



CITY OF SUNRISE

# AGENDA ITEM REQUEST

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ORIGINATING DEPARTMENT: CITY ATTORNEY'S OFFICE

ROUTING:

CITY MANAGER: DATE: \_\_\_\_\_

CITY MANAGER APPROVAL TO BEGIN PROCEDURES.

SIGNATURE: \_\_\_\_\_

PURCHASING: DATE: \_\_\_\_\_

PURCHASING APPROVAL: SIGNATURE: \_\_\_\_\_

LEGISLATIVE AIDE: DATE: \_\_\_\_\_

CITY ATTORNEY: DATE: \_\_\_\_\_

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ITEM REQUEST:

A Resolution of the City of Sunrise, Florida, approving a Reinstatement and Eighth Amendment to the Development Agreement between the City of Sunrise, Sawgrass Property Investments and Metropica Improvement District; and providing an effective date.

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FUNDING SOURCE: N/A

AMOUNT: N/A

BUDGET APPROVAL  
SIGNATURE: \_\_\_\_\_

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ATTACHED EXHIBITS:

1. Resolution.
  2. Reinstatement and Eighth Amendment to Development Agreement.
  3. Publication Notice.
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SUMMARY EXPLANATION/BACKGROUND INFORMATION/JUSTIFICATION:

The City entered into a Development Agreement with Sawgrass Property Investments and the Metropica Improvement District on September 26, 2003. In February 2009, the City adopted an amendment to its Future Land Use Plan and Map which amended the designation of the Developer's property to the Transit Oriented Development Land Use Plan Amendment. This Land Use Plan Amendment substantially modified the original Development Plan contemplated in the Development Agreement. The existing Development Agreement expired September 27, 2009. This Reinstatement and Eighth Amendment to the Development Agreement provides for the reinstatement and extension of the term of the Development Agreement to September 27, 2010, along with a three (3) month option to extend the time for development approvals and appraisal period under the Agreement. It is the intent by reinstating and extending this Development Agreement, the Developer shall submit to the City revisions to this Agreement which shall more accurately reflect the current development proposal approved as part of the Transit Oriented Development Land Use Plan Amendment, including revisions to the development plans and exhibits approved by the Agreement. This Reinstatement and Eighth Amendment to the Development Agreement has been duly noticed and two public hearings are required to be held in accordance with Section 163.3225, Florida Statutes for approval of this Amendment.

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DEPARTMENT HEAD RECOMMENDATION:

APPROVAL

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PERSON WITH ADDITIONAL INFORMATION:

NAME: Mark S. Lubelski, P.E.                      PHONE:              (954) 746-3270

DEPARTMENT HEAD SIGNATURE:

\_\_\_\_\_  
Stuart R. Michelson, City Attorney

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CITY MANAGER RECOMMENDATIONS:

APPROVED FOR AGENDA PLACEMENT.

SIGNATURE: \_\_\_\_\_ (CITY MANAGER)

**SUNRISE, FLORIDA**

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE CITY OF SUNRISE, FLORIDA, APPROVING A REINSTATEMENT AND EIGHTH AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SUNRISE, SAWGRASS PROPERTY INVESTMENTS AND METROPICA IMPROVEMENT DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission of the City of Sunrise approved a Master Plan which allows the Developer to proceed with the development under the Master Plan; and

WHEREAS, City and Developer are the parties to that certain Agreement dated as of September 26, 2003, as amended by that certain First Amendment to Development Agreement dated July 1, 2004, that certain Second Amendment to Development Agreement dated April 1, 2005 and that certain Reinstatement and Third Amendment to Development Agreement dated February 6, 2006, and that certain Fourth Amendment to Development Agreement dated June 27, 2006, and that certain Fifth Amendment to Development Agreement dated April 10, 2007, and that certain Sixth Amendment to Development Agreement dated September 26, 2007, and that certain Seventh Amendment to Development Agreement dated July 22, 2008, (collectively, the "Agreement"), with respect to certain real property located in Sunrise, Florida, as more particularly described in the recitals to the Agreement; and

WHEREAS, this Reinstatement and Eighth Amendment provides for reinstatement and extension of the term of the

Development Agreement to September 27, 2010, along with a three (3) month option to extend the time for the development approvals and appraisal period under the Agreement; and

WHEREAS, the Reinstatement and Eighth Amendment to the Development Agreement has been duly noticed and two public hearings have been held in accordance with Section 163.3225, Florida Statutes;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF SUNRISE, FLORIDA:

Section 1. The Reinstatement and Eighth Amendment to the Development Agreement between the City of Sunrise, Sawgrass Property Investments and Metropica Improvement District is hereby approved. A copy of the Reinstatement and Eighth Amendment is attached hereto and made a part of this Resolution as Exhibit "A."

Section 2. Effective Date. This Resolution shall be retroactive to September 27, 2009.

PASSED AND ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2009.

\_\_\_\_\_  
Mayor Roger B. Wishner

Authentication:

\_\_\_\_\_

Felicia M. Bravo  
City Clerk

MOTION: \_\_\_\_\_  
SECOND: \_\_\_\_\_

ALU: \_\_\_\_\_  
ROSEN: \_\_\_\_\_  
SCUOTTO: \_\_\_\_\_  
SOFIELD: \_\_\_\_\_  
WISHNER: \_\_\_\_\_

Approved by the City Attorney  
as to Form and Legal Sufficiency. \_\_\_\_\_  
Stuart R. Michelson

**REINSTATEMENT AND EIGHTH AMENDMENT**  
**TO DEVELOPMENT AGREEMENT**

**THIS REINSTATEMENT AND EIGHTH AMENDMENT TO DEVELOPMENT AGREEMENT** (the “**Amendment**”) is made this \_\_\_\_\_ day of October, 2009 by and between the CITY OF SUNRISE, FLORIDA, a Florida municipal corporation (“**City**”) SAWGRASS PROPERTY INVESTMENTS, a Florida general partnership (“**Developer**”), and the METROPICA IMPROVEMENT DISTRICT, a dependent special district of the City of Sunrise, Florida (“**District**”).

**W H E R E A S:**

A. City and Developer are the parties to that certain Agreement dated as of September 26, 2003, as amended by that certain First Amendment to Development Agreement dated July 1, 2004 and that certain Second Amendment to Development Agreement dated April 1, 2005, that certain Reinstatement and Third Amendment to Development Agreement dated February 6, 2006, that certain Fourth Amendment to Development Agreement dated June 27, 2006, that certain Fifth Amendment to Development Agreement dated April 10, 2007, that certain Sixth Amendment to Development Agreement dated September 26, 2007, and that certain Seventh Amendment to Development Agreement dated July 22, 2008 (collectively, the “**Agreement**”), with respect to certain real property located in Sunrise, Florida, as more particularly described in the recitals to the Agreement.

B. District joined into the Agreement by virtue of that certain Joinder and Consent dated as of April 27, 2004.

C. In February 2009, pursuant to the Developer’s application, the City adopted an amendment to its Future Land Use Plan and Map which amended the designation of the Developer’s property to the Transit Oriented Development Land Use category.

D. It is the parties’ intent that, prior to the expiration of this Agreement as reinstated and extended by this Amendment, the Developer shall submit to the City revisions to this Agreement which shall more accurately reflect the current development proposal approved as part of the Transit Oriented Development Land Use Plan Amendment, including revisions to the development plans and exhibits approved by the Agreement.

E. The parties desire to ratify and reinstate the Agreement and amend the Agreement in certain respects as more particularly set forth below.

