

Prepared by & Return To:
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FIRST AMENDMENT TO THE MUNICIPAL LAND DEDICATION AGREEMENT

THIS FIRST AMENDMENT TO THE MUNICIPAL LAND DEDICATION AGREEMENT ("First Amendment") is made as of the ____ day of _____, 2020 by and between the CITY OF PEMBROKE PINES, FLORIDA, a municipal corporation organized and existing under the laws of the State of Florida, with a business address of 601 City Center Way, Pembroke Pines, Florida 33025 (hereinafter referred to as "CITY") and PP OMNI VENTURES, LLC, owners of the DUKE REALTY PEMBROKE TWO PLAT, with a business address of 15951 S.W. 41st Street, Suite 800, Davie, Florida 33331 (hereinafter referred to as the "OWNER"). Both the OWNER and the CITY are hereinafter sometimes referred to as the "PARTIES".

WITNESSETH

WHEREAS, Section 154.36 of the Code of Ordinances ("Code") of the City of Pembroke Pines, Florida requires that developers provide land equal to six percent (6%) of the gross area to be developed for public parks, playgrounds, recreational facilities or other municipal purposes as a condition to certain subdivision and zoning approvals ("Municipal Land Dedication Requirement"); and

WHEREAS, the OWNER owns the real property described in **Exhibit "A"** attached hereto and made a part hereof, part of the DUKE REALTY PEMBROKE TWO PLAT lying within the municipal boundaries of the CITY ("Property"); and

WHEREAS, pursuant to the requirements of Section 154.36 of the Code, the CITY and OWNER entered into a Municipal Land Dedication Agreement dated December 30, 2014 and recorded under Instrument # 112733463 on January 7, 2015 in the Public Records of Broward County, Florida (the "Agreement"); and

WHEREAS, in connection with the development of the Property, and pursuant to the terms of the Agreement, OWNER agreed to make a monetary contribution in the sum of THREE HUNDRED THIRTY THOUSAND DOLLARS AND 00/100 (\$330,000.00) in lieu of conveying the required acreage to the CITY for municipal dedication in accordance with Section 154.36 of the Code (the "Municipal Impact Fee"); and

WHEREAS, the Municipal Impact Fee was to be paid by OWNER in three (3) equal payments of ONE HUNDRED TEN THOUSAND DOLLARS AND 00/100 (\$110,000.00) as

follows: 1) first payment prior to the CITY issuing the first building permit for construction on the Property, 2) second payment six (6) months after the first payment, and 3) third and final payment prior to the CITY issuing the final Certificate of Completion for the last building constructed on the Property; and

WHEREAS, the PARTIES acknowledge that OWNER has made the first two (2) Municipal Impact Fee payments totaling TWO HUNDRED TWENTY THOUSAND DOLLARS AND 00/100 (\$220,000.00); and

WHEREAS, City and OWNER desire to amend the Agreement as provided in this First Amendment related to the third and final Municipal Impact Fee payment.

NOW, THEREFORE, in consideration of the promises and covenants herein contained, CITY and OWNER hereby agree to modify and amend the Agreement pursuant to Section 9 therein as herein provided:

1. **Recitals; Defined Terms.** The recitals set forth above are true and correct in all respects and are incorporated into this First Amendment by reference as if set forth in this First Amendment verbatim. Defined (capitalized) terms which are used in and are not otherwise defined in this First Amendment shall have the meaning set forth in the Agreement.
2. **Conflicts.** In the event that there is a conflict between this First Amendment and the Agreement, this First Amendment shall control. Whenever possible, this First Amendment shall be construed as a single document. Except as modified by this First Amendment, the Agreement shall remain in full force and effect.
3. **Dedication Requirement.** Section 2 of the Agreement is amended as follows:

In addition to OWNER making the first two (2) Municipal Impact Fee payments totaling TWO HUNDRED TWENTY THOUSAND DOLLARS AND 00/100 (\$220,000.00), CITY acknowledges that OWNER also paid an additional ONE HUNDRED THIRTEEN THOUSAND NINE HUNDRED NINETY SEVEN DOLLARS AND 12/100 (\$113,997.12) to improve the sanitary sewer facilities adjacent to the Property that will be conveyed to, and owned by, the City; therefore, the CITY agrees that the third and final payment due by OWNER is now reduced to TEN THOUSAND DOLLARS AND 00/100 (\$10,000.00). This third and final TEN THOUSAND DOLLARS AND 00/100 (\$10,000.00) payment shall constitute complete satisfaction of OWNER's obligation with respect to CITY requirements pursuant to Section 154.36 of the Code to provide for public parks, playgrounds, recreational facilities, other municipal purposes and municipal dedication impacts related to the development of the Property, and nothing in the Agreement or this First Amendment shall be interpreted to entitle the CITY to receive more than the third and final TEN THOUSAND DOLLARS AND 00/100 (\$10,000.00) payment.

