Exhibit "B" (the "Off-Site Parcel"). As a condition to the approval of this Amendment, Century Midtown shall cause the conveyance of the Off-Site Parcel to the City at no cost to the City. The City and Century Midtown acknowledge that the City's intended use of the Off-Site Parcel as a passive recreational area, including public view corridors (the "City's Intended Use"), may require the approval of a modification of that certain conservation easement in favor of the South Florida Water Management District (the "SFWMD"), as amended, which is recorded at Official Records Book 27780, Pages 4630-4750 of the Public Records of Miami-Dade County (the "Modification"). The City shall have one-hundred and eighty (180) days (unless such time is extended by mutual agreement of Century Midtown and the City) following final approval of the Amendment to secure the approval of the Modification by the SFWMD and, if applicable, the US Army Corps of Engineers and the County's Division of Environmental Resources Management (the "Environmental Agencies"). Century Midtown shall cooperate fully with the City, including by promptly signing any applications and documents required by the Environmental Agencies in connection with the approval of the Modification. Century Midtown shall cause the conveyance of the Off-Site Parcel to the City at no cost to the City in its "as is, where is" condition, subject to all existing exceptions and encumbrances and to be held as public park land, within ten (10) business days following the approval of the Modification. As additional consideration, Century Midtown agrees not to seek certificates of occupancy for more than 505 units until such time as the City has secured the approval of the Modification.

3. Except as specifically modified in this Fifth Amendment, all of the terms and conditions of the Agreement shall remain in full force and effect. In the event any inconsistency between the terms of this Fifth Amendment and the terms of the Agreement, then the terms of this Fifth Amendment shall control. This Fifth Amendment shall be construed and enforced in accordance with the laws of the State of Florida and shall be binding upon the heirs, successors and assigns of the parties hereto.

4. This Fifth Amendment may be executed in any number of counterparts, each of which will be deemed to be an original, and all of such counterparts will constitute one-third Amendment. The signature of any party or counterpart may be appended to any other counterpart.

5. This Fifth Amendment shall be recorded in the Public Records of Miami-Dade County, Florida, at the expense of Century Midtown.

[SIGNATURE PAGES FOLLOW]

WITNESS WHEREOF, we have executed this Fifth Amendment as of this _____ day of _____, 2021.

WITNESSES:

CITY OF DORAL, FLORIDA,
a municipal corporation

Signature

Printed Name

Signature

Printed Name

By: _____
Name: _____
Title: _____

Approved as to legal sufficiency:
Luis Figueredo, Esq. - City Attorney

STATE OF _____)
COUNTY OF _____) SS:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2021, by _____, as _____ of the City of Doral, Florida, a municipal corporation, on behalf of the City, who is personally known to me or ____ has produced _____ as identification.

[NOTARIAL SEAL]

Print Name: _____
Notary Public, State of _____
Commission #: _____
My Commission Expires: _____

WITNESS WHEREOF, we have executed this Fifth Amendment as of this _____ day of _____, 2021.

WITNESSES:

CENTURY MIDTOWN PROPERTIES, LLC,
a Florida limited liability company

Signature

Printed Name

Signature

Printed Name

By: _____
Name: _____
Title: _____

STATE OF _____)
COUNTY OF _____)

SS:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2021, by _____, as _____ of **CENTURY MIDTOWN PROPERTIES, LLC**, a Florida limited liability company, who is personally known to me or ____ has produced _____ as identification.

[NOTARIAL SEAL]

Print Name: _____
Notary Public, State of _____
Commission #: _____
My Commission Expires: _____