

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A FOURTH AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY OF POMPANO BEACH AND POMPANO PIER ASSOCIATES, LLC, RELATING TO CITY PROPERTY LYING BETWEEN NORTH OCEAN BOULEVARD (A1A) AND THE ATLANTIC OCEAN AND BETWEEN ATLANTIC BOULEVARD (S.R. 814) AND NE 5TH STREET; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City owns property which is a prime redevelopment parcel located as a landmark site between A1A and the ocean, and between Atlantic Boulevard and NE 5th Street, hereinafter the "Property"; and

WHEREAS, the City and Pompano Pier Associates, LLC, ("Developer") entered into a Development Agreement for the development of the Property, approved by City Ordinance No. 2013-39; and

WHEREAS, the City and the Developer subsequently entered into an Amended and Restated Development Agreement ("Development Agreement") for the development of the Property, approved by City Ordinance No. 2014-49; and

WHEREAS, the City and the Developer subsequently entered into a First Amendment to the Development Agreement approved by City Ordinance No. 2015-33, a Second Amendment to the Development Agreement approved by City Ordinance No. 2016-57, and a Third Amendment to the Development Agreement approved by City Ordinance No. 2018-07; and

WHEREAS, the Development Agreement provides that the City and Developer or its permitted assigns will execute a series of Parcel Ground Leases in substantially the form attached

as Exhibit D to the Development Agreement for various phases of the development according to a timeline; and

WHEREAS, the City and PPA-E, LLC, an affiliate of the Developer, have entered into a Parcel Ground Lease for Parcel E of the Property (“Parcel E Lease”), a First Amendment, Second Amendment and Third Amendment to the Parcel E Lease; and

WHEREAS, the City and PPA-R2, LLC, an affiliate of the Developer, have entered into a Parcel Ground Lease for Parcel R2 of the Property (“Parcel R2 Lease”) and a First Amendment to the Parcel R2 Lease; and

WHEREAS, the City and PPA-R3, LLC, an affiliate of the Developer, have entered into a Parcel Ground Lease for Parcel R3 of the Property (“Parcel R3 Lease”) and a First Amendment to the Parcel R3 Lease; and

WHEREAS, the City and PPA-R4, LLC, an affiliate of the Developer, have entered into a Space Lease for Phase R4 of the Property (“Phase R4 Lease”) and a First Amendment to the Phase R4 Lease; and

WHEREAS, the City and PPA-R1, LLC, an affiliate of the Developer, have entered into a Parcel Ground Lease for Parcel R1 of the Property (“Parcel R1 Lease”); and

WHEREAS, the City and PPA-C1, LLC, an affiliate of the Developer, have entered into a Parcel Ground Lease for Parcel C1 of the Property (“Parcel C1 Lease”); and

WHEREAS, the City and PPA-C2, LLC, an affiliate of the Developer, have entered into a Parcel Ground Lease for Parcel C2 of the Property (“Parcel C2 Lease”); and

WHEREAS, the City and the Developer now wish to amend the Development Agreement to include:

- (1) a change in the Development Timeline;
- (2) a change to Section 2.31 of the Parcel Ground Lease Form relating to the Minimum Rent Commencement Date;

(3) a change to Section 5 relating to Parcel Ground Lease Rates for Parcel R3 and Parcel C2;

(4) a change to Section 7 relating to Parcel R3, Parcel C2, and square footage to be developed;

(5) a change to Section 24.7 relating to relocation or modification of existing utilities;

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That the foregoing "Whereas" clauses are hereby ratified and confirmed as being true and correct.

SECTION 2. That a Fourth Amendment to Amended and Restated Development Agreement between the City of Pompano Beach and Pompano Pier Associates, LLC, a copy of which amendment is attached hereto and incorporated herein by reference as if set forth in full, is hereby approved.

SECTION 3. That the proper City officials are hereby authorized to execute said amendments.

SECTION 4. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 7. This Ordinance shall become effective upon passage.

PASSED FIRST READING this _____ day of _____, 2018.

PASSED SECOND READING this _____ day of _____, 2018.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK