

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “**Development Agreement**”), dated _____, 2018, is made by and amongst **Tavistock Development Company**, a Florida corporation, its successors and assigns, (the “**Developer**”), **Pier 66 Ventures, LLC**, a Florida limited liability company (“**Pier 66 Hotel**”), **Pier 66 Parking, LLC**, a Florida limited liability company (“**Pier 66 Parking**”), **Sails Ventures, LLC**, a Florida limited liability company (“**Sails**”); and collectively with Pier 66 Hotel and Pier 66 Parking, the “**TS Entities**”; and each individually, a “**TS Entity**”; and the Developer and the TS Entities and their respective successors and assigns are collectively referred to herein as the “**Developer Parties**”), and the **City of Fort Lauderdale, Florida**, a Florida municipal corporation, (the “**City**”). The Developer Parties and the City are collectively the “**Parties**” and each individually is a “**Party**.”

Background:

A. The Developer hereby represents and warrant this it is the owner of the TS Entities and through the TS Entities controls the “**Pier 66 Parcel**” consisting of (i) the land described in the attached **Exhibit A-1** (“**Pier 66 North**”) owned by Pier 66 Hotel, (ii) the land described in the attached **Exhibit A-2** (“**Pier 66 Parking Parcel**”) owned by Pier 66 Parking, and (iii) the land described in the attached **Exhibit A-3** (the “**NAP Pier 66 Parcel**”; and collectively with the Pier 66 Parking Parcel, “**Pier 66 South**”; collectively, Pier 66 North and Pier 66 South are referred to as the “**Pier 66 Parcels**”).

B. The City beginning in 1957 approved improvements to Pier 66 North, including, but not limited to, a fuel dock and marina, a restaurant and in 1959 a two story hotel, subsequently in 1964 the City approved the Pier 66 Tower, a 221’ high hotel tower consisting of 17 floors 250 rooms and a revolving roof top bar (“**Pier 66 Tower**”), on the Pier 66 North Parcel, and another restaurant on end of the Pier Dock, commonly referred to as the Pelican Bar (collectively, the “**Original Pier 66 North Approval**”), which improvements are vested as to both actual improvements and associated car trips; and

C. The City on October 17, 2007, Case Number 86-R-07, approved a site plan, and on June 17, 2009, Case Number 35-R-09, approved an amendment to the previously approved site plan, attached as **Exhibit B-1** and on November 18, 2015, Case Number R15043, approved a second amendment to the previously approved site plan, attached as **Exhibit B-2** and authorized the development of two (2) 11 story condominium towers consisting of 58 residential units, a 29,000 square foot office/retail building, a parking garage and a second “valet” garage on Pier 66 North (collectively, the “**Blackstone Pier 66 North Approval**”); and the City subsequently issued site plan extensions such that the Blackstone Pier 66 North Approval has been extended through November 5, 2024. To the extent that a site plan was approved but improvements were not constructed pursuant to that site plan within the time prescribed by the City, together with any site plan extensions, City hereby agrees that any units allocated through site plan approval, together with any approved capacity as to trips, water and sewer and other City services are hereby reserved notwithstanding that the improvements were not constructed; and

D. The City by **Resolution Number 08-147**, approved on July 8, 2008, a development permit for Pier 66 South, subject to the conditions set forth therein, and authorized

the development on Pier 66 South of a 350-room hotel, 15,500 square feet of retail, 14,400 square feet of office, three (3) restaurants of 3,900 square feet each, two (2) lounges/bars of 1,000 square feet each, 16,100 square feet of meeting space, 150 dry storage boat slips, 2,000 linear feet of dockage/marina, a 12,200 square foot fitness/spa facility and 755 parking spaces (the “**Sails Parcel Approval**”), attached as **Exhibit B-3**, which Sails Parcel Approval was extended on January 5, 2016 to January 15, 2018 pursuant to City Resolution Number 16-02, and pursuant to Executive Orders 16-149, 17-235 and 17-259, on February 14, 2018 to September 23, 2021. To the extent that a site plan was approved but improvements were not constructed pursuant to that site plan within the time prescribed by the City, together with any site plan extensions, City hereby agrees that any units allocated through site plan approval, together with any approved capacity as to trips, water and sewer and other City services are hereby reserved notwithstanding that the improvements were not constructed; and

E. City agrees that all currently constructed improvements on the Pier 66 Parcels together with any approved but unbuilt improvements, including the Blackstone Pier 66 North Approval (including the allocation of 58 residential units through the allocation of Flex Units) and the Sails Parcel Approval, are vested improvements for water and sewer capacity and vehicle trips “Vested Improvements”. Further, to the extent that any act of god or other event causes the destruction of any of the currently constructed Vested Improvements, City agrees that they may be built or rebuilt in their current form as of the date of this Development Agreement subject only to compliance with the Florida Building Code, South Florida Edition together with Broward County Amendments in effect at the time of their reconstruction; and,

F. Developer intends to unify the plan of development for the Pier 66 Parcels and develop the Pier 66 Parcels and treat the Pier 66 Parcels as one, and the City hereby approves the development of the Pier 66 Parcels as set forth in this Development Agreement (the “**Pier 66 Project**”), subject to Developer obtaining specific site plan approval and building permits for each portion and/or phase of the Pier 66 Project; and

G. The City has determined that the development of the Pier 66 Parcels in accordance with Section 4.1 hereof is consistent with and complies with the City’s current Commercial Land Use Designation and the current B-1 Zoning as defined by the City’s Comprehensive Plan and Unified Land Development Regulations (“**ULDR**”), however the development of the Pier 66 Project may be subject to other provisions in the ULDR. Furthermore, the City acknowledges that other governmental authorities have issued and may continue to issue permits and approvals for development within the Pier 66 Parcels. The City has no objection to any permits and approvals issued by any other governmental authority for the Vested Improvements. ; and