4. **Miscellaneous.** This First Amendment cannot be modified, amended or terminated except by written agreement executed by the OWNER (or then owner) of the Property together with the approval of the City Commission. This First Amendment may be executed in counterparts, each of which shall be deemed an original. The terms, conditions and provisions of the Agreement are, except as modified herein, ratified and confirmed, and this First Amendment supersedes all prior agreements and understandings, both written and oral with respect to the matters set forth herein.

IN WITNESS WHEREOF, the PARTIES hereto have made and executed this First Amendment on the respective dates under each signature: the CITY through its City Commissioners, signed by and through its Mayor, authorized to execute same by City Commission action on the ____ day of _____, 2020, and OWNER, by and through the undersigned officers duly authorized to execute same.

CITY

CITY OF PEMBROKE PINES, FLORIDA

ATTEST:

BY: _____
MAYOR FRANK C. ORTIS

MARLENE GRAHAM, CITY CLERK

APPROVED AS TO LEGAL FORM:

DATE: _____

OFFICE OF THE CITY ATTORNEY

OWNER

WITNESSES:

PP OMNI VENTURES, LLC

BY: _____

PRINT: _____

TITLE: _____

Print Name

DATE: _____

Print Name

STATE OF _____

COUNTY OF _____

BEFORE ME, the foregoing instrument was acknowledged before me by means of _____ physical presence or _____ online notarization, this _____ day of _____, 2020, by _____, on behalf of said Company and that (s)he was duly authorized to do so.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this _____ day of _____, 2020.

NOTARY PUBLIC

Print or Type Name

My Commission Expires:

EXHIBIT "A"

LEGAL DESCRIPTION

A PORTION OF TRACT 38, SECTION 15, TOWNSHIP 51 SOUTH, RANGE 40 EAST, "EVERGLADES SUGAR AND LAND COMPANY SUBDIVISION", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 39, OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL "A", "DUKE REALTY PEMBROKE ONE", ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 180, PAGE 65, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA, SAID POINT BEING ON THE WEST LINE OF SAID TRACT 38; THENCE NORTH 89°42'19" EAST ON THE SOUTH LINE OF SAID PARCEL "A" 313.62 FEET TO THE INTERSECTION WITH THE WESTERLY RIGHT-OF-WAY LINE OF SW 145TH AVENUE AS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 42213, PAGE 750, AS AFFECTED BY CORRECTIVE RIGHT-OF-WAY DEED RECORDED IN OFFICIAL RECORDS BOOK 42392, PAGE 1729, OF SAID PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE ON SAID WESTERLY RIGHT-OF-WAY LINE THE FOLLOWING EIGHT (8) COURSES AND DISTANCES; 1) SOUTH 09°45'55" WEST 50.33 FEET TO THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT, AT WHICH THE RADIUS POINT BEARING SOUTH 89°50'56" WEST; 2) SOUTHERLY ON THE ARC OF SAID CURVE, HAVING A RADIUS OF 2,219.32 FEET, A CENTRAL ANGLE OF 4°17'13", FOR AN ARC LENGTH OF 166.05 FEET TO A POINT OF REVERSE CURVATURE, WITH A CURVE TO THE LEFT; 3) SOUTHERLY ON THE ARC OF SAID CURVE HAVING A RADIUS OF 250.00 FEET, A CENTRAL ANGLE OF 5°21'59", FOR AN ARC LENGTH OF 23.42 FEET TO A POINT OF TANGENCY; 4) SOUTH 01°13'50" EAST 323.18 FEET; 5) SOUTH 05°05'59" WEST 88.71 FEET; 6) SOUTH 01°45'54" EAST 65.54 FEET TO THE BEGINNING OF A TANGENT CURVE TO THE RIGHT; 7) SOUTHERLY ON THE ARC OF SAID CURVE HAVING A RADIUS OF 660.00 FEET, A CENTRAL ANGLE OF 5°10'28", FOR AN ARC LENGTH OF 59.61 FEET TO A POINT OF TANGENCY; 8) SOUTH 03°24'34" WEST 77.37 FEET TO THE INTERSECTION WITH THE SOUTH LINE OF AFOREMENTIONED TRACT 38 ALSO BEING THE NORTH RIGHT-OF-WAY LINE OF SW 5TH STREET AS DESCRIBED AND RECORDED IN OFFICIAL RECORDS BOOK 41752, PAGE 1446, OF SAID PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE SOUTH 89°41'44" WEST ON SAID SOUTH LINE OF TRACT 38 AND SAID NORTH RIGHT OF WAY LINE 268.33 FEET TO THE SOUTHWEST CORNER OF SAID TRACT 38, ALSO BEING THE SOUTHEAST CORNER OF PARCEL "A", "SOUTHERN BELL PEMBROKE PINES", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 112, PAGE 40, OF SAID PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA; THENCE NORTH 01°44'51" WEST ON THE WEST LINE OF TRACT 38 ALSO BEING THE EAST LINE OF SAID PARCEL "A", "SOUTHERN BELL PEMBROKE PINES" 852.90 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF PEMBROKE PINES, BROWARD COUNTY, FLORIDA, AND CONTAINING 246,176 SQUARE FEET (5.6514 ACRES) MORE OR LESS.