

**FIRST AMENDMENT TO THE POMPANO BEACH
DOWNTOWN PUBLIC PRIVATE DEVELOPMENT AGREEMENT**

THIS FIRST AMENDMENT TO THE POMPANO BEACH DOWNTOWN PUBLIC PRIVATE DEVELOPMENT AGREEMENT (the “**Amendment**”) is effective as of _____, 2025 (the “**Amendment Effective Date**”), by and among the **CITY OF POMPANO BEACH, FLORIDA** (“**City**”), **RP POMPANO, LLC**, a Florida limited liability company (“**Developer**”), and **POMPANO BEACH COMMUNITY REDEVELOPMENT AGENCY** (“**CRA**”) (the County, Developer, and CRA, each a “**Party**”, and collectively, the “**Parties**”).

RECITALS:

WHEREAS, City and CRA own certain real property (the “**Initial Property**”) within the heart of downtown in the City of Pompano Beach, Florida, comprising of approximately forty-three (43) acres as more particularly depicted in **Exhibit A** of the Development Agreement (as defined below). City and CRA have determined that the Initial Property’s current use no longer adequately serves the needs of the residents of Pompano Beach, Florida, and opportunities exist to improve community services while maximizing the potential use and value of the Initial Property and other property that may be acquired by the CRA pursuant to the Development Agreement (the “**Additional Property**,” and collectively with the Initial Property, the “**Property**”);

WHEREAS, on June 24, 2024, the Parties entered to that certain Pompano Beach Downtown Public Private Development Agreement (the “**Development Agreement**”) to redevelop the Property into a mixed-use development, including a new City Hall and municipal parking garage, all in accordance with the CRA Plan (the “**Master Project**”), as more particularly set forth in the Development Agreement;

WHEREAS, following the Parties’ execution of the Development Agreement, the CRA has acquired 3.19 acres of Additional Property in furtherance of the Master Project;

WHEREAS, the Parties desire to amend the Development Agreement to establish additional project elements (Additional Project Elements) and to incentivize local business participation in the Master Project; and

WHEREAS, by establishing the Additional Project Elements to encourage or foster local participation in the Master Project, CRA and City advance their objectives of creating a framework to stimulate the local economy, create local jobs, and increase the City’s tax base.

NOW, THEREFORE, in consideration of the foregoing and good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Recitals; Capitalized Terms.** The foregoing Recitals are incorporated herein by reference. Capitalized terms not defined in this Amendment shall have the meanings ascribed to them in the Development Agreement.

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2. **E. Pat Larkins Center.** The E. Pat Larkins Center will not be relocated or reconstructed as part of the Master Project. Accordingly, the E. Pat Larkins Center will not be deemed a Civic Building Project under the Development Agreement, and all references to the inclusion of the E. Pat Larkins Center as a Civic Building are of no further force and effect unless otherwise determined by the City as provided herein. All Developer fees and expenses paid and incurred as of this Amendment Effective Date related to the E. Pat Larkins Center shall be deemed earned and payable to Developer pursuant to the terms of the Development Agreement.

Notwithstanding any provision to the contrary herein, any renovation of the existing E. Pat Larkins Center shall not be deemed a Civic Building Project under the Development Agreement. However, in the event the City or CRA determines that a new E. Pat Larkins Center should be included within the boundaries of the Master Project and elects to construct a new E. Pat Larkins Center pursuant to the Development Agreement, such new construction shall be deemed a Civic Building Project under the Development Agreement, and the City and CRA, by and through the City Contract Administrator, and Developer shall amend the Development Agreement to establish the scope, budget and time periods associated with such Civic Building Project, consistent with such determination.

3. **Additional Project Elements.** Article 2, new Section 2.5 (f) is inserted in the Development Agreement:

The City will incorporate within the boundaries of the Master Project: (i) a Sports Hall Wall of Fame feature highlighting sports professionals who were raised in Pompano Beach, and (ii) a Legacy Wall honoring pioneers of the Northwest District who made notable contributions to the Northwest community. The specific location of such features will be determined by Developer and the City, in collaboration with the Northwest community.

A Pioneer Monument will be appropriately placed within the Master Project to honor the pioneers who made notable contributions to the Northwest community. The specific location of such Pioneer Monument will be determined by Developer and the City, in collaboration with the Northwest community.