H. The Parties desire that for the purpose of development approvals to recognize Pier 66 North and Pier 66 South as one parcel, provided the Developer and the owner of record executes and records a Declaration of Unity in form and substance acceptable to the City Manager and the City Attorney, subject to this Development Agreement, for all purposes including, without limitation, traffic flow generally from one Pier 66 Parcel to the other, parking calculations, landscaping, signage, liquor licenses, and the sharing and free transfer of the residential density and other intensities and uses associated with one Pier 66 Parcel to another

use within that Pier 66 Parcel or to the other Pier 66 Parcel in accordance with the conversion table set forth herein; and

I. Although the Pier 66 Parcels may be subdivided conveyed and financed into multiple parcels over time, Developer intends to develop and provide for the operation of the Pier 66 Parcels as one unified plan of development consistent with the City's current ULDR, Commercial Land Use Designation, Comprehensive Plan and Current Zoning (as hereinafter defined); and

J. Pursuant to Chapter 190 Florida Statutes, Developer, at its sole cost and expense, desires to create and City concurs in the creation of a Community Development District ("CDD"), for the purpose of, without limitation of any rights allowable under Florida Statutes, (i) creating a long term mechanism to ensure the proper operation and maintenance of certain infrastructure and improvements benefitting the Pier 66 Parcels, (ii) enforcement of non-compliance of maintenance standards of such improvements, and (iii) financing and managing infrastructure related to and for the benefit of the Pier 66 Parcels, including but not limited to water and sewer improvements, garages, landscaping and common areas. Among other things, the CDD will develop and publish maintenance standards that shall be imposed on all property owners within the Pier 66 Parcels. The City further agrees that it is appropriate to grant any community development districts that may hereafter be established with respect to the Pier 66 Parcels, the right to exercise the powers granted to it by Chapter 190, Florida Statutes, to undertake its own district infrastructure projects inside and outside of its respective boundaries. Developer shall submit a petition to the City to establish the CDD within one (1) year of the Effective Date of this Agreement. Developer shall establish a Board to control and manage the CDD, on which the City Manager or his designee may have a seat representing one vote; Developer shall also establish a Master Declaration of Covenants for the Pier 66 Project, which Master Declaration shall name the City as a third party beneficiary; and

K. The Florida Local Government Development Agreement Act, Sections 163.3220-163.3243, Florida Statutes, authorizes local governments to enter into development agreements with developers to encourage a stronger long term commitment to the comprehensive and capital facilities planning, to ensure the provision of adequate public facilities for development, to encourage the efficient use of resources, to reduce the economic cost of development and to provide certainty to developers and municipalities in the approval of development and assurances that they may proceed in accordance with the existing laws and policies, subject to the conditions of such development agreements; and

L. Such development agreements strengthen the public planning process, encourage sound capital improvement planning and financing and coordination with permitting agencies, assist in assuring that there are adequate capital facilities for development and encourage private participation in comprehensive planning; and

M. The term of this Development Agreement shall be twenty (20) years and shall require annual reporting pursuant to Section 163.3243 Florida Statutes (2018). ; and

N. City agrees to designate a City Official to assist and participate in the facilitation and enforcement of this Development Agreement.

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Recitals. The foregoing Background information is true, correct and incorporated herein by reference. All Exhibits to this Development Agreement are deemed a part hereof.

2. Purpose. The purpose of this Development Agreement is to outline the manner in which the Pier 66 Parcels will be developed and the conditions that will govern the Pier 66 Parcels' development, to satisfy concurrency for the Pier 66 Parcels for the term of this Development Agreement, and to establish the respective rights and obligations of the Developer Parties and the City.

3. Development. This Agreement entitles Developer to develop the Pier 66 Parcels consistent with the following:

3.1 **Pier 66 North**. Developer shall be specifically permitted to develop Pier 66 North consistent with the existing Commercial Land Use Designation and existing B-1 zoning, attached as **Exhibit C ("Current Zoning")**, which permits heights of 120' east of the Intracoastal Waterway, (excluding the Pier 66 Tower, which was part of the Original Pier 66 North Approval and which has a permitted height of 221'), and with no limit to the Floor Area Ratio, "FAR", as defined by the ULDR and as provided in the B-1 Zoning category. Developer may develop, at its option, Pier 66 North pursuant to any alternative existing or future land use and zoning category provided for in the City's ULDR, such as an Innovative Design, or "ID" rezoning so long as Developer subjects Pier 66 North to the City's standard process for amending and rezoning same and subject to compliance with the City's ULDR.

3.2 **Pier 66 South**. Developer shall be permitted to develop Pier 66 South consistent with the existing Commercial Land Use Designation and existing B-1 zoning which permits heights of up to 120', and with no limit to the FAR as defined by the ULDR. Developer may develop, at its option, Pier 66 South pursuant to any alternative existing or future land use and zoning category provided for in the City's ULDR, such as an ID rezoning, so long as Developer subjects Pier 66 South to the City's standard process for amending and rezoning same under its ULDR.

3.2.1 The City acknowledges and agrees that Developer may apply for a Special Event Permit as provided for in the ULDR to construct temporary uses on Pier 66 South that include but are not limited to the use of semi-permanent structures including, tents, shipping containers, food trucks, air streams, and the like, subject to review and approval pursuant to the Florida Building Code South Florida Edition together with the Broward County amendments, in effect at the time, and that the effective liquor license associated with Pier 66 North may be used on Pier 66 South due to the common ownership of the parcels, subject to any applicable

State regulations, or in the alternative that the Developer can place an alcoholic beverage license(s) including a 2 COP, 4 COP quota, or a 4 COP SFS at any time. Developer agrees to file a Special Event Permit Application as that term is provided for in the City Code of Ordinances and ULDR and follow any prescribed procedures for said permit.

