

Exhibit D

Latest Term Sheet
(Dated 01/03/19)

71st Street Town Center Development Term Sheet

A. The Project

1. The City currently owns the five parcels outlined in red on Exhibit "A" which contain 83 surface parking spaces. North Beach Town Center Development, LLC ("Developer") owns the parcels outlined in yellow on Exhibit "A."

2. The portion of the project between Abbott and Byron would consist of one structure, consisting of 80,378 SF of retail in two stories (the "Developer Uses") and a garage with approximately 358-spaces.¹ Approximately 358 of the parking spaces would be gated public parking spaces in a City-owned parking structure (the "Town Center Garage").² Developer to pay for approximately 111 of the approximately 358 parking stalls for the Town Center Garage. The Town Center Garage property would include approximately 19,633 sq. ft. ground floor retail and loading space (and mechanical rooms) and 14,065 sq. ft. of space on the second floor for the use of Developer. The single structure will be a condominium similar to the garage and Shops at Sunset Harbor; one condominium unit will be the portion of the garage owned by the City (the Town Center Garage) and the other units will be the remaining portions of the building which will be owned by Developer.

3. The portion of the project between Abbott and Harding would consist of existing office buildings at 42,456 SF, and new a 150-unit residential building with 42,538 SF of ground floor retail uses and a 275-space parking garage, to serve the residential building and office tenants. City's participation in the project between Abbott and Harding would be limited to City's conveyance of the City-owned property located therein.

4. The City would convey its five parcels to Developer, and Developer would convey its parcels outlined in blue on Exhibit "A" to the City (the "Developer-to-City Parcels"), for use for the Town Center Garage as more particularly described in Section E and the development agreement.

5. Developer will be responsible for designing, developing, permitting and constructing the Town Center Garage, with the City to reimburse Developer as provided in Section B.2 below.

6. Once the Developer completes the construction of the Town Center Garage, the City and developer will condominiumize project as shown on the concept plan, with the City to own the Town Center Garage, and the Developer to own the approximate 19,633 sq. ft. ground floor retail and loading space (and mechanical rooms), 14,065 sq. ft. second floor space of the Town Center Garage, and 111 parking spaces on the third floor, encompassing the entire 3rd floor. ~~Once the Developer completes the construction of the Town Center Garage, the City will condominiumize the City-owned parcels (outlined in blue in Exhibit "A"), with the City to own the Town Center Garage, and the Developer to own the approximate 19,633 sq. ft. ground floor retail and loading space (and mechanical rooms), and 14,605 sq. ft. second floor space of the Town Center Garage.~~

¹ The Developer will reimburse the City for operating expenses and common area maintenance (CAM) for the Developer's condominium units per terms in a condominium declaration to be created per the Development Agreement between City and Developer.

² City has option to increase the parking count to 479 parking spaces by adding another floor of parking to the parking structure. The total cost of this structure would be \$12,992,035 \$11,406,575, given Developer's contribution and 111 parking stalls.

B. Financial Terms

1. **Developer's Payments to the City.** In consideration for the various benefits the Developer will receive as part of the transaction, the Developer will pay the City a total purchase price of \$2,165,745, consisting of the following (subject to verification and change):

a. \$800,000, consisting of the difference in the appraisal values between the City's parcels and the parcels the Developer will convey to the City (City's properties are appraised at \$800,000 higher than Developer's parcels).

b. \$1,570,640 at the appraised value of \$80/SF, for Developer's purchase of a condominium unit for the approximate 19,633 SF retail space and loading and mechanical and trash compactor area (consisting of 4 loading spaces and 1 trash compactors) (the "Retail Condominium Unit") on the first floor of the Town Center Garage.

c. \$914,225, at the appraised value of \$65/SF, for Developer's purchase of a condominium unit for the approximately 14,065 square foot retail space on the second floor of the Town Center Garage (the "Second Floor Condominium Unit").

d. \$1,001,520, at the appraised value of \$40/SF, for Developer's purchase of a condominium unit for the approximately 25,038 square foot parking area on the third floor of the Town Center Garage (the "Third Floor Condominium Unit").

ed. \$2,120,640, at the appraised value of \$40/SF, as a credit to Developer for City's purchase of a condominium unit for the approximately 53,016 square foot parking areaspace on the fourth floor and roof of the Town Center Garage (the "Garage Condominium Unit").