An historical business walkway shall be included in the Master Project. The City, through the City Contract Administrator, shall, in coordination with Developer, designate an area within the Master Project (between Atlantic Blvd. and MLK Jr. Blvd. and I-05 and Dixie Hwy) to incorporate pavers engraved with the names of former businesses that originated on Rock Road and Hammondville Road.

Vocational and College Resource Center. The definition of Civic Building Projects is hereby revised to include a new building hereinafter referred to as the “**Vocational and College Resource Center**”. The Vocational and College Resource Center shall be approximately 5,000 square feet and shall include space for vocational and college community resources.

4. **Residential Workforce Housing.** New Article 24 is hereby inserted in the Development Agreement:

ARTICLE 24 – Residential Workforce Housing

Section 24.1. Developer shall comply with the requirements of Section 155.3708(H)(4) of the City’s Zoning Code with respect to residential entitlements in the Pompano Beach Overlay District (“DPOD”).

Section 24.2. Notwithstanding the foregoing, if Developer determines, in collaboration with City, that it is economically feasible to exceed such requirements, Developer will endeavor to achieve a target of twenty five percent (25%) workforce housing within the residential rental portions of the Project located in the DPOD.

5. **Commercial and Residential Developers and Local Business Contractors/Subcontractors.** New Article 25 is hereby inserted in the Development Agreement:

ARTICLE 25 – Local Business Enterprise Participation in the Master Project

Section 25.1. Definitions.

For purposes of this Article 25, the following definitions shall apply:

“Contract Value” means the total contract price set forth in the Construction Agreement between either: (i) Developer and the General Contractor for each LBE Project, as such total contract price may be adjusted pursuant to the Construction Agreement for such LBE Project; or (ii) RD Property Purchaser and the General Contractor for each Private Development, as such total contract price may be adjusted pursuant to the Construction Agreement for the Private Development.

“General Contractor” means the duly licensed contractor(s) engaged by Developer with the responsibility for managing the construction of each LBE Project; or the duly licensed contractor(s) engaged by each RD Property Purchaser with the responsibility for managing the construction of each Private Development.

“LBE Participation Goal” means, with respect to the award of Subcontracts to LBEs, the goal of expending at least thirty percent (30%) of the Contract Value for construction of each LBE Project or Private Development on work performed by LBEs pursuant to their respective Subcontracts.

“LBE Project(s)” means each of the Civic Building Projects, Master Infrastructure Project, and the County BTS Development Project (subject to approval by Broward County), for which Developer voluntarily elects to pursue an LBE Incentive Payment under **Section 25.3.**

“Local Business Enterprise” or “LBE” means a business that has held a City of Pompano Beach Business Tax Receipt (“BTR”) and is a “Local Vendor” meeting the requirements of Section 32.40(A)(2)(a) of the City of Pompano Beach Code, including, without limitation, Local Vendors certified by the Broward County

Office of Economic and Small Business Development (“**OESBD**”) as meeting the criteria and eligibility requirements of either a Small Business Enterprise (“**SBE**”) or a County Business Enterprise (“**CBE**”) pursuant to Section 1-81 of the Broward County Code of Ordinances.

“RD Property Purchaser” shall have the meaning ascribed to it in **Section 25.4**.

“Subcontract” means any agreement, purchase order, or similar legally binding instrument, including amendments or change orders thereto, entered into for the purpose of furnishing labor, supplies, materials, equipment and/or services for the performance of any work required to complete each LBE Project (excluding (i) the Construction Agreement between the Developer/RD Property Purchaser and the General Contractor for each LBE Project or Private Development, as applicable.

“Subcontractor” means any contractor, subcontractor, vendor, supplier or materialmen supplying goods or services in connection with the construction of each LBE Project or Private Development (excluding the General Contractor for such project).

Section 25.2. Local Business Enterprise Participation Goal.

Developer hereby agrees that the LBE Participation Goal shall apply to each LBE Project. For each LBE Project, Developer agrees to use commercially reasonable efforts to:

- (a) Incorporate the LBE Participation Goal in all applicable Construction Agreements with General Contractors for the LBE Project.
- (b) Either directly or through its General Contractor and in collaboration with the City, take steps to identify potential LBE General Contractors and Subcontractors, as Developer may deem appropriate to encourage and promote the participation of LBEs, including, without limitation:
 - (i) Participating in workshops or community meetings scheduled by the City Contract Administrator, and coordinated with Developer, pursuant to Article 20 hereof, for the purpose of promoting contractor and subcontractor opportunities for participation in the LBE Projects;
 - (ii) Placing LBEs on solicitation lists for General Contractor and Subcontractor opportunities once contact information for such firms is shared by the City Contract Administrator pursuant to Article 20 hereof;

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- (iii) Structuring portions of the biddable elements of the LBE Project into smaller tasks or quantities when economically appropriate to do so, to encourage participation by LBEs; and
 - (iv) Identifying potential small businesses who may qualify for certification by the Broward County OESBD as a potential SBE or CBE, and encouraging those firms to contact the Broward County OESBD to pursue and obtain their certification.
- (c) Prior to Commencement of Construction for an LBE Project, cause for its General Contractor to provide the City Contract Administrator with the following information:
- (i) The names and addresses of each participating LBE;
 - (ii) A brief description of the work that each LBE will perform;
 - (iii) The estimated percentage of the total Contract Value represented by the Subcontract with each LBE;
 - (iv) A written certification from the General Contractor that:
(1) the scope of work proposed to be performed by each LBE is within the field of each LBE's current certification, (2) each LBE has stated that it is ready, willing, and able to perform the work allocated to it pursuant to the Subcontract, and (3) only the work actually performed by the LBE shall be counted toward satisfaction of the LBE Participation Goal;
 - (v) A copy of the Contract or Subcontract with each LBE and supporting documentation provided by each LBE demonstrating that it has maintained a permanent physical address within the geographic limits of the City of Pompano Beach (with respect to SBEs and CBEs) or the City of Pompano Beach (with respect to Local Vendors) for at least one year prior to the date of execution of the Subcontract.
- If any LBEs are engaged following Commencement of Construction of an LBE Project, the foregoing information shall be provided to the City Contract Administrator with respect to such LBE.
- (d) Monitor, or otherwise cause for the General Contractor to monitor, the utilization of, and payments made to, LBEs pursuant to the Subcontracts. Any payments made to LBEs shall not be counted toward the LBE Participation Goal if such payments are for work that has been subcontracted and/or performed by persons or entities that are not LBEs.

(e) Cause for its General Contractor to provide an annual LBE Utilization Report, on a form reasonably approved by the City Contract Administrator. At a minimum, the annual LBE Utilization Report for each LBE Project must specify the amounts paid to each LBE and the cumulative progress made toward satisfaction of the LBE Participation Goal for each LBE Project.

(f) Notwithstanding any provision to the contrary herein, if prior to the execution of the Construction Contract for the Master Infrastructure Project, the City or CRA secures federal or other grant funding for the Master Infrastructure Project which prohibits the use of grant funds for projects with an LBE Participation Goal, the provisions of this Section 25 shall not apply to the Master Infrastructure Project.

Section 25.3. Incentive Payments for Satisfaction of LBE Participation Goals.

Developer shall be entitled to receive certain incentive payments for each LBE Project, contingent upon satisfaction of the LBE Participation Goal for each LBE Project (each, an “**LBE Incentive Payment**”), as follows:

If Developer satisfies the LBE Participation Goal for an LBE Project, and at least thirty percent (30%) of the overall Contract Value for construction of an LBE Project is performed by LBEs, the City shall pay Developer an LBE Incentive Payment in the amount of one percent (1%) of the overall Contract Value for construction of such LBE Project.

Section 25.4. Incentive Payments to RD Property Purchasers for LBE Participation in the Private Developments of the Master Project.

Subject to the terms and conditions of this Article 25, RD Property Purchasers (as defined below) shall be entitled to receive certain incentive payments for each Private Development, contingent upon satisfaction of the LBE Participation Goal for each Private Development (each, an “**RD Property Incentive Payment**”). Each purchase contract (including, without limitation, the Option Purchase Contracts) between the CRA and either the Developer or any third-party purchaser of RD Property (collectively, the “**RD Property Purchasers**”) for Private Development located within the DPOD (collectively, the “**Purchase Contract**”) shall contain the following provision (as conformed to comply with the terms of the Purchase Contract) to incentivize the use of LBEs as part of the Private Developments:

If the RD Property Purchaser complies with the provisions of this Article 25, the RD Property Purchaser shall be entitled to an incentive payment from the City if RD Property Purchaser satisfies the LBE Participation Goal for the Private Development, and at least thirty percent (30%) of the Contract Value for the construction of

the Private Development is performed by LBEs. In such event, the City shall pay RD Property Purchaser an RD Property Incentive Payment in the amount of one percent (1%) of the Contract Value for the construction of such Private Development.