4. One Development. The Parties desire to recognize Pier 66 North and Pier 66 South as one contiguous parcel for all purposes related to the Pier 66 Parcels' development, including, without limitation, with respect to entitlements, traffic flow permitted on a Pier 66 Parcel or from one Pier 66 Parcel to the other, parking, landscaping, open space, signage and the sharing of approved uses and densities between Pier 66 Parcels and free transfer of densities and uses on a Pier 66 Parcel or from one Pier 66 Parcel to the other, provided the Developer and the owner of record executes and records a Declaration of Unity in form and substance acceptable to the City Manager and the City Attorney. If any new development of the Pier 66 Parcels is performed upon reliance on this Agreement such that the development could not have otherwise been accomplished, then Developer agrees that Developer shall record a Unity of Control against the Pier 66 Parcels prior to commencement, however City agrees that such Unity of Control shall not prohibit parcels from being conveyed and/or financed as one or more parcels, subject to complying with the development standards contained in this Agreement. If Developer or any TS Entity desires to transfer a permitted use of one Pier 66 Parcel to another permitted use in that Pier 66 Parcel or to the other Pier 66 Parcel, that change in use shall be subject to a reduction or increase in the density associated with such transferred use as set forth in the conversion table set forth below:

4.1 **Pier 66 Parcels.** The Pier 66 Parcels are vested for a certain level of development, both built and approved but unbuilt, and the trips associated with the Pier 66 Parcels are approved and vested as shown on the attached **Exhibits D-1 and D-2.** Additionally, City agrees that all current improvements on the Pier 66 Parcels are grandfathered and are "**Vested Improvements**". To the extent that any act of god or other event causes the destruction of any of the Vested Improvements, City agrees that said improvements may be rebuilt in their current form as existed on the date of this Development Agreement and that reconstruction shall be subject only to the Florida Building Code South Florida Edition, together with any Broward County Amendments, in effect at the time of their reconstruction.

The improvements contemplated for the Pier 66 Parcels are as follows:

Maximum of 750 Residential Units

384 Hotel Units

150,000 square feet of commercial / office / retail

4,000 sf of ancillary marina space with 145 slips

150 dry storage boat slips

Up to 120' in height (except for Pier 66 Tower, which is vested at 221' in height)

No Maximum FAR

TRIPS

The City agrees that the uses and intensities may be moved across and transferred within the Pier 66 Parcels so long as the trips do not exceed the totals contemplated by this Development Agreement and pursuant to the Trip Generation Equivalency Table provided below which was prepared based upon

ITE, Trip Generation Model, 10th Edition, and which Table shall be updated by the City in conformance with any updates to the ITE Trip Generation Model:

TRIP GENERATION USE EQUIVALENCY TABLE:

Residential	Office	Hotel Rooms	Restaurant	Meeting Space	Retail
10 Units	5.44 Sf	11.85 Rooms	0.63 SF	37,000 Sf	1.40 Sf

The Developer shall provide notice to the City within thirty (30) days of any such transfer or conversion, which notice shall include such sufficient detail and information as requested by City. The City also agrees that the Developer intends to develop the Pier 66 Parcels as a mixed-use development and employ the use of Flex Units to allocate residential units to the Pier 66 Parcels. However, nothing contained herein shall require Developer to construct all of the uses allowed above. City agrees that the Pier 66 Parcels are in the “receiving zone” under the Unified Flex Zone Policy and that as of the date of this Agreement there are 750 Flex Units available which shall be reserved for the Pier 66 Parcels “Reserved Residential Units” pursuant to this Agreement.

5. City Agreements.

5.1 Public Facilities. The City hereby agrees that there are adequate public facilities (including without limit, water, sewer, solid waste, stormwater, and park facilities) to serve the Vested Improvements but there may not be adequate public facilities to satisfy any modifications which increase the intensity, density or use on the Pier 66 Parcels. The City agrees that there are no new transportation facilities required to assure that public facilities are available concurrent with the impacts of the Pier 66 Project, and that the public facilities needed to serve the Pier 66 Project will be available from the City when needed. Further, the City agrees that this Development Agreement shall serve as a Certificate of Capacity, as to the Vested Improvements, which shall remain valid for the duration of this Development Agreement, so long as the Developer Parties satisfy all terms, conditions and covenants contained herein. Furthermore, should Developer or any property owner within the Pier 66 Parcels construct any improvement under a valid building permit obtained from the City, obtaining a Certificate of Occupancy associated therewith shall demonstrate that such improvement has adequate public facilities in perpetuity.

WATER & SEWER ANALYSIS CHART

No.	Description	Quantity	Unit of Measure	ERC per Unit	ERC Subtotal	ERC TOTAL	GPD TOTAL
1	Pier 66 North Existing						
	Hotel Rooms	384	EA	0.868	333.31		
	Marina - Boat Slips	127	EA	0.559	70.99		
	Meeting Spaces	22.42	1,000 SF	0.636	14.26		
	Restaurants	21.33	1,000 SF	2.495	53.22		
	Spa and Fitness	5.90	1,000 SF	1.667	9.84		
	Retail	0.61	1,000 SF	0.550	0.34		
	Office	3.90	1,000 SF	0.636	2.48		
	SubTotal Existing Uses=					484	145,400
2	Pier 66 North Approved Case No. R-15043 Approval Date: November 18, 2015						
	Residential Units	58	EA	0.805	46.69		
	Office	24.90	1,000 SF	0.636	15.84		
	Marina Ancillary	3.20	1,000 SF	0.368	1.18		
	Retail	0.61	1,000 SF	0.550	0.34		
	SubTotal of Additional Previously Approved North Uses=					64	19,300
3	Pier 66 South Approved						
	Hotel	350	EA	0.805	281.75		
	Marina - Boat Slips	30	EA	0.559	16.77		
	Dry Dock Storage	150	EA	0.000	0.00		
	Retail	26.47	1,000 SF	0.550	14.56		
	Office	34.75	1,000 SF	0.636	22.10		
	Spa and Fitness	18.00	1,000 SF	1.667	30.01		
	Restaurant	8.90	1,000 SF	2.495	22.21		
	Bar	2.00	1,000 SF	1.236	2.47		
	SubTotal Previously Approved South Uses=					390	117,000
	Total Existing and Previously Approved Uses=					938	281,600
4	Proposed Pier 66 - North and South Combined						
	Hotel Rooms	384	EA	0.868	333.31		
	Spa/Fitness	9.92	1,000 SF	1.667	16.53		
	Function Spaces	24.00	1,000 SF	0.636	15.26		
	Bar	3.00	1,000 SF	1.236	3.71		
	Kids Club	2.30	1,000 SF	0.632	1.45		
	Restaurant	12.00	1,000 SF	2.495	29.94		
	Marina - Boat Slips	145	EA	0.559	81.06		
	Office	85.00	1,000 SF	0.636	54.06		
	Retail	50.00	1,000 SF	0.550	27.50		
	Residences	0	EA	1.000	0.00		
	Dry Dock Storage	150	EA	0.000	0.00		
	Condo Units	750	EA	0.805	603.75		
	Total Proposed Uses =					1167	349,972
	Net Increase						68,372

5.2 Current Permitted Development. The City acknowledges and agrees that the Pier 66 Parcels have a land use designation of Commercial and are zoned B-1 in accordance with Current Land Use and Zoning. The Current Zoning permits the development of structures on the Pier 66 Parcel with elevations of up to 120' feet (excluding the existing Pier 66 Tower, which was part of the Original Pier 66 North Approval), as defined by the City ULDR, with no maximum FAR, but subject to standards of neighborhood compatibility review and other requirements and processes under the ULDR. Additionally, the Current Zoning

permits any uses permitted in the B-1 Zoning and pursuant to the Commercial Land Use Designation including the allocation of flexibility Residential Units through the mixed use provision in the ULDR. The combined Pier 66 Parcels authorize a total of 750 residential units, which may be used anywhere within the Pier 66 Parcel. The Developer is authorized to develop the Pier 66 Parcels in conformance with the Current Zoning encumbering the Pier 66 Parcels, even if the Current Zoning is amended by the City after the date hereof. However, if the Developer determines that it is more favorable to the Developer Parties to comply with any amendments to the Current Zoning following the Effective Date, as hereinafter defined (the “**Amended Zoning**”), the Developer Parties may comply with, by providing written notice to the City, the portion of the Current Zoning that is amended by the Amended Zoning by complying with that amendment, subject to any City requirements and processes in place at the time, related to development of the Pier 66 Parcels.

5.3 Expedited Approvals. The Parties shall use their best efforts in seeking and providing specific site plan approvals and building permits for each portion of the Pier 66 Project for which the Developer is seeking such approvals including but not limited to DRC, Planning and Zoning Board and City Commission. Notwithstanding, this provision shall not be deemed a requirement of the City to waive its regulatory authority or police power in interpreting or enforcing its ULDR or other regulations governing the Pier 66 Project. The City hereby consents to the Developer’s use of privatized inspection services, selected from the City’s approved list of inspectors, at Developer’s option, and sole cost and expense, to perform, under the City’s guidance, the various inspections and approvals on each portion of each construction project under this Development Agreement that are required to continue construction of such project and ultimately obtain a certificate of completion or occupancy for that project.

6. Development Permits Approved or Needed. The status of local governmental approvals is as follows:

6.1 Approvals Received and Current Approved Uses:

6.1.1. Pier 66 North.

The City previously approved the Original Pier 66 North Approval and the Blackstone Pier 66 North Approval as previously described.

6.1.2 Pier 66 South.

The City previously approved the Sails Parcel Approval as previously described.

7. Approvals Required for Development. City and Developer agree that a site plan application meeting the City’s minimum standards will be processed through the City’s procedures

contained in the City's ULDR at the time of site plan application. Depending on the Developer's request, variances and other approvals may be required.

7.1 Site Data Calculations and Approvals.

7.1.1 Landscape Approvals.

The Developer Parties shall comply with all landscape requirements set forth in the zoning ordinances governing the Pier 66 Parcels on the Effective Date (the "**Landscape Requirements**"), even if those Landscape Requirements are amended following the Effective Date (such amendments shall not apply to the Pier 66 Parcels except as set forth below); however (i) the City shall propose a text amendment to the ULDR that will permit properties that are subject to a CDD to include all landscaped areas on top of parking decks, parking lot islands, ingress/egress roadways and right of way landscaped areas and rooftops in the calculations used to determine pervious areas, open space and the Developer Parties compliance with these Landscape Requirements, and (ii) if the Developer determines that it is more favorable to the Developer Parties to comply with any amendments to the Landscape Requirements following the Effective Date (the "**Amended Landscape Requirement**"), the Developer Parties may comply with, by providing written notice to the City, the portion of the Landscape Requirements that is amended by the Amended Landscape Requirement by complying with that amendment. Notwithstanding, this provision shall not be deemed a requirement of the City to waive its regulatory authority or police power in interpreting or enforcing its ULDR, or in seeking to amend its ULDR. Further, while the City agrees to process a text amendment through its normal procedures, such agreement does not guarantee that such a text amendment shall be approved and the City shall not be liable if such text amendment fails to pass.

7.1.2. Density

Density shall mean the total density for the Pier 66 Parcels, which may be transferred across the Pier 66 Parcels as if they were one parcel. However, should the Developer desire to transfer density between the two parcels, it shall provide the City with written notice of such transfer within thirty (30) days of transfer and provide such information and detail as requested by the City.

7.1.3 Open Space and Pervious Area

Open space and pervious area as defined by the ULDR on the date of this Development Agreement shall mean the total open space and pervious

area for the Pier 66 Parcels, which may be transferred across the Pier 66 Parcels as if they were one contiguous parcel.

7.1.4. Parking

Upon final build-out and the City's issuance of the final Certificate of Occupancy for the Pier 66 Parcels, parking for all of the Pier 66 Parcels shall meet the standard provided in the ULDR or shall have obtained a parking reduction from City as contemplated by the ULDR. City agrees that approved parking requirements may be met by using parking across both Pier 66 North and Pier 66 South. Additionally, City agrees that parking requirements may be moved across the Pier 66 Parcels.

7.1.5. Other Services.

The City agrees that the Developer or its designee may provide or contract to provide on-site and unified security and/or telecommunications service to the Pier 66 Parcels, including but not limited to, telephone, cable, television, security systems, and Internet services, subject only to the City's franchise, licensing and permitting requirements.

7.1.6. Architectural Review.

The City acknowledges that any architectural review committees established by the Developer to govern improvements within the Pier 66 Parcels will serve important community interests and maintain property values. To assist the community architectural committee, established to review development within the Pier 66 Parcels, in carrying out its responsibilities, the City agrees to use its best efforts to require evidence that a proposed site or building plan from any owner of property within the Pier 66 Parcels has been reviewed and approved by the applicable architectural review committee created under the Master Declaration as part of the City's approval process.

7.1.7. Broward County Plat Note Amendment

The Developer shall diligently apply for the necessary plat note amendment approvals from Broward County regarding the plats for Pier 66 North and Pier 66 South. The Developer agrees to apply for the plat note amendment for the Pier 66 North within two (2) years of execution of this Development Agreement and for the Pier 66 South within five (5) years of execution of this Development Agreement.

8. Historical Preservation and Community Benefits.

8.1 Improvements to be Designated.

City acknowledges that the Pier 66 Tower located on Pier 66 North suffered significant damage as a result of Hurricane Irma. City further acknowledges that the Pier 66 Tower is not currently designated historic. Developer is currently in the process of working on plan to restore the Pier 66 Tower and will seek all proper permits from the City for any work. Developer further agrees that, upon the earlier to occur of (a) receipt of a certificate of occupancy for the restored Pier 66 Tower and the balance of the attached hotel, or (b) five (5) years following the date of this Development Agreement, the Developer at its expense shall diligently, and once the application is filed, timely seek historic designation from the City for the Pier 66 Tower. Historic Designation will be sought on the exterior envelope of the tower portion of the building only, as the current building at the base of the Tower was added many years after the Tower and is not considered historic.

8.2 Community Benefits.

Developer proposes and agrees to provide certain public benefits including, but not limited to, a publicly accessible “Marina Promenade” or “Promenade” across portions of the Pier 66 Parcels and under the 17th Street Causeway Bridge, subject to reasonable restrictions for access, security, hours of operation, etc. To the extent that the Marina Promenade is made available to the public, the City agrees that the Pier 66 Parcels remain private and any “open container” or similar alcohol restriction laws shall not be enforced. Developer also proposes to work with City to provide a boat slip for a City of Fort Lauderdale police or fire boat and work with the City for a sublease of the FDOT parcel for a pedestrian access promenade under the 17th Street Causeway Bridge.

8.2.1 The Marina Promenade shall contain a covenant and restriction that the Promenade will be and remain an open space boardwalk with landscaping and other amenities to be determined through the site plan process and shall remain reasonably available for access and use by the public, from dusk to dawn, and during times reasonably established by the Developer (“Permitted Times”) which will expressly allow the non-exclusive use of the Promenade by general members of the public; subject always however, to the following continuing conditions and limitations:

(i) The non-exclusive use of the Promenade by general members of the public shall not create, and shall never be construed or interpreted to create, a dedication to the public; notwithstanding the foregoing however, members of the public shall have non-exclusive use of the Promenade solely for ingress and egress over the Promenade for pedestrian traffic, subject to the provisions of this Paragraph;

(ii) The Developer shall have the exclusive ability to restrict or prevent access to the Promenade to any specific member(s) of the

public as they may deem appropriate to avoid loitering, creating a nuisance, restricting access during certain times as exceptions to the Permitted Times (“Special Functions”) and/or otherwise violating the rules and regulations adopted with respect to the Promenade and Developer retains at all times the right and ability to seek to enforce the foregoing and laws related to trespass;

(iii) The Promenade shall not be, nor shall it ever be by reason of provisions of this Agreement a public forum, limited public forum, or any other type of public forum as may exist now or in the future for purposes of the exercise of rights pursuant to the First Amendment to the United States Constitution and any companion provision under the Florida Constitution.

(iv) The Promenade and its use shall be and remain subject to rules and regulations as Developer may impose;

(v) The use of the Promenade by the public shall be limited to Permitted Times, other than during Special Functions;

(vi) Developer may reasonably limit use or preclude use of the general members of the public on the Promenade for Special Functions;

(vii) Developer shall have the right (but not the obligation) to conduct such surveillance and security functions and activities as the Developer deems appropriate;

(viii) Use of the Promenade shall be subject to temporary disruption as Developer may reasonably designate in connection with activities Developer conducts, such as construction or repairs, the Boat Show and other activities conducted on portions of the Pier 66 Properties;

(ix) Use of the Promenade shall be in its then “AS IS” condition and any party using the Promenade does so at their own risk;

9. City’s Obligations. The City hereby agrees as follows:

9.1 Permits and Approvals.

The City agrees to cooperate reasonably with the Developer Parties in securing all permits and approvals necessary to complete the improvements and/or development pursuant to this Development Agreement.

9.2 Impact & Reservation Fees.

Pursuant to the existing City Ordinances and Policies, Developer shall receive impact fee credits on any buildings formerly demolished or approved for demolition, which shall reduce any impact fees payable on any new buildings approved for construction within the Pier 66 Parcels. Simultaneously with recording this Development Agreement, Developer shall pay to City the amount of Two Thousand Five Hundred Dollars

(\$2,500) per Reserved Residential Unit for the seven hundred fifty (750) residential units Developer plans to construct on the Pier 66 Parcels (the “**Reservation Fees**”) under this Development Agreement. The Reservation Fees may be used by Developer to pay future impact fees, building permit fees or other fees of the City for the development of the Pier 66 Parcels.

Additionally, (i) if Developer terminates this Agreement during the Termination Period (as hereinafter defined), or (ii) upon written notice to the City by the Developer, Developer may request a release of any of the Reserved Residential Units remaining, then Developer shall have a credit for any unused Reservation Fees to apply to any fees charged by the City in the future for development on the Pier 66 Parcels.

10. Other Property. The City acknowledges and agrees that (a) the Developer Parties are attempting to gain control (whether by acquisition or long-term lease) from the Florida Department of Transportation (“**FDOT**”) or from the City through the sub-license of agreement between FDOT and the City, of a parcel of property that is currently owned by FDOT and located contiguously to Pier 66 North underneath the 17th Street Causeway over-pass (the “**FDOT Parcel**”), and (b) upon the Developer or one of the TS Entities gaining control of the FDOT Parcel, the FDOT Parcel shall be encumbered by this Development Agreement and the FDOT Property may be used by the Developer Parties for any purpose related to the operation of the Pier 66 Parcels including, without limitation, parking (including mechanical elevated parking) and ingress and egress to and from and travel between each Pier 66 Parcel. Specifically, it is Developer’s intention to provide a public benefit by using a portion of the FDOT parcel to create the Marina Promenade and other potential pedestrian walkways connecting Pier 66 North and Pier 66 South. The City, without compromising its regulatory authority shall cooperate with and assist the Developer, at its expense, in utilizing the FDOT Parcel as contemplated herein and the Developer, or the CDD, shall assume maintenance obligations for all improvements located thereon.

11. Time Extensions. The time periods herein shall be extended if through no fault of the Developer Parties, the Developer Parties’ fulfillment of their obligations has been delayed by an act of God or other circumstance or occurrence beyond the Developer Parties’ reasonable control. The Developer shall request such a determination by providing a written explanation of any such delays to the City, and any such extensions shall be limited to the duration of the delay or to another mutually agreeable time period. In addition, any and all Pier 66 North and Pier 66 South approvals shall be automatically tolled in the event of any lawsuit filed against the development approvals, however any such extension related to a third party lawsuit shall be limited to a total of three (3) years.

12. Miscellaneous.

12.1 Successors and Assigns. This Development Agreement shall be binding upon the Parties and their successor and/or assigns. If the Developer transfers portions of the Pier 66 Parcels it shall assign its obligations under this

Development Agreement as to such portion of the Pier 66 Parcel and the Developer shall notify the City in writing within thirty (30) days of such assignment which notice shall include the name, address and name of responsible individual of the successor developer. Upon an assignment of this Development Agreement and the assumption of Developer's obligations by said assignee, the Developer shall be deemed released from all rights, obligations and liabilities hereunder as to such part of the Pier 66 Parcel so transferred, and the assignee shall be deemed to have assumed all rights, obligations and liabilities hereunder and the term "Developer" as used herein, shall also thereafter refer to such assignee/grantee and the Developer shall be released of further obligations for that portion of the Pier 66 Parcel which was assigned to an assignee.

12.2 Permitting Conditions. The failure of this Development Agreement to address a particular permit, condition, term, or restriction existing at the time of execution of this Development Agreement shall not relieve the Developer Parties of the necessity of complying with the law governing said permitting requirement, condition, term or restriction.

12.3 Applicable Law; Jurisdiction; Venue. This Development Agreement, and the rights and obligations of the Parties, shall be governed by, construed under, and enforced in accordance with the laws of the State of Florida. Venue for any litigation pertaining to the subject matter hereof shall be exclusively in Broward County, Florida. If any provision of this Development Agreement, or the application thereof to any person or circumstances, shall be held to any extent to be invalid or unenforceable by a court of competent jurisdiction, then the remainder of this Development Agreement shall be valid and enforceable to the fullest extent permitted by law. The parties agree to waive trial by jury.

12.4 Joint Preparation. The Parties have jointly prepared the Development Agreement. As such, the Parties intend for the Development Agreement not to be interpreted more severely against any particular Party even though one Party may have taken responsibility for drafting this Development Agreement.

12.5 Captions or Paragraph Headings. Captions and paragraph headings contained in this Development Agreement are for convenience and reference only, and in no way define, describe, extend or limit the scope or intent of this Development Agreement, nor the intent of any provision hereof.

12.6 Counterparts. This Development Agreement may be executed in one or more counterparts, each constituting a duplicate original, but all such counterparts constituting the same Development Agreement.

12.7 Effective Date and Duration. Within fourteen (14) days after the City executes this Development Agreement, it, at Developer's expense, shall record the Agreement in the public records of Broward County, Florida. This Development Agreement shall become effective on the date it has been recorded in those public records (such date, the "**Effective Date**"). This Development Agreement shall remain in effect until the earlier of the completion of the

development of the Pier 66 Project or twenty (20) years after the date of the Effective Date, unless otherwise extended by agreement of the Parties or terminated as provided for herein.

12.8 Termination. Prior to the earlier of (i) three years from the Effective Date hereof; or (ii) the issuance of the first building permit for any new development within the Pier 66 Parcels, (the “**Termination Period**”), the Developer, in its sole and absolute discretion, may terminate this Development Agreement upon written notice to the City. If Developer makes such election, the Developer shall notify the City in writing of the termination, in which event this Development Agreement is terminated and the Parties will have no further rights, obligations or liabilities hereunder. If this Development Agreement is terminated as permitted in this Subsection, all City approvals that have been received with respect to the Pier 66 Project prior to the Effective Date of this Agreement shall remain in full force and effect, subject to expiration dates applicable to such approvals under our ULDR, and shall apply to such aspect of the Pier 66 Project following such termination. However, any approvals provided solely by this Agreement shall be null and void.

12.9 Amendment. This Development Agreement may only be amended by a written instrument executed by all Parties mutual consent of the Parties.

12.10 Further Assurances. Each Party shall do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances as shall be reasonably requested by any other Party to carry out the intent of this Development Agreement and give effect thereto. Without limiting the specific rights and obligations set forth in this Development Agreement, the Parties declare their intent to (a) cooperate with each other in effecting the terms of this Development Agreement, and (b) coordinate the performance of their respective obligations under the terms of this Development Agreement. To the extent any zoning conditions or other rules and regulations that govern the Pier 66 Project conflict with the terms and conditions of this Development Agreement, the terms and conditions of this Development Agreement shall prevail, unless otherwise set forth herein.

12.11 Estoppel. Each party hereto shall, from time to time, within thirty (30) calendar days following receipt of a written request from the other party, execute and deliver to the other party a certificate stating that this Development Agreement is unmodified and in full force and effect, or, if modified, that this Development Agreement is in full force and effect as modified, and stating the modifications and stating whether or not, to the best of the certifying party’s knowledge, the other party is in default in any respect under this Development Agreement and, if in default, specifying the nature and character of such default.

12.12 Governing Local Laws and Policies. The City’s laws and policies governing the development of the Pier 66 Parcels on the Effective Date shall govern the development of the Pier 66 Parcels for the duration of the Agreement. Except as provided herein, the City may apply subsequently adopted regulations

and policies applicable to the Pier 66 Project only in accordance with **Section 163.3233(2)**, Florida Statutes. The City reserves the right to apply subsequently adopted laws and policies to this Agreement that are enacted due to the health, safety or welfare of the public.

12.13 Notices. Every notice, demand, consent, approval or other document or instrument required or permitted to be given to any Party to this Development Agreement shall be in writing and shall be delivered in person or sent by registered or certified mail, postage prepaid, return receipt requested, to such Party's address set forth below its signature to this Development Agreement below (or such other address as any Party may designate from time to time in a written notice provided in compliance with this Development Agreement).

12.14 Preemption Pursuant to 163.3241 Florida Statutes. If state or federal laws are enacted after the execution of this Agreement which are applicable and preclude the parties' compliance with the terms of this Agreement, then this Agreement shall be modified or revoked, in whole or part, as necessary to comply with the relevant state or federal laws.

12.15 Zoning and Other Approvals. As provided above, the parties recognize and agree that certain provisions of this Agreement may require the City and / or its boards, departments or agencies, acting in their police power / quasi-judicial capacity, to consider certain changes in the City's ULDR or other applicable City codes, plans or regulations, as well as to consider other governmental actions. All such considerations and actions shall be undertaken in accordance with the established requirements of state statute, and the City Charter and City ordinances, in the exercise of the City's jurisdiction under the police power. Nothing in this Agreement is intended to limit or restrict the powers and responsibilities of the City in acting on such applications in its regulatory capacity. The parties further recognize and agree that these proceedings shall be conducted openly, fully, freely and fairly in full accordance with law and with both procedural and substantive due process to be accorded the applicant and any member of the public that may be entitled to participate in any proceeding. Nothing contained in this Agreement shall entitle the Developer to compel the City to take any action, except the consents to the filing of such applications for the required approvals and to timely process the applications.

12.16 Default. If either Party (as such, "Defaulting Party") defaults in its payment or performance obligations pursuant to 163.3235, Florida Statutes, or the terms of this Development Agreement, and the Defaulting Party fails to cure such default within thirty (30) days after receiving written notice of such default (the "Cure Period"), the other Party (as such, the "Non-Defaulting Party") may by providing written notice to the Defaulting Party following the expiration of any cure period at such Non-Defaulting Party's sole option (i) seek specific performance; or (ii) terminate this Development Agreement; or (iii) seek all other available remedies at law or in equity. Notwithstanding the City shall not be liable for damages arising from a decision by a court of competent jurisdiction holding that any and all provisions of this

Development Agreement are invalid or unenforceable. Notwithstanding anything herein to the contrary, if such default is of the nature that it cannot be cured during the Cure Period and the Defaulting Party delivers notice to the Non-Defaulting Party advising that it has commenced to cure and continues in good faith to diligently and continuously cure and provides a reasonable deadline to complete the cure, then the Cure Period shall be extended until such deadline.

