

DEVELOPMENT AGREEMENT

This Agreement (the "Agreement") is made and entered into, effective as provided herein, by and between BROMPTON ROAD PARTNERS, LLC, a Delaware limited liability company, whose Post Office Address is 365 Fifth Avenue South, Naples, Florida, 34102 (collectively, the "Land Owner") and the CITY OF NAPLES, a municipal corporation of the State of Florida, whose Post Office Address is 735 Eighth Street South, Naples, Florida, 34102 (the "City").

For and in consideration of the mutual covenants contained in this Agreement, for the purposes set forth in the Florida Local Government Development Agreement Act, Sections 163.3220 through 163.3243, Florida Statutes, (the "Act"), and for other good and valuable consideration, the receipt of which the parties hereby acknowledge, City and Land Owner agree as follows:

RECITALS

1. This Agreement is entered into under the authority of the Act.
2. The legal description of the land subject to this Agreement is contained on the attached Exhibit "A", Exhibit "B" and Exhibit "C" which are incorporated herein by reference and referred to throughout this Agreement as the "Land".
3. The name of the legal and equitable owner of the Land is BROMPTON ROAD PARTNERS, LLC, a Delaware limited liability company.
4. The Land is currently zoned Planned Development.
5. This Agreement shall become effective on the date of adoption at public hearing by Naples City Council or as otherwise provided by law (the "Effective Date").

FINDINGS AND DETERMINATIONS

6. The City finds and determines that development permitted or proposed under this Agreement is consistent with the Naples Comprehensive Plan (the "Comp Plan") and land development regulations (the "Naples Code"), and that this Agreement will:

(a) secure the extension of Third Avenue South from Tenth Street South to Goodlette Frank Road, construction of improvements thereon, and dedication of a public right of way easement therefor, all of which provide a significant public benefit, as illustrated on the Site Plan dated April 11, 2005, prepared by Architectural Network (the "Site Plan") which accompanies the Planned Development Document submitted to the City of Naples in conjunction

with this Development Agreement (the "Third Avenue South Extension Right of Way Easement");

- (b) promote the orderly redevelopment of the downtown area;
- (c) improve the aesthetics and physical appearance of the downtown area;
- (d) provide for a prosperous, viable downtown;
- (e) encourage full time residential use in the downtown area;
- (f) recognize and promote the role of the medical community in the area;
- (g) retain and promote the establishment of a variety of consumer and service businesses so that the needs of the area's residential and working populations will be satisfied;
- (h) reinforce the role of the downtown as a community center and a meeting place for residents, tourists and visitors;
- (i) encourage mixed use, in fill development, particularly residential and retail;
- (j) promote pedestrian friendly streets;
- (k) encourage a stronger commitment to comprehensive and capital facilities planning;
- (l) ensure the provision of adequate public facilities for development;
- (m) encourage the efficient use of resources;
- (n) reduce the economic cost of development;
- (o) facilitate private participation in comprehensive planning;
- (p) ensure sound urban development and accommodation to growth;
- (q) ensure the efficient provision of urban services to areas that become urban in character;
- (r) provide the City with the most effective opportunity to maintain its economic and cultural viability while systematically managing urban growth and development;
- (s) expand the City's tax base;
- (t) ensure quality land use planning and development;
- (u) provide urban and municipal services to the Land;
- (v) deal with the impacts of growth;
- (w) protect the existing character and image of the City;
- (x) provide the highest and most cost-effective level of service to the citizens of the City;
- (y) serve the public interest; and
- (z) promote the public health, safety, and welfare.

7. All permits issued by the City to Land Owner for the Land shall be in conformance with the standards provided in this Agreement.

8. This Agreement has been approved by the City after the following public hearings:

A. The Naples Planning Advisory Board, as the City's local planning agency, held a public hearing on _____, 2005 pursuant to a notice thereof published in the Naples Daily News, a newspaper of general circulation and readership.

B. The Naples City Council held a public hearing on _____, 2005 pursuant to a notice thereof published in the Naples Daily News, a newspaper of general circulation and readership.

9. At such hearings, the comments of the public were received and considered, and the City Council, having considered such comments and the recommendations of the Naples Planning Advisory Board, adopted Resolution No. 05-_____ authorizing execution and delivery of this Agreement.