Section 25.5. Maximum City/CRA Contribution for Project Incentive Payments.

Notwithstanding any provision to the contrary herein, the City/CRA's maximum contribution, in the aggregate, for the LBE Incentive Payments and RD Property Incentive Payments (collectively, the "**Project Incentive Payments**") shall not exceed the total amount of Two Million and 00/100 Dollars (\$2,000,000.00)(the "**Project Incentives Cap**"). Project Incentive Payments shall be paid on a "first to quality, first to be paid" basis. For the avoidance of doubt, once agreements/contracts qualifying for Project Incentive Payments equal the Project Incentives Cap, the provisions of this Article 25 shall not apply to any subsequent contracts in connection with the Master Project, and such contracts shall not include LBE Participation Goals.

Section 25.6. Additional Terms.

(a) Within thirty (30) days following Final Completion of each LBE Project or Private Development, as applicable, Developer/RD Property Purchaser shall submit to the City Contract Administrator an application for payment of the applicable Project Incentive Payments, along with all supporting documentation as may be required by the City Contract Administrator to verify satisfaction of the applicable LBE Participation Goal and entitlement to such Project Incentive Payments (each, an "**Application for Payment**"). City Contract Administrator shall provide a written response to the Application for Payment within twenty (20) business days of receipt thereof, either approving the Application for Payment or setting forth with specificity the reasons for the City's rejection thereof. If the Application for Payment is rejected, Developer/RD Property Purchaser may resubmit a revised Application for Payment within twenty (20) business days, and City shall review and respond to such revised Application for Payment within twenty (20) business days thereafter, either approving the Application for Payment or setting forth with specificity the reasons for the City's rejection thereof. If Developer/RD Property Purchaser fails to submit its revised Application for Payment within the timeframe specified herein, then Developer/RD Property Purchaser shall be deemed to have conclusively waived any right to the applicable Project Incentive Payments.

(b) Upon City's notice to Developer/RD Property Purchaser of its approval of an Application for Payment (or revised Application for Payment, as the case may be), the City shall pay Developer/RD Property Purchaser the applicable Project Incentive Payments within thirty (30) days thereof.

(c) The Project Incentive Payments, if earned, shall constitute a separate obligation of the City, and shall not count toward, or otherwise be limited by, the Cap, the Development Budget and/or Lease Affordability Cap set forth in Article 5 of the Development Agreement.¹

(d) Notwithstanding anything contained in this Amendment or the Development Agreement to the contrary, the terms of Section 24.2 and this Article 25 and the Project Incentive Payments herein, are contained in this Amendment solely for purposes of encouraging workforce housing and local participation in the LBE Projects and Private Development, and any failure or inability to comply with such terms shall not give rise to a Default or Event of Default by Developer under the Development Agreement.

6. **Community Benefits Escrow Agreement.** The City acknowledges and accepts that, provided Developer timely receives all Performance Payments for the City Hall Project and the new municipal parking garage project and any other Civic Building Project under the Development Agreement in accordance with the terms of the Development Agreement, the Developer has voluntarily agreed to reduce the last Performance Payment paid to Developer under the Development Agreement by \$500,000, which amount shall, in lieu of being paid to Developer, be placed in a separate escrow account, separate from the Master Development Agreement, to be utilized for distribution to schools and non-profits to be determined. The funding of such escrow account will occur within six (6) months following Developer's receipt of all Performance Payments payable under the Development Agreement with an escrow agent of the Developer's choosing (the Escrow Agent). This provision is included in this First Amendment solely for the purpose of acknowledging the Developer's voluntary agreement to reduce its entitlement to Performance Payments to allow for the establishment of the escrow fund and to provide for distribution of the escrowed funds by the Escrow Agent. Developer acknowledges and agrees that the Escrow Agent is solely responsible for distribution of the escrowed funds and the City shall have no responsibility whatsoever for such distribution. Notwithstanding anything contained in this Section 6 to the contrary, in no event shall any term, condition or obligation under this Section 6 give rise to or otherwise constitute a Default or Event of Default by Developer under the Development Agreement.

7. **Acquisition Period.** The Acquisition Period is hereby extended until December 31, 2027.

8. **Priority of Amendment.** Except as amended and modified by this Amendment, all of the terms, covenants, conditions, and agreements of the Development Agreement shall remain in full force and effect. In the event of any conflict between the provisions of the Development Agreement and the provisions of this Amendment, this Amendment shall prevail.

9. **Counterparts.** This Amendment may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement and the signatures of any party to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart. Signatures to this Amendment, any amendment hereof and any notice given hereunder, delivered electronically via .pdf, .jpeg, .TIF, .TIFF or similar

¹ This provision may need to be amended if the Cap is increased.

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electronic format shall be deemed an original signature and fully effective as such for all purposes. Each party agrees to deliver promptly an executed original of this Amendment with its actual signature to the other party, but a failure to do so shall not affect the enforceability of this Amendment, it being expressly agreed that each party to this Amendment shall be bound by its own electronically transmitted signature and shall accept the electronically transmitted signature of the other party to this Amendment.

10. **Joint Preparation.** The preparation of this Amendment has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

11. **Captions.** The title of this Amendment and the headings of the various articles, sections and subsections have been inserted only for the purpose of convenience, are not part of this Amendment and shall not be deemed in any manner to modify, explain, expand or restrict any of the provisions of this Amendment.

12. **Severability.** If any provisions of this Amendment or the application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Amendment and the Development Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable, shall not be affected thereby, and shall continue valid and be enforced to the fullest extent permitted by law.

13. **Entire Agreement.** Except as otherwise expressly provided herein, this Amendment and the Development Agreement constitute the entire agreement of the parties hereto with respect to the matters addressed herein and supersedes all prior or contemporaneous contracts, promises, representations, warranties and statements, whether written or oral, with respect to such matters.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, City, CRA and Developer have each duly executed this Amendment to be effective as of the day and year first written above.

Witnesses:

CITY OF POMPANO BEACH

(Signature)

By: _____
Rex Hardin, Mayor

(Print Name)

Witness Address

Witness City, State, Zip

(Signature)

By: _____
Gregory P. Harrison, City Manager

(Print Name)

Witness Address

Witness City, State, Zip

Attest:

Kervin Alfred, City Clerk

(SEAL)

Approved As To Form:

Mark E. Berman, City Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instruments were acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20____, by **REX HARDIN** as Mayor, **GREGORY P. HARRISON** as City Manager and **KERVIN ALFRED** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who are personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed
or Stamped)

Commission Number

Witnesses:

**POMPANO BEACH COMMUNITY
REDEVELOPMENT AGENCY**

(Signature)

(Print Name)

Witness Address

Witness City, State, Zip

(Signature)

(Print Name)

Witness Address

Witness City, State, Zip

Attest:

Kervin Alfred, Secretary

Approved As To Form:

Claudia M. McKenna, CRA Attorney

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instruments were acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20__, by **REX HARDIN** as Chairperson, **GREGORY P. HARRISON** as Executive Director and **KERVIN ALFRED** as Secretary of the Pompano Beach Community Redevelopment Agency, Florida, who are personally known to me.

NOTARY'S SEAL:

By: _____
Rex Hardin, Chairperson

By: _____
Gregory P. Harrison, Executive Director

(SEAL)

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed
or Stamped)

Commission Number

Witnesses:

(Signature)

(Print Name)

Witness Address

Witness City, State, Zip

(Signature)

(Print Name)

Witness Address

Witness City, State, Zip

Witnesses:

(Signature)

(Print Name)

Witness Address

Witness City, State, Zip

(Signature)

(Print Name)

Witness Address

Witness City, State, Zip

RP POMPARNO, LLC,
a Florida limited liability company

By: _____
Phillip J. Mays, Authorized Manager

By: _____
Patrick Leonard, Authorized Manager

STATE OF _____
COUNTY OF _____

The foregoing instruments were acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 20____, by **PHILLIP J. MAYS** as Authorized Manager, of **RP POMPANO, LLC**, Florida Limited Liability Company, who are personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

STATE OF _____
COUNTY OF _____

The foregoing instruments were acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 20____, by **PATRICK LEONARD** as Authorized Manager, of **RP POMPANO, LLC**, Florida Limited Liability Company, who are personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number