fe. The City will provide, for a period of up to twenty years only, twoone-hour free parking rights at the Town Center Garage, through a ticket validation system, for the benefit of Developer's retail tenants in the Developer's Retail Condominium Unit, ~~and~~ Second Floor Condominium Unit only (the "Retail Tenants"). Developer to pay for the costs associated with procuring and implementing the validation system for the Developer's Retail Tenants. Commencing on the date the Town Center Garage is in operation and open to the general public ("Opening Date"), the Developer shall pay the City the amount of the operating losses, if any, at the Town Center Garage, and a Developer Contribution of \$66,000 (for the replacement of \$66,000 in net revenue associated with the existing City-owned surface parking lots) (the "Operating Payment") each year, except as provided herein. The City and Developer will agree upon a budget for the first year of the Town Center Garage's operation (which budget shall be based upon and consistent with the pro forma attached as an Exhibit B, the proforma will be updated 90 days prior to the Opening Date), and shall include all expenses related to the operation of the Town Center Garage at City's current municipal garage standards. The Developer will make monthly payments to the City covering the estimated operating losses, and the City and Developer will reconcile the actual budget versus the estimated payments made by the Developer at the end of the year and adjust payments as necessary. Commencing on the first anniversary of the Opening Date, and each year thereafter where two one hour free parking is provided, the budget for the Town Center Garage shall be based on the prior year's actuals. Commencing on the fifth anniversary of the Opening Date, if the Developer's Retail Tenants occupy more than 9079% of the floor area in the Developer's retail building between Abbott Avenue and Byron Avenue in any given calendar year³ (the "Occupancy Threshold"), then, in lieu of the Operating Payment, the Developer shall make a payment to the City for each such calendar year

³ The Occupancy Threshold shall be the average percentage occupancy, defined by tenants in possession of rentable floor area/square footage in the Developer's retail building between Abbott Avenue and Byron Avenue, over the 365 day period in each respective calendar year.

where the Occupancy Threshold is met or exceeded, in an amount equal to the amount of all parking tickets validated for the Retail Tenants during such calendar year, and an additional Developer contribution of \$66,000 (the "Validation Payment"). The Validation Payment shall be calculated at City's generally applicable garage parking rates, as the same may be amended from time to time. City to provide the amounts due for the Validation Payment for any given year, within thirty (30) days following the end of the year, and Developer shall pay the Validation Payment within thirty (30) days thereafter. The Occupancy Threshold shall be reevaluated annually. If the Occupancy Threshold is not met in a particular calendar year, then the Validation Payment is not owed from the Developer to the City for that respective year where the Occupancy Threshold is not met, and Developer shall be responsible for the Operating Payment for that respective year. In any event, after twenty years the onetwo-hour free parking terminates, and all parking at the Town Center Garage, for both the general public and the Developer's Retail Tenants shall be made available at the City's then applicable parking garage rates, and the Developer contributions in this Section B.1.e shall cease.

g. Developer to pay the City 1.5% of construction costs for the Town Center Garage (approximately \$222,000), as required by the Art in Public Places (AiPP) Ordinance, set forth in Section 82-587 of the City Code. Such Funds to be used for the City Parking Garage or in the vicinity of the Town Center Garage, on City-owned property or City-owned rights-of-way, for public viewing. The Developer shall pay the Public Art Contribution to the City no later than thirty (30) days after the Developer obtains all necessary Building Permits for the Developer's Project. The City will pay for its portion of the AiPP Fee for its parking structure.

h. In addition to covering the expenses in Section B.1.e above, Developer to pay Developer's proportionate share of common area maintenance, including Developer's proportionate share of capital improvements for repairs to common areas ("CAM"), for the condominium units through a Declaration of Condominium (final terms re: condominium to be determined in the Development Agreement).

i. Developer to pay all of City's outside attorneys' fees and transaction costs, as referenced more fully in Section E.5 below.

j. Developer to provide an additional public benefit in the form of an annual payment of \$25,000 for five years following the issuance of all necessary building permits for the Developer's project, to be applied toward after school programs at Biscayne Elementary School.

