

OTH STREETSCAPE, LLC
c/o Ocean Terrace Holdings, LLC
1035 North Miami Avenue, Suite 201
Miami, Florida 33136

October 7, 2022

Via E-Mail

Alina T. Hudak
City Manager
City of Miami Beach
1700 Convention Center Drive
Miami Beach, Florida 33139

Re: Ocean Terrace Park Project Progress

Dear Ms. Hudak:

In light of recent public interest, we write to inform you of the progress of our efforts to construct the Ocean Terrace park and streetscape improvements project, a transformative beachfront linear park for the North Beach community. As detailed in this letter, we are pleased to report that we continue to make significant progress to place shovels in the ground as soon as possible. We anticipate obtaining a full building permit for the park project by the end of 2022, prior to the March 2023 deadline set by the operative agreements, with construction projected to commence in the first quarter of 2023.

The Ocean Terrace park project is an unparalleled undertaking to transform former roadways and adjacent surface parking into a significant beachfront public amenity, returning the waterfront to the public and encouraging additional revitalization in North Beach. The complexity and scale of implementing the intricate, multifaceted plan designed by Raymond Jungles requires significant collaboration and coordination between and among our development team, various municipal, county, and state departments, and the broader community. It is in that spirit that we have been working with your administration to advance assiduously towards project completion. The comprehensive effort has included, among other things, obtaining Historic Preservation Board approval (achieved ahead of schedule on September 13, 2021), securing proprietary and regulatory reviews and approvals from various City departments, obtaining additional approvals from county and state regulators (including state DEP approval achieved on September 26, 2022), coordinating street closures to allow for geotechnical surveys and related pre-construction evaluations, and related efforts.

The timeframes that guide the construction and delivery of the park and streetscape improvements, many of which have already been met, are found in the Development Agreement between the City and the Ocean Terrace Holdings affiliated entities, dated July 31, 2019, as modified by the May 3, 2021 Settlement Agreement between the parties. In particular, Section 6 of the Settlement Agreement adjusts the Development Agreement timeframes in an effort to expedite the completion of the park, while recognizing that project completion, particularly for a complex endeavor such as this, depends on the cooperation and collaboration of numerous parties and stakeholders, and, at times, rests on factors outside our control. To date, the primary milestones remaining to be achieved are 6(c): to obtain a full building permit for the park project within seven months following submission of construction drawings, and 6(d): to commence construction and begin mobilization of the park project within 60 days after obtaining the full building permit. We submitted our construction drawings to the City in August 2022, meaning that we would have at least until March 2023 to obtain the building permit, with construction to commence sixty days thereafter. However, from our discussions with the City, we believe we are on track to receive a building permit by the end of 2022, allowing construction to commence during the first quarter of 2023.

While we remain on schedule to fulfill these objectives, we recognize that there have been delays in obtaining permits and approvals for the park project, due largely to time spent awaiting comments and responses from certain City departments, obtaining needed clarity as to the certain operational matters, and coordinating the effort with the relevant stakeholders and regulators. This, in turn, prevented the submission of our construction drawings to the City's permit workflow by the filing date contemplated in the Settlement Agreement. Nevertheless, our building permit application is on file with the City and remains under review by the relevant departments, with an approval nearing closer.

The Development Agreement and Settlement Agreement provide that the timeframes for the commencement and completion of the park project are subject to automatic extension to account for unanticipated delays, including acts of the City, in accordance with Section 55 of the Development Agreement, and governmental permitting delays at the city, county, state, and federal levels, as described in Sections 5 and 6 of the Settlement Agreement. In fact, Section 6(e) of the Settlement Agreement obligates the City to "exercise good faith/diligent efforts to expedite the review of the Park/Streetscape Improvements and building permit application" and to "ensure the prompt processing of plans." The delay experienced to date is within the scope of the allowable delays contemplated in the operative agreements as an event dependent on other parties or otherwise beyond our control.

In the end, barring the unforeseen, we are committed to commencing construction of the park and streetscape improvements with shovels in the ground in early 2023.


Though not required by the Development Agreement or the Settlement Agreement, we share this letter with you as a good-faith gesture to inform the City of the status of the park project. Nevertheless, in doing so, we do not intend to waive any rights or remedies available to us or to our affiliates under the Development Agreement, the Settlement Agreement, the project entitlements, applicable law, or otherwise, and all such rights and remedies are expressly reserved.

We remain grateful for your continued cooperation, and we look ahead with enthusiasm to delivering this significant new public amenity to the North Beach community.

Sincerely,

OTH STREETSCAPE, LLC,
a Delaware limited liability company

By: OCEAN TERRACE HOLDINGS, LLC
a Delaware limited liability company,
its sole member

By: 
Sandor Scher
Managing Director

cc (via e-mail): Eric Carpenter, Deputy City Manager
Rafael Paz, Esq., City Attorney