**NOW, THEREFORE**, in consideration of the execution and delivery of the Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby further agree as follows:

1. The foregoing recitals are true and correct and are incorporated herein in their entirety.

2. The Agreement is hereby ratified and reinstated in its entirety by the parties.

3. This Amendment shall be deemed a part of, but shall take precedence over and supersede any provisions to the contrary contained in the Agreement. All initial capitalized terms used in this Amendment shall have the same meaning as set forth in the Agreement unless otherwise provided.

4. The Approval Period set forth in Section 4.2 of the Agreement is hereby extended until September 27, 2010. The Developer shall have the right to extend the Approval Period for an additional three (3) month period only with the prior written consent of the City's Community Development Director, which may be granted or withheld in such Director's sole and absolute discretion.

5. This Amendment may be executed in several counterparts, each of which shall be deemed an original, but all constituting only one agreement.

6. Except as specifically modified hereby, all of the provisions of the Agreement, which are not in conflict with the terms of this Amendment shall remain in full force and effect.

**IN WITNESS WHEREOF**, the parties hereto have executed this Amendment as of the date first above written.

**CITY:**

Signed, sealed and delivered  
in the presence of:

THE CITY OF SUNRISE, FLORIDA

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

By: \_\_\_\_\_  
Roger B. Wishner, Mayor

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

Attest: \_\_\_\_\_  
Felicia M. Bravo, City Clerk

Approved as to form and legal  
sufficiency:

\_\_\_\_\_  
Stuart R. Michelson, City Attorney

**DISTRICT:**

Signed, sealed and delivered  
in the presence of:

METROPICA IMPROVEMENT  
DISTRICT

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

By: \_\_\_\_\_  
Roger B. Wishner, Mayor

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

Attest: \_\_\_\_\_  
Felicia M. Bravo, District Clerk

Approved as to form and legal  
sufficiency:

\_\_\_\_\_  
Stuart R. Michelson, District Attorney

Signed, sealed and delivered  
in the presence of:

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

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

**DEVELOPER:**

SAWGRASS PROPERTY  
INVESTMENTS, a Florida general  
partnership

By: Jobess, Inc., a Florida corporation, its  
managing general partner

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

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

Title: \_\_\_\_\_

**CITY OF SUNRISE  
NOTICE OF INTENT TO CONSIDER  
REINSTATEMENT AND  
AMENDMENT TO AGREEMENT**

A RESOLUTION OF THE CITY OF SUNRISE, FLORIDA, APPROVING REINSTATEMENT AND AN EIGHTH AMENDMENT TO THE DEVELOPMENT AGREEMENT BETWEEN THE CITY OF SUNRISE, SAWGRASS PROPERTY INVESTMENTS AND METROPICA IMPROVEMENT DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

The Sunrise City Commission sitting as the Local Planning Agency will hold a public hearing on the reinstatement and amendment to an existing Development Agreement between the City and Sawgrass Property Investments and Metropica Improvement District, at 6:15 p.m. on Tuesday, October 27, 2009 in Commission Chambers, 10770 West Oakland Park Boulevard, 1<sup>st</sup> Floor, Sunrise, Florida. Upon the close of the Local Planning Agency hearing, a public hearing will be held by the Sunrise City Commission at 6:30 p.m., or as soon thereafter as the Local Planning Agency hearing adjourns.

The land subject to the Development Agreement is generally located at the northeast intersection of Sunrise Boulevard and Panther Parkway (N.W. 136<sup>th</sup> Avenue) within the City of Sunrise, Broward County, Florida.

The nature of the amendment is to reinstate and extend the development plan approval periods for the project.

A copy of the amendment to the Agreement is available in the City Clerk's Office, at Sunrise City Hall, 10770 West Oakland Park Blvd., Fourth Floor, Sunrise, FL 33351. Persons with disabilities requiring accommodations in order to participate should contact the City Commission Office at (954) 746-3250 at least 24 hours in advance to request such accommodations.

If a person decides to appeal any decision made by the City commission with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings, and that for such purpose, he/she 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. F.S.S. 286.0105.

AD LPA Metropica 8Develop.Agrmnt-102709-P

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AD# 2010016