

ADDENDUM

This Addendum to the Settlement Agreement (“Settlement Agreement”) is entered into by and between the City of Delray Beach, Florida, a municipality incorporated pursuant to the laws of the State of Florida (“City”) and Edwards CDS LLC, a Delaware limited liability company (“Edwards CDS”), Edwards Atlantic Avenue, LLC, an Ohio limited liability company (“Edwards Atlantic”) and Edwards Intracoastal, LLC, an Ohio limited liability company (“Edwards Intracoastal”)(collectively, Edwards CDS, Edwards Atlantic and Edwards Intracoastal will be referred to herein as “Edwards”, “Plaintiffs” or “Developers”) to be effective on this 14th day of April, 2017. All capitalized, defined terms used herein shall have the same meaning as given such terms in the Settlement Agreement, unless otherwise defined or unless the context clearly indicates to the contrary.

1. For each provision in Sections 4 and 5 of the Settlement Agreement where Developers are required to perform work that is contingent upon the City receiving FDOT approval, the City shall timely execute, submit and pursue all necessary permit applications, supporting documents and FDOT requested revisions for the permits to be issued in the City’s name. In the event FDOT does not grant its approval within thirty (30) days of the City’s application, then Developers are released from having to perform the work that is the subject of the condition; provided, however, the City may re-apply for such FDOT approval (and Developers will cooperate with such reapplication) for up to a period of one hundred eighty (180) days so long as the City does not delay or withhold any permits, certificates of occupancy, or other approvals as a condition of or during the pendency of such reapplication. If FDOT approval is granted for any such reapplication, Developers are not released from performing the work that is the subject of the condition for which FDOT has granted its approval.

2. Section 4(d) is satisfied by Developers paying to the City a one-time payment of One Hundred Twenty Five Thousand Dollars (\$125,000) to allow the City to complete improvements, consistent with the City's standards for construction of traffic calming, in the Palm Square/Marina Historic District from S.E. 6th Avenue to Marine Way, from Atlantic Avenue to S.E. 2nd Street, including all boundary streets. Said payment shall be made 14 days after the earlier of (1) the City providing a written certification to Developer that the entire Project is fully vested as provided in paragraph 4 below, or (2) the City’s issuance of the building permit for Building II.

3. Sections 4(c)(1), 4(c)(3) and Section 5 are satisfied by Developers paying to the City the cost to design, permit, and construct, improvements to the intersections of NE

1st Street and NE 6th Avenue and Atlantic Avenue and NE 7th Avenue to upgrade said intersections to current City Standard, including mast arm signalization. Said payment shall be made 14 days after the earlier of (1) the City providing a written certification to Developer that the entire Project is fully vested as provided in paragraph 4 below, or (2) the City's issuance of the building permit for Building II.

4. Notwithstanding the termination of the Development Agreement described in Section 6 below, the Universal Approval Expiration Date shall not expire prior to September 9, 2021 (subject to further extension by government act or by Developers' notification of their exercise of rights thereunder, including but not limited to by Executive Order) ("Expiration Date"). The Expiration Date will be moot and all Project approvals fully vested, under LDR Section 2.4.4(D), when the garage on the west side of the Project has been enclosed and the completion of construction of the major structural elements, or topping off, of Building I and Building III, as shown on the 2013 Approved Site Plan has occurred.

5. The 2013 Land Development Regulations and Comprehensive Plan apply to the Project.

6. Within five (5) days after the 2013 Approved Site Plan and Modification and the Plat are final, unappealable and have not been appealed, the Parties shall execute, deliver to each other and record in the Public Records of Palm Beach County, Florida, a termination of the Development Agreement pursuant to Section 37 thereof.

7. This Settlement Agreement is open for acceptance by the Developer until April 21, 2017. If the Developer executes this Addendum on or before April 21, 2017, then except as hereinabove expressly amended, the Settlement Agreement signed by the City on March 3, 2017 and Plaintiffs on March 28, 2017, shall remain in full force and effect. If the Developer does not execute the Addendum on or before April 21, 2017, then the Addendum and Settlement Agreement are of no force and effect.

Executed as of the effective date set forth in the first paragraph of this Addendum.

City of Delray Beach, Florida

By: 

Its: MAYOR

Date: 4/12/2017

Edwards CDS, LLC

By: 

Its: CFO

Date: 4/13/2017

City Attorney

By: 

Edwards Atlantic Avenue, LLC

By: 

Its: CFO

Date: 4/13/2017

Edwards Intracoastal, LLC

By: 

Its: CFO

Date: 4/13/2017