2. City's Payments to the Developer.

a. The City will pay Developer for the design, permitting and construction of the Town Center Garage, with a construction cost cap in the not-to-exceed amount of \$34,000 per space.⁴ Net of the payments due from the Developer under Section B.1 above, City to pay the Developer the not-to-exceed amount of \$6,232,255 to design (\$25,232 per parking stall), permit and construct the Town Center Garage (the "City Costs").³

b. Following substantial completion of the first and second floor of the Town Center Garage, the City will reimburse Developer for the City Costs, based on the progress of construction work completed for the

⁴ The Administration proposes a design and construction equivalent to cap of \$34,000 per space, in line with the City's most recent design and construction costs for the Collins Park Garage. The City would then use the proceeds from the sale to offset the \$34,000 per space parking costs.

³ The final net not-to-exceed and net per space amounts set forth in Section B.2.a. shall be proportionately adjusted based on the final number of public parking spaces in the Town Center Garage, final size of the ground floor retail space and the final size of the loading and trash area. Specifically, design revisions, such as internalization of loading, or incorporation of City's design criteria for potential future conversion of the garage, may result in fewer total parking spaces at the Town Center Garage.

Town Center Garage. The City shall not be responsible for the disbursement of any sums in excess of the City Costs, except for City-requested change orders, or if not requested, change orders approved by the City Commission. Should the Developer's actual total design, permitting and construction costs be less than the \$34,000 per space charge to the City (excluding the payments due from the Developer), Developer will receive credit for 1/2 of any such cost savings against amounts due under Section B.1.e above.

c. Developer to separately identify the schedule of values and the costs incurred for the Town Center Garage, and shall track all City Costs separately from the schedule of values or costs incurred for other portions of the Developer's project. The City Costs shall not include the costs to design, permit and construct the interior of the Retail Condominium Unit(s) (such costs shall be the sole responsibility of the Developer).

C. Design and Construction of the Town Center Garage.

1. The Developer and the City will work cooperatively to seek approval of the design and development of the Town Center Garage. The Developer will be responsible for submitting any required applications for development approvals, and for securing any and all final, non-appealable development approvals and permits.

2. The City shall have review over, and final approval of, the design and construction plans and specifications for the Town Center Garage to ensure that the Improvements are designed to meet the City's needs and standards. The City shall require a copy of all actual cost estimates, plans, and construction related contracts prior to and during construction.

3. The Town Center Garage will be designed in a way that the Garage Condominium Unit can be converted to other uses after an initial period of twenty years. Developer's charges include the costs associated with the City's design criteria for accomplishing a potential future conversion. Design criteria for conversion to future use will include the following: increased floor-to-floor heights (minimum ten foot clear); maximized flat area floor plates; reduced vehicular ramp footprints in order to minimize future non-convertible areas; structural design to accommodate change of use (increased loading); inclusion of vertical plumbing/waste chases or core for future use; larger elevator shaft to accommodate future cargo elevator and utility connection points for future use.

4. Commencing on the tenth anniversary of the Opening Date, if the total transient (hourly) transactions at the Town Center Garage ("Garage Occupancy") is less than any one of the three thresholds set forth below in Subsections C.4.a, C.4.b, or C.4.c (each, a "Convertibility Threshold"), then the City has the right to convert any floor above the second third floor of the Town Center Garage to another use if any Convertibility Threshold is met in any given year. The Convertibility Thresholds are as follows:

a. A decrease of 50% or more in Garage Occupancy in any one year period, as compared to Garage Occupancy for any other one (1) year period since the Opening Date, based on hours of operation between 10AM and 6PM; or

b. A decrease of 10% or more in Garage Occupancy, in each of three consecutive years, as compared to any one (1) year of Garage Occupancy since the Opening Date, based on hours of operation between 10AM and 6PM; or

c. Any year in which Garage Occupancy during the year consists of a total number of transient (hourly) transactions of less than 40,000 transactions.

4.5. If the City makes a determination in writing that the City is going to convert one or more floors of the Town Center Garage (the "Converted Area"), the Developer shall have a right of first refusal to purchase the Converted Area at Fair Market Value, after Year 10. After Year 20, Developer shall have a right of first refusal to the purchase of the Converted Area at Fair Market Value, only if the City decides to sell the property.

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5.6. The Developer shall deliver, for the City's review and approval, an estimated budget for the total cost (i.e. hard and soft costs) of the Town Center Garage, which budget shall be based upon the City-approved design and construction plans and specifications. In no event shall the City be responsible for costs in excess of the City Costs, nor shall the City have any obligation to pay any amounts in excess of the City Costs. At its sole option and discretion, the City may retain a consultant (i.e. such as a professional cost estimator) to verify the Developer's total estimated cost, with the cost of the consultant to be paid for by the Developer. Developer shall provide copies of all actual costs and invoices.

6.7. The Developer shall enter into a stand-alone fixed sum or Guaranteed Maximum Price agreement with an architect and a contractor (the "Contractors") to construct the Town Center Garage and Retail Condominium Unit, ~~and~~ Second Floor Condominium Unit and Third Floor Condominium Unit. The Developer shall select the Contractors pursuant to a competitive procurement process which will be developed, initiated, and overseen by the Developer; provided, however, that the City shall have the right to approve the recommended Contractors, which approval shall not be unreasonably withheld, and which approval shall be based upon mutually acceptable criteria for the contractor's qualifications and record of performance for a comparable project. The City shall also have the right to review and approve the contract with the selected General Contractor prior to such Contract being executed between the Developer and General Contractor.

7.8. The Developer shall provide, and shall cause its General Contractor to also provide, warranties, indemnities, and insurance in favor of the City. Prior to commencement of construction, the Developer shall cause the General Contractor to furnish City with a performance bond and payment bond, in a form acceptable to the City Attorney, and naming the City and the Developer as co-obligees. Developer and construction contractor shall ensure no liens are filed on City's property. The construction contract must be assignable to the City (i.e., in the event the Developer defaults), and City shall be a third party beneficiary to the construction contract.

8.9. The Developer shall develop a plan for construction staging in order to minimize disruptions to the area in the vicinity of the Town Center Garage. Such plan shall be subject to the City's prior approval, which shall not be unreasonably withheld, conditioned or delayed.

9.10. As a condition to closing of the swap of parcels referred to in Section A.4 above, Developer will provide the City with the term sheet or similar agreement executed between the Developer and the construction lender, which agreement shall be in form and substance satisfactory to the City Manager, to ensure that, notwithstanding any default on the part of the Developer under the construction loan, the construction lender will continue to fund construction of the Project.

D. The Operation of the Town Center Garage.

1. The City will operate the Town Center Garage as a municipal parking garage. City to have a validation system for customers of retail tenants on Developer's property for two-hour free parking as specified in Section B.1.e. Developer to pay for the costs of implementing the validation system for the benefit of its tenants.

2. The City will make available to North Beach residents monthly parking permits for the Town Center Garage, in the same manner as provided for residents in other City parking garages.

3. The Declaration of Condominium and/or Reciprocal Easement Agreement will, among other things, allocate CAM costs between the Developer and the City and grant appropriate easements between the Developer's project and the Developer's condominium units within the Town Center Garage and the Town Center Garage for access and circulation, including any easements and other rights necessary to allow the Developer's Retail Tenants to (i) utilize the ramp(s) and drive aisles within the Town Center Garage in order to access spaces on the Developer's Property, the Developer's Retail Building, and the parking spaces within the Town Center Garage; and (ii) access and use of Retail Condominium Unit, ~~and~~ Second Floor Condominium

Unit and Third Floor Condominium Unit. In addition, the Declaration of Condominium and/or Reciprocal Easement Agreement shall expressly provide that, if the City repurposes the Town Center Garage in the future for non-parking uses, the easement rights granted to the Developer in the Declaration of Condominium and/or Reciprocal Easement Agreement shall nevertheless continue undisturbed, and the Developer shall assume the responsibility of maintaining in good condition and repair and in accordance with the Reciprocal Easement Agreement and/or Declaration of Condominium at the Developer's sole cost and expense, any easement areas that the Developer continues to require for its uses, but which, due to such repurposing, are no longer required for the City's uses, or if agreed in the Development Agreement, at City's option, such easement areas that are or become a separate condominium unit(s) may be conveyed by the City to the Developer for an agreed purchase price and the Developer will thereafter maintain such condominium unit(s) in good condition and repair in accordance with the Declaration of Condominium.⁵

E. Other Terms.

1. The Closing for the exchange of properties shall take place within 30 days following the satisfaction of the following conditions: (i) the City Commission's adoption of all necessary amendments to the City's Comp Plan and Land Development Regulations required for the Project; (ii) the City Commission's appropriation for the City Costs to be paid to the Developer for the design, permitting, and construction of the Town Center Garage; (iii) issuance of all final, non-appealable development approvals for the Developer's Project; (iv) evidence of Developer equity and financing commitments sufficient to complete the Developer's overall project; and (v) an opinion of the City's Parking Bond rate consultant, as required by the bond covenants in the City's Parking Bond Resolution, that the transaction will not have a material adverse effect on the net revenues of the Parking System. Developer will not subject the Developer-to-City Parcels to any lien or mortgage. Developer can use other properties for collateral in a construction loan to build the project. Developer represents to City that Developer has adequate sources of capital fully to fund all of its obligations pursuant to this Term Sheet, and acknowledges and agrees that, during construction of the Project, it will have no right, power or authority to encumber, or to expose to any lien or encumbrance, any portion of the Project between Abbott and Byron, including, without limitation, any interest in any improvements thereon. Developer may terminate the Development Agreement for its convenience prior to the Closing, and in such event, neither party shall have or owe any further obligation to the other party.

2. At Closing, Developer to pay the City (i) the \$800,000 for the difference in the appraised value of the land, as set forth in Section B.1 above. The payments from Developer in subsections B.1.b and B.1.c will be applied as credits against the amounts the City is otherwise obligated to pay the Developer for the design and construction of the Town Center Garage, as set forth more fully above in Section B.

3. The Development Agreement shall include permitted uses/prohibited uses for the Developer project, along with provisions regarding a quality tenant mix. Developer to provide, at its expense, loading corridor for 71st Street shops including Prima Pasta to access Byron, as shown on submitted site plan, and Developer will also provide a grease trap for Prima Pasta. Developer and Prima Pasta have agreed to terms (pursuant to the letter from Carter McDowell of Bilzin Sumberg dated December 5, 2018 in reference to Prima Pasta Term Sheet) to be worked into the Development Agreement. ~~Developer to execute a direct agreement with Prima Pasta on such items.~~

4. Prior to the completion of the Project, any transfer of the property by the Developer (except a transfer to a related company) shall require approval by the City Commission. [Transfer/assignment provisions post-completion of Project to be further discussed, as (1) any successor in interest to Developer must assume all ongoing obligations of Developer, i.e., as to Operating Payment, Validation Payment, and any other post-

completion obligations, and (2) City needs to ensure that any successor owner has financial wherewithal to deliver on obligations].

5. Developer reaffirms its commitment, pursuant to the Reimbursement Agreement dated on or about February 18, 2018, to pay for the City's transaction costs, including outside counsel, for the Project.

6. The Developer shall obtain the full building permit for the Town Center Garage within 24 months following the execution of the Development Agreement, subject to tolling in the event of litigation and/or force majeure. Final completion of the Town Center Garage shall occur within 24 months following issuance of full building permits subject to tolling in the event of litigation and/or force majeure.

7. Termination provisions to be addressed in Development Agreement. City does not agree to any Developer termination for convenience after Closing.

8. At all times during the construction of the Project, Developer shall be a single purpose bankruptcy remote entity and Developer shall provide written evidence reasonably satisfactory to the City Manager that, among other things: (i) the principals of the Developer shall be prohibited from unilaterally filing of a bankruptcy, insolvency or similar proceeding or retaining any receiver, liquidator or the like for the Developer or Project, (ii) 2 independent directors with no affiliation whatsoever to Developer or any of Developer's principals shall be specially appointed for the Developer, and (iii) the Developer cannot without the prior unanimous written consent of all Independent Directors (A) file a bankruptcy, insolvency or reorganization petition or otherwise institute insolvency proceedings, (B) seek or consent to the appointment of a receiver, liquidator, trustee, or custodian, (C) make any assignment for the benefit of creditors, or (D) take any action that might cause the Developer to become insolvent. Provisions regarding the foregoing shall be incorporated into Developer's limited liability company operating agreement and shall not be subject to change.

This term sheet is intended solely as a basis for negotiation of a Development Agreement, and is not intended to be, and does not constitute, a legally binding obligation of the parties. No legally binding obligations on the City or Developer will be created, implied, or inferred until a Development Agreement and related agreements regarding the subject matter of this term sheet, in final form, are approved by the City Commission and the Developer, and executed by the parties.

Exhibit A