12.17 Specific Performance; Injunction. Each Defaulting Party acknowledges that the obligations it is assuming under this Development Agreement are of a special and unique value for the Non-Defaulting Party and, for that reason, among others, the Non-Defaulting Party will be irreparably damaged (and damages at law would be an inadequate remedy) if this Development Agreement is not specifically enforced. Therefore, in the event of a breach or threatened breach by any Party of any provision of this Development Agreement, in addition to all other rights or remedies, the non-breaching party shall be entitled to injunctive relief, and/or to a decree for specific performance of the provisions of this Development Agreement.

12.18 Force Majeure. It shall not constitute a default or a failure to cure if a default or failure to cure is caused by, or results from, any of the following: acts of God; acts of government, strikes, lock-outs, labor troubles, inability to procure materials, adverse weather conditions; accidental fire that could not have been prevented through the exercise of reasonable precautions; war; civil unrest; accidents that could not have been prevented through the exercise of reasonable precautions; power fluctuations or outages exceeding the length of reasonable backup power; outages, delays, failure or degradation in telecommunications or ISP or ASP services provided by a third party; hostile attacks by a third party against computer systems or networks, public network or Internet congestion; mechanical defects not caused by the party's whose performance is prevented, hindered or delayed, or other similar events beyond the control of such Party (each, a "Force Majeure Event"). The Party whose performance is prevented, hindered or delayed by a Force Majeure Event shall immediately notify the other Party as quickly as practicable of the occurrence of the Force Majeure Event, and shall describe in reasonable detail the nature and estimated duration of the Force Majeure Event and such performance or obligation shall be excused for the time of such delay.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Development Agreement to be effective as of the day and year first set forth above.

Witnesses:

City of Fort Lauderdale

Print Name:_____

By:_____
Dean Trantalis, Mayor

Print Name:_____

Print Name:_____

By:_____
Lee R. Feldman, City Manager

Print Name:_____

(CORPORATE SEAL)

(CORPORATE SEAL)

Attest:

Jeffrey A. Modarelli, City Clerk

Approved as to form:
Alain E. Boileau, Interim, City Attorney

By:_____
Lynn Solomon, Assistant City Attorney

Address: 100 North Andrews Avenue
Fort Lauderdale, FL 33301
Attn: City Manager

with copy to:

Same Address
Attn: City Attorney

State of Florida:
County of Broward:

The foregoing instrument was acknowledged before me on _____,
by **Dean J. Trantalis**, Mayor of the City of Fort Lauderdale, a municipal corporation of Florida.
He is [] personally known to me, or [] provided _____ as identification,
and [] did or [] did not take an oath.

(SEAL)

Notary Public, State of Florida
Print Name:_____
My Commission Expires:_____
Commission Number:_____

State of Florida:
County of Broward:

The foregoing instrument was acknowledged before me on _____, by Lee R.
Feldman, City Manager of the City of Fort Lauderdale, a municipal corporation of Florida. He is
[] personally known to me, or [] provided _____ as identification, and []
did or [] did not take an oath.

(SEAL)

Notary Public, State of Florida
Print Name:_____
My Commission Expires:_____
Commission Number:_____

Print Name:_____

Developer:
[]

Print Name:_____

By:_____
Print Name:_____
Title:_____

Address: _____

State of Florida:
County of Broward:

The foregoing instrument was acknowledged before me on _____, by _____, the _____ of [], a [] []. He or she is [] personally known to me, or [] provided _____ as identification, and [] did or [] did not take an oath.

(SEAL)

Notary Public, State of Florida
Print Name:_____
My Commission Expires:_____
Commission Number:_____

[Signature page to Development Agreement continue on next page]

Pier 66 Hotel:
Pier 66 Ventures, LLC

Print Name:_____

By:_____

Print Name:_____

Print Name:_____

Title:_____

Address: _____

State of Florida:

County of Broward:

The foregoing instrument was acknowledged before me on _____, by _____, the _____ of Pier 66 Ventures, LLC, a Florida limited liability company. He or she is [] personally known to me, or [] provided _____ as identification, and [] did or [] did not take an oath.

(SEAL)

Notary Public, State of Florida

Print Name:_____

My Commission Expires:_____

Commission Number:_____

[Signature page to Development Agreement continue on next page]

Pier 66 Parking:
Pier 66 Parking, LLC

By: _____
Print Name: _____
Title: _____

Address: _____

State of Florida:
County of Broward:

The foregoing instrument was acknowledged before me on _____, by _____, the _____ of Pier 66 Parking, LLC, a Florida limited liability company. He or she is [] personally known to me, or [] provided _____ as identification, and [] did or [] did not take an oath.

(SEAL)

Notary Public, State of Florida
Print Name: _____
My Commission Expires: _____
Commission Number: _____

[Signature page to Development Agreement continue on next page]

Print Name:_____

NAP:
Sails Ventures, LLC

Print Name:_____

By:_____

Print Name:_____

Title:_____

Address: _____

State of Florida:

County of Broward:

The foregoing instrument was acknowledged before me on _____, by _____, the _____ of Sails Ventures, LLC, a Florida limited liability company. He or she is [] personally known to me, or [] provided _____ as identification, and [] did or [] did not take an oath.

(SEAL)

Notary Public, State of Florida

Print Name:_____

My Commission Expires:_____

Commission Number:_____