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## **MEMORANDUM**

**Date:** October 9, 2018

**To:** Pompano Beach City Commission

**From:** Adriane Esteban, Project Manager

**Thru:** Greg Harrison, City Manager

**Re:** Fourth Amendment to the Amended and Restated Development Agreement between the City of Pompano Beach and Pompano Pier Associates, LLC

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### **Background**

In July 2014, the Pompano Beach City Commission approved the Amended and Restated Development Agreement between the City of Pompano Beach (City) and Pompano Pier Associates, LLC (PPA) relating to the City owned parcel near the Pier known as the Pier Development Site. A First Amendment to the Amended and Restated Development Agreement was approved in March 2015, which addressed revisions to the Development Timeline, construction of the Arch, payment terms for the utilities in the Existing Concession Building restrooms, demolition of existing buildings and coordination with the Pier Parking Garage construction. Then in April 2016, a Second Amendment to the Restated Development Agreement was also approved. This amendment approved the Phase R4 Space Lease, extended the Development Timeline dates for the parcels to better reflect the actual amount of time necessary to get through the development review process, identified the reimbursement process for infrastructure improvements by the City, and clarified other miscellaneous items. When construction was underway for both the first new restaurant and the Pier Structure, it is necessary to enact a Third Amendment that revised the development timeline for Parcels E and R4, and revise sections affecting Parcel E and R5 as well as the parking sections along with other minor changes. Now that the first restaurant has opened and many of the other parcels are in the permitting process, a Fourth Amendment is being presented.

### **Agenda Item**

The revised terms specified in the Fourth Amendment include the following:

- Now that the developer has had the new restaurant, Beach House, open and has seen what it is like to go from step one through completion, the developer has a more complete understanding of how long it takes to construct a new building. Therefore, revisions to the Development Timeline are proposed. One of the changes acknowledges the tasks that have already been completed, while the others include extending the completion date for



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Parcel C2, as well as dates for the other parcels so that completion will occur in two waves, with Parcels E, R1 and R2 being completed towards the end of 2019 and Parcels R3, R5 and Space R4 being completed at the end of 2020. The year 2020 is the same year in which the entire development was anticipated to be completed since the Second Amendment development timeline was approved. Having multiple parcels completed around the same time in the two waves will also help establish a critical mass of activity so that there is more excitement and interest in the new businesses opening to help sustain the attention of patrons.

- Clarification that the Rent Commencement Date is when a Certificate of Occupancy (CO) or a Temporary Certificate of Occupancy (TCO) is obtained.
- Increase of the square footage for Parcels C2 and R3, which in turn will increase the square footage for the entire development. In order to maximize the potential for success of the new restaurants and businesses coming to the Pompano Beach Fishing Village, the developer has found it necessary to increase the square footages of these parcels. The increased square footage should result in the City receiving more revenue through both taxes and percentage rent. The developer also has other reasons for this increase, which are explained in the Attachment 1. The revised square footage is still a relatively small development footprint.
- Based on the increased square footages, the Base Rent for Parcels C2 and R3 is also being revised to increase base rent amounts. Parcel C2 will be increased from \$75,000 to \$94,800. Parcel R3 will be increased by \$2.46 for each additional square foot over 6,100 SF.
- In the Second Amendment, a new section regarding Utilities and Infrastructure Improvements was included to address work the City would be doing for the developer while the City was constructing the Garage and new streets. However, it did not address a situation in which the developer would be initiating and constructing improvements that would affect the City, developer, and tenant(s). A new section is presented so that there is a process to address this situation.
- Acknowledgement of the Parcel Ground Leases that the revised Development Timeline and clarification that CO or TCO is when the rent commencement date will start.

Approval of this Fourth Amendment demonstrates the City and developer's commitment to create a world class destination and successful new development in the City of Pompano Beach.