

This instrument was prepared by (record and return to):

Akerman LLP
98 SE 7th Street, Suite 1100
Miami, Florida 33131
Attn: Kristofer D. Machado, Esq.

(Space reserved for Clerk)

FIRST AMENDMENT TO DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO DEVELOPMENT AGREEMENT (the "Amendment") is made and entered into as of the ____ day of _____, 2025 (the "Effective Date"), by and among the **CITY OF MIAMI BEACH**, a Florida municipal corporation (the "City"), and, jointly and severally, **OCEAN TERRACE TRUSTEE LLC**, a Delaware limited liability company, **OCEAN TERRACE RESIDENTIAL LLC**, a Delaware limited liability company, **OCEAN TERRACE SHARED FACILITIES LLC**, a Delaware limited liability company, **OCEAN TERRACE RETAIL LLC**, a Delaware limited liability company, and **7450 OCEAN TERRACE LLC**, a Delaware limited liability company (collectively, "Project Developer"), and **OTH STREETSCAPE, LLC**, a Delaware limited liability company ("Park Developer") and, together with the Project Developer, the "Developer"). City and Developer are each a "Party" and collectively are the "Parties" to this Amendment.

Introduction

A. The City and Developer are the parties to that certain Development Agreement dated as of July