

This instrument prepared by
and after recording return to:

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DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (the "Agreement") dated as of December 16, 2005 (the "Effective Date"), is entered into by and between the CITY OF MIRAMAR, a Florida municipal corporation (the "City") having an address at 2300 Civic Center Place, Miramar, Florida 33025 and ROCK-KIM MIRAMAR, LLC, a Delaware limited liability company (the "Owner") having an address at 3333 New Hyde Park Road, New Hyde Park, New York 11042.

RECITALS

1. The Owner is the owner of fee simple title to certain real property located within the City as more particularly described on Exhibit "A" (the "Property") attached and made a part of this Agreement, which Property consists of a portion of the real property subject to the plat of the Town Center Site recorded in Plat Book 172, Page 141, of the Public Records of Broward County, Florida (the "Plat").
2. The Property is located within the area subject to the East Miramar Areawide Development of Regional Impact as set forth in that certain Development Order adopted by the City on March 17, 1993, as referenced in that certain Notice of Adoption of Development Order recorded in Official Records Book 20617, Page 239, of the Public Records of Broward County, Florida and any amendments thereto (the "DRI Development Order").
3. The Property is also subject to certain deed restrictions as set forth in that certain Warranty Deed dated May 25, 2001 from Cleghorn Shoe Corp. ("Cleghorn") to the City of Miramar recorded September 26, 2001 in Official Records Book 32158, Page 1999 of the Public Records of Broward County, Florida which have been amended by the City and Cleghorn as set forth in Section 2.8 below (the "Deed Restrictions"); provided neither this reference to the Deed Restrictions nor any other reference to the Deed Restrictions in this Agreement shall act to reimpose same.
4. The Owner purchased the Property from the City pursuant to that certain Sale and Purchase Agreement (as amended, the "Sale and Purchase Agreement") effective as of March 4, 2005 (the "SPA Effective Date") and, as a condition to the sale of the Property, the City requires the Owner to enter this Agreement in order to evidence, among other things, the Owner's agreement to develop the Property consistent with the Master Plan (as defined below and attached hereto as Exhibit "B" and made a part of this Agreement), which development generally

consists of a residential and mixed-use development designed using concepts of Traditional Neighborhood Development (as defined in the TND Ordinance [as defined below]) including all improvements, buildings (including the Garage [as defined below]), roadways, streetscape, plaza, infrastructure improvements, open space, lighting, landscaping and all utilities and appurtenances necessary and appropriate thereto (collectively, the "Project") and is part of an overall development along with adjacent real property owned by the City (the "City Property") consisting of the remainder of the property located within the Plat which was not conveyed to Owner on which City Hall was constructed and which City Property will be further developed by the City for governmental uses including a cultural arts center, library and educational facilities (the "City Project") (the Project and City Project are hereinafter referred to as "Town Center").

5. As part of the Project, the Owner will design and construct a commercially standard multi-level parking garage building as shown in Block 3 on the Master Plan (the "Garage"), which Garage will contain seven hundred and seven (707) parking spaces for the use by the City and its designees including City employees in connection with the City Project as well as a bus/mass transit hub, and such additional parking spaces as the Owner wishes and may legally build for use by the Owner and its designees. The Garage will be wrapped on all four (4) sides with a stand-alone (or predominantly stand-alone) structure consisting of office, retail and residential uses to be developed by Owner on the Property. The Garage will be owned by the City and Owner in a condominium form of ownership as set forth in a Declaration of Condominium of Miramar (the "Condominium Declaration") to be agreed upon and to be recorded in accordance with Section 4.1(c) hereof. The portion of the Garage to be owned by the City consisting of the City's parking spaces and the bus/mass transit hub may be owned in one or more condominium units which are hereinafter collectively referred to as the "City's Garage Unit" and will be subject to an easement in favor of Owner for certain use of the City's Garage Unit as set forth herein providing for the Owner to have nonexclusive use of 27 parking spaces within the City's Garage Unit during business hours and nonexclusive use of 52 parking spaces within the City's Garage Unit during non-business hours.

6. Town Center will also include certain infrastructure and amenities such as a surface water management system that will serve both the Project and the City Project, which infrastructure and amenities shall be maintained in accordance with the terms and conditions of that certain Declaration of Covenants, Restrictions, Conditions and Easements for Town Center to be recorded simultaneously with this Agreement (the "Maintenance Declaration").

7. The purpose of this Agreement is to set forth, among other things, certain terms and conditions regarding the Owner's development of the Property in general and the Garage in particular, and to establish other development responsibilities between the Owner and the City.

NOW, THEREFORE, in consideration of the mutual covenants described above and the agreements contained below, and for other good and valuable consideration, the receipt and sufficiency of which is acknowledged, the parties agree as follows:

1. INCORPORATION OF RECITALS

The foregoing recitals are true and correct and are incorporated into and made a part of this Agreement as though they were fully set forth in this Section 1.

2. GENERAL DEVELOPMENT OBLIGATIONS

2.1. General Development Obligations.

Owner agrees to develop the Property for the Project substantially in accordance with the following, as such may be amended from time to time:

- (a) the Master Plan (as defined below);
- (b) Section 714 of Chapter 7 of the Land Development Code of the City of Miramar (the "TND Ordinance");
- (c) The Miramar Town Center Pattern Book approved by the City and attached hereto as Exhibit "C" and made a part of this Agreement (the "Pattern Book");
- (d) the DRI Development Order;
- (e) the Deed Restrictions; and
- (f) Subject to the further provisions of this Agreement, any applicable law, statute, code, ordinance, regulation, permit, license, approval or other rule or requirement now existing or hereafter enacted, adopted, promulgated, entered, or issued including but not limited to, the City's Code of Ordinances ("Code"), the City's Land Development Code and the Florida Building Code (collectively "Applicable Laws") of the United States Government, the State of Florida, Broward County, the City or any other governmental agency or any instrumentality of any of them (collectively, "Governmental Authorities"). Without limiting the foregoing, in addition to all exclusions, restrictions and requirements imposed by Applicable Laws, the term Applicable Laws as used herein shall expressly include all benefits conferred by Applicable Laws.

2.2. Master Plan.

Owner previously submitted to the City for review and approval a master plan for the development of the Property dated November, 2005 designed using concepts of Traditional Neighborhood Development (as defined in the TND Ordinance) in compliance with the TND Ordinance. To the extent such can be shown on the master plan, it includes all improvements, buildings, roadways, streetscape, plaza, infrastructure improvements, and open space to be designed and constructed in connection with the Project. Pursuant to Resolution No. 06-47 adopted on November 16, 2005, the City approved the master plan and such approved master plan is attached hereto as Exhibit "B" and is incorporated herein by this reference (the "Master Plan"). The Master Plan depicts, among other things development capacity including the number of residential units and the square footage of commercial space for each Block (as defined below), the configuration of buildings and the types of uses permitted. In entering into this Agreement, the Owner is materially relying on being able to build in accordance with the Master Plan and would not proceed with the Project but for that reliance. The Master Plan may only be amended pursuant to the terms of this Agreement. The City may not unilaterally make any changes, alterations or modifications to the Master Plan. The Owner may not make any changes, alterations or modifications, except for a Permitted Change, to the Master Plan without

the prior written approval of the City Manager or his/her designee which approval shall not be unreasonably withheld, delayed or conditioned; provided, however such approval may be withheld in the City Manager's sole and absolute discretion if the requested change, alteration or modification consists of a Material Change. For purposes of this Agreement, a "Material Change" means and refers to a requested change, alteration or modification that (i) in the aggregate with all other changes, alterations and modifications increases or decreases the square footage or number of residential units by ten percent (10%) or more, (ii) changes the number of stories of a building, (iii) changes the use of thirty percent (30%) of a building or (iv) materially reconfigures a Block (as defined below), and a "Permitted Change" shall mean (i) a change which is required to be made to comply with Applicable Laws; (ii) a change which involves only substituting materials of comparable or better quality; (iii) a change required by the failure of the Approved Plans and Specifications to satisfy field conditions where the change will not have a material adverse effect on the quality, appearance or function of Garage; and (iv) a change which is made to correct inconsistencies in various Approved Plans and Specifications.

2.3. Use and Density Limitations.

The uses and maximum density permitted on the Property shall be restricted by the Master Plan, the DRI Development Order, the Deed Restrictions and Applicable Laws, as such may be amended from time to time and the TND Ordinance. Without limiting the foregoing, Block 4B of the Master Plan includes an outparcel proposed for use as a bank (the "Bank Outparcel"). The City approved the Master Plan with the Bank Outparcel on the condition that the Bank Outparcel be developed consistent with the remainder of the Project and shall not (a) be used as a Commercial Use (as defined in the City's Land Development) whose primary business is the sale of prepared food to be consumed on or off the premises and (b) contain a Drive-thru (as defined in the City's Land Development Code) except in connection with a bank use.