TERMS AND CONDITIONS

10. The duration of this Agreement is ten years.

11. The development uses permitted on the Land, including population densities, building intensities, and heights, are as hereafter provided:

The Land may be developed for 300 residential units calculated at a density of 14.28 units per acre and 205,000 square feet of retail commercial and/or office space. The maximum height for any exclusively residential interior buildings located in the general area designated as Building "C", Building "F", Building "G" and Building "H" on the Site Plan shall be limited to 52 feet, measured from the first floor FEMA elevation to the peak of the roof or the highest point of any appurtenance attached to the roof. The maximum height of any other residential building or buildings shall be limited to 42 feet, measured from the first floor FEMA elevation to the peak of the roof or the highest point of any appurtenance attached to the roof, and the maximum height of all commercial buildings and all mixed use buildings shall be limited to 3 stories and 42 feet, measured from the first floor FEMA elevation to the peak of the roof or the highest point of any appurtenance attached to the roof. The Land may contain all of the parking structures at the number of grades illustrated on and described in the Site Plan. Parking structures must be accessory to a permitted or conditional use having materials, design and architecture consistent with the principal structure, or otherwise fully screened from view from a public street or adjacent property. Residential only buildings are a permitted use fronting 10th Street South. Minimum yards are measured from the perimeter property line of the Land, or from the west line of the Linear Public Park Easement Area along Goodlette Frank Road. The Third Avenue South Extension Right of Way Easement (as hereafter defined) is not a property line. These rights are reflected in a Planned Development Document approved under Ordinance No. 05-_____ adopted contemporaneously herewith.

12. Public Facilities

A. The public facilities that will service the Land, including who shall provide such facilities, are as follows:

- (1) Water - City of Naples
- (2) Sewer - City of Naples
- (3) Solid Waste - City of Naples
- (4) Water Management - City of Naples and South Florida Water Management District
- (5) Fire - Naples Fire Department
- (6) Police - Naples Police Department
- (7) Emergency Medical Service - Collier County

B. There are no public facilities to be designed and/or constructed by Land Owner to serve the Land, except as expressly provided in this Agreement.

C. Public facilities will be available concurrent with the impacts of development contemplated in this Agreement.

13. The following dedication of land for public purposes shall occur: At or prior to issuance of a certificate of occupancy from the City of Naples for any improvements located adjacent to the Third Avenue South Extension Right of Way Easement Area, the Land Owner shall construct the improvements for the Third Avenue South Extension Easement Area as illustrated on the Site Plan and execute, deliver and record a non-exclusive easement to the City of Naples for right of way purposes on, over and across the Third Avenue South Extension Right of Way Easement Area. The Land Owner shall retain the right to use the Third Avenue South Extension Right of Way Easement Area for any purpose which does not unreasonably interfere with the intended purpose of the Third Avenue South Extension Right of Way Easement, including, without limitation, vehicular and pedestrian access to and from the Land, pathways, signage, parking, utilities, sculpture, art, water features, benches, drainage, water management, lot coverage calculations, setback areas, density calculations, open space, and landscaping for the benefit the Land. The Land Owner shall design, permit and construct the Third Avenue South Extension Right of Way Easement Area, and, as and to the extent hereafter provided, maintain same. The City finds that the Third Avenue South Extension Right of Way Easement as illustrated on the Site Plan complies and is consistent with all requirements of the Naples Code and any other laws, ordinances, rules and regulations of the City of Naples. The City shall cooperate with the Land Owner in the foregoing undertaking. The Third Avenue South Extension Right of Way Easement Area shall be maintained to a standard which equals or exceeds the prevailing level of maintenance of city streets and parkways. Upon no less than one (1) year written notice to the City, at Land Owner's election at any time after one (1) year after (i) completion of improvements to the Third Avenue South Extension Right of Way Easement Area and (ii) recordation of the Third Avenue South Extension Right of Way Easement to the City, the Land Owner may delegate responsibility to maintain the Third Avenue South Extension Right of Way Easement Area to the City. The City shall thereafter pay for such maintenance and the Land Owner shall be released of any and all liability to pay for maintenance thereof or any other cost or expense related thereto.

14. All local development permits approved or needed to be approved for the development of new structures on the Land shall be considered by the City in accordance with this Agreement, including final site development plan review and approval, final design review board review and approval, and building permits.

15. There are no conditions, terms, restrictions, or other requirements determined to be necessary by the City for the public health, safety, or welfare of its citizens which are not expressly stated in this Agreement.

16. The failure of this Agreement to address a particular permit, condition, term, or restriction shall not relieve Land Owner of the necessity of complying with the law governing said permitting requirement, condition, term, or restriction.

17. Development of the Land may proceed in phases, and the development of the phases may proceed in any sequence; but neither the entire development nor any phase thereof must be commenced or completed within a specific period of time.

18. The City's laws and policies governing development of the Land on the Effective Date of this Agreement shall govern the development of the Land for the duration of this Agreement. The City represents that the terms and conditions contained in this Agreement comply with the City's laws and policies governing development of the Land on the Effective Date of the Agreement.

19. It is the intention hereof that Land Owner or its authorized representatives shall submit to the City such applications and other documentation and comply with such other procedures as may be normally and customarily required by the City for developmental approvals. Nothing contained herein shall otherwise preclude or inhibit the City from exercising its proper zoning and development review powers for the protection of the public and in accordance with a legitimate exercise of the police power for the protection of the community.

20. This Agreement shall run with the Land; create rights and responsibilities which apply to the Land and are transferrable from owner to owner; be enforceable by action for injunctive relief; and contractually bind, and inure to the benefit of, the parties hereto, their successors and assigns.

21. This Agreement contains the entire agreement between the City and Land Owner as to the subject matter hereof, there are no other prior or contemporaneous terms, conditions, promises, undertakings, statements, or representations, express or implied, by or between the parties which are not incorporated herein, and this Agreement may be modified or cancelled only by an agreement in writing executed by the parties, their successors, or assigns.

22. This Agreement does not affect multi-party rights or establish community-wide policy; affects and binds a specific private party; is subject to notice and hearing; and includes specific findings based on statutory standards.

23. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid, but in the event any such provision should be held invalid or unenforceable, the remaining provisions hereof shall not be affected thereby.

24. Land Owner represents and warrants to the City that:

A. The execution, delivery, and performance of this Agreement by Land Owner will not violate any law, or the terms of any agreement by which it is bound.

B. Land Owner has the power and authority to enter into this Agreement, and to perform the transactions set forth herein, and all the documents have been duly authorized, executed, and delivered and the transactions contemplated herein have been duly authorized.

C. This Agreement constitutes a valid and legally binding obligation of Land Owner, entered into after independent investigation by it of the information contained herein, and is enforceable in accordance with its terms.

25. The City represents and warrants to Land Owner that:

A. The execution, delivery, and performance of this Agreement by the City will not violate any law, or the terms of any City ordinances.

B. The City has the power and authority to enter into this Agreement, and to perform the transactions set forth herein, and all the documents have been duly authorized, executed, and delivered and the transactions contemplated herein have been duly authorized.

C. This Agreement constitutes a valid and legally binding obligation of the City, entered into after independent investigation by it of the information contained herein, and is enforceable in accordance with its terms.

26. This Agreement amends, restates, and supercedes that certain Development Agreement recorded in ORB 3492 at page 1167 and re-recorded in ORB 3501, at page 0423, and that certain Development Agreement recorded in ORB 3678 at page 1919 et seq. of the Public Records of Collier County, Florida.

[Balance of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals this day of _____, 2005.

ATTEST:

CITY OF NAPLES, FLORIDA

By: _____

William E. Barnett, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

Robert D. Pritt, City Attorney

Signed, sealed and delivered

BROMPTON ROAD

**P
A
R
T
N
E
R
S

L
L
C
,**

in presence of:

a Delaware limited liability company
By: Sloane Street Partners, LLC,
a Delaware limited liability company,
as manager

Jack J. Antaramian, its President

STATE OF FLORIDA)
)
COUNTY OF COLLIER) ss:

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments personally appeared Jack J. Antaramian, as President of Sloane Street Partners, LLC, a Delaware limited liability company, as Manager of Brompton Road Partners, LLC, a Delaware limited liability company who produced _____ as identification or who is personally known to me and who executed the foregoing instrument and he acknowledged before me that he executed the same and an oath was not administered.

WITNESS my hand and Official Seal in the County and State last aforesaid this ____ day of _____, 2005.

(SEAL)

NOTARY PUBLIC

Name:

STATE OF FLORIDA)
)
COUNTY OF COLLIER) ss:

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State aforesaid and in the County aforesaid, to take acknowledgments personally appeared William E. Barnett, Mayor of the City of Naples, a municipal corporation of the State of Florida, who produced _____ as identification or who is personally known to me and who executed the foregoing instrument and he acknowledged before me that he executed the same and an oath was not administered.

WITNESS my hand and Official Seal in the County and State last aforesaid this ____ day of _____, 2005.

(SEAL)

NOTARY PUBLIC

Name: