

RESOLUTION NO. 13-197

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE THE (A) FIRST AMENDED AND RESTATED FIFTH AMENDMENT TO THE DEVELOPMENT AGREEMENT ADDING SPECIFIC PERFORMANCE TO REMEDIES AVAILABLE TO THE DEVELOPER; (B) THE FIRST AMENDED AND RESTATED SEVENTH AMENDMENT TO THE DEVELOPMENT AGREEMENT AMENDING THE PROJECT DEVELOPMENT SCHEDULE; (C) THE EIGHTH AMENDMENT TO THE DEVELOPMENT AGREEMENT INCREASING THE MIXED USE DEVELOPMENT FROM FIVE (5) TO SEVEN (7) STORIES IN HEIGHT; AND (D) THE THIRD AMENDED AND RESTATED ASSIGNMENT OF RIGHTS AND ASSUMPTION OF OBLIGATIONS UNDER THE DEVELOPMENT AGREEMENT AND CONDITIONAL CONSENT THERETO; PROVIDING FOR REPEAL OF ANY AND ALL RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR REVIEW BY THE OFFICE OF THE CITY ATTORNEY PRIOR TO EXECUTION; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Milton Jones Development Company, a Florida corporation, as Developer, entered a Land Disposition Development and Management Agreement with the City of Fort Lauderdale ("City") on February 5, 2008 ("Development Agreement") for the conveyance, development and management of Property more particularly described in the Development Agreement; and

WHEREAS, by Resolution No. 10-149, the City Commission authorized the execution of a First Amendment to the Development Agreement; and

WHEREAS, on October 20, 2010 the City of Fort Lauderdale Planning & Zoning Board approved the site plan for the development of the project known as Shoppes On Arts Avenue; and

WHEREAS, the Development Agreement as amended required the Developer to secure a Firm Financing Commitment by January 1, 2011; and

WHEREAS, by Resolution No. 10-352, the City Commission authorized execution of a Second Amendment to the Development Agreement extending the date to

March 2, 2011 by which a Firm Financing Commitment under the Development Agreement must be secured; and

WHEREAS, by Resolution No. 11-56, the City Commission authorized execution of a Third Amendment to the Development Agreement delegating authority to the Contract Administrator to sign on behalf of the City, as the then fee simple owner of the development property, applications for pre-development approvals; and

WHEREAS, by Resolution No. 11-208, the City Commission authorized execution of a Fourth Amendment to the Development Agreement reconciling terms and conditions within the Development Agreement and terms of a lease between the Developer/Assignor and bank; and

WHEREAS, on October 25, 2011, pursuant to the terms of the Development Agreement, CITY conveyed *Phase I Project* by Quit Claim Deed to Developer/Assignee, subject to a Declaration of Restrictive Covenants; and

WHEREAS, by Resolution No. 12-29, the City Commission authorized execution of a First Amended and Restated Fourth Amendment to the Development Agreement and terms of a Lease between the Developer and a bank; and

WHEREAS, by Resolution No. 12-30, the City Commission authorized execution of a Fifth Amendment to the Development Agreement amending clauses relating to the availability of buyer remedies in the event of a seller default; and

WHEREAS, by Resolution No. 12-116, the City Commission authorized execution of a Sixth Amendment to the Development Agreement amending clauses relating to amended defined terms with respect to "Project, Phase I or Phase I Project"; and

WHEREAS, by Resolution No. 13-128, the City Commission authorized execution of a Seventh Amendment to the Development Agreement amending clauses relating to project development schedule in Phase II of the Project and authorizing execution of a Second

Amended and Restated Assignment of Rights and Assumption of Obligations with respect to "Project, Phase I or Phase I Project"; and

WHEREAS, it is deemed in the City's best interest and serves a valid municipal purpose to authorize execution by the proper City officials of (A) the First Amended and Restated Fifth Amendment to the Development Agreement adding specific performance to the remedies available to the Developer; (B) The First Amended and restated Seventh Amendment to the Development Agreement amending the project development schedule; (C) the Eighth Amendment to the Development Agreement increasing the Mixed Use Development from five (5) to seven (7) stories in height; and (D) the Third Amended and Restated Assignment of Rights and Assumption of Obligations Under the Development Agreement and Conditional Consent thereto; and

WHEREAS, City staff has reviewed the proposed amendments to the Project Development Schedule and recommends approval thereof and authorization for execution of this Seventh Amendment;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That the City Commission hereby authorizes the proper City officials to execute the Fifth Amended and Restated Fifth Amendment to Development Agreement adding specific performance to the remedies available to the Developer.

SECTION 2. That the City Commission hereby authorized the proper City officials to execute the First Amended and Restated Seventh Amendment to Development Agreement amending the project development schedule.

SECTION 3. That the City Commission hereby authorized the proper City officials to execute the Eight Amendment to Development Agreement increasing the Mixed Use Development from five (5) to seven (7) stories in height;

SECTION 4. That the City Commission hereby authorized the proper City officials to execute

the Third Amended and Restated Assignment of Rights and Assumption of Obligations under Development Agreement and Conditional Consent for the Phase II Project – Village of the Arts.


SECTION 5. That if any clause, section or other part of this Resolution shall be held invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Resolution shall not be affected thereby, but shall remain in full force and effect.

SECTION 6. That all Resolutions or parts of Resolutions in conflict herewith, be and the same are hereby repealed.

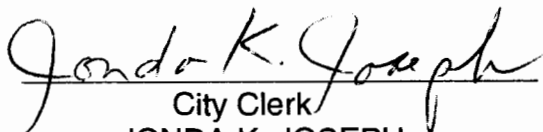
SECTION 7. That the Office of the City Attorney shall review and approve as to form all documents prior to their execution by the proper City officials.

SECTION 8. That this Resolution shall be in full force and effect immediately upon final passage.

ADOPTED this the 15th day of October, 2013.

  
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Mayor  
JOHN P. "JACK" SEILER

ATTEST:

  
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City Clerk  
JONDA K. JOSEPH

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