2.4. General Obligations of Owner.

From and after the date of this Agreement, Owner shall diligently, expeditiously, and in good faith take all action necessary to develop the Property for the Project in accordance with the terms and conditions of this Agreement. Without limiting the foregoing, the Owner shall use good faith efforts to obtain site plan approval and all other approvals and permits required by law to develop the Property.

2.5. Property Owner's/Homeowner's Associations.

Prior to the conveyance of any portion of the Property, Owner will create, or cause to be created, a master association and such commercial property owner's and homeowner's association's or other entities necessary to provide for the maintenance of all common areas, cross-easements and other amenities common to the Property as a whole, excluding only those portions of the Property which are to be conveyed to the City pursuant to Section 2.6 below. The obligations of such associations shall be set forth in declarations of covenants, conditions, and restrictions (the "Owner Declarations") to be recorded in the Public Records of Broward by the Owner prior to the conveyance of any portion of the Property. The Owner Declarations shall affirmatively obligate the respective associations to (a) make all applicable payments to the City required by the Maintenance Declaration, (b) perform all obligations required of the respective

associations by the Maintenance Declaration and (c) maintain the applicable common areas, cross-easements and amenities within the applicable portions of the Property owned by the respective associations except to the extent set forth in the Maintenance Declaration, which obligations may be enforced or performed by the City in the event the association fails to do so, following written notice by the City to the association and the association's failure to cure within thirty (30) days thereafter (or, in the case of an emergency, immediately or as otherwise appropriate under the circumstances). If the City performs such maintenance, it shall be reimbursed by the applicable association and, absent such reimbursement, the City shall have the right to place a claim of lien on the applicable portion of the Property and foreclose such lien in accordance with applicable law. The Owner Declarations shall also provide that the foregoing obligations set forth in (a), (b) and (c) above may not be amended, altered or diminished without the prior written consent of the City Manager or his/her designee, which consent shall not be unreasonably withheld, delayed or conditioned; provided, however such consent may be withheld in the City Manager's sole and absolute discretion if the requested amendment or alteration materially adversely affects the City's rights and association's obligations set forth in (a) above. Prior to recordation in the Public Records, the Owner shall submit the proposed Owner Declarations (or any amendments thereto) to the City in order to ensure it contains the foregoing provisions in a form and substance reasonably acceptable to the City and its legal counsel. The City shall provide its approval or disapproval (which disapproval shall state the reason therefor) within thirty (30) days following the submittal by Owner to the City of the Owner Declarations (or any amendments thereto); provided however, if the City fails to either approve or disapprove the Owner Declarations (or any amendments thereto) within thirty (30) days following submittal thereof by Owner to City, the Owner Declarations (or any amendments thereto) in the form submitted shall be deemed approved by City.

2.6. Roadways.

(a) Owner acknowledges and agrees that Project includes certain roadways as shown on the Master Plan, which roadways include City Hall Promenade, Canal Street, Main Street, Park Lane and Village Road (the "Public Streets"). In connection with and at or before the time of the development of the applicable Phase (as defined below) of the Project, the Owner, at its cost and expense, shall perform, or cause to be performed the design, engineering, permitting and construction of such roadways including the provision of all streetscape and infrastructure improvements, lighting, furniture landscaping and all utilities and appurtenances necessary and appropriate thereto as required by the Pattern Book and Applicable Laws including the requirements of the City's Code and Land Development Code with respect to roadways to be constructed for and dedicated to the City such as warranties and maintenance bonds. The City acknowledges that the Owner will be constructing the streetscape as the Owner builds out the Project. Following completion of the Public Streets, the portions of the Property comprising the foregoing shall be conveyed by the Owner to the City. Such conveyance shall be made in accordance with the provisions of Section 11 below and otherwise in accordance with Applicable Laws. Owner, at its sole cost and expense, shall provide to the City warranties and maintenance bonds in accordance with the City's applicable Code provisions. Following said conveyance, subject to the applicable warranties and maintenance bonds, the City shall be responsible for the maintenance of the Public Streets. Maintenance by the City shall be performed consistent with City maintenance standards in effect at the time. All driveways, alleys, parking lots, parking garages (other than the Garage) contained within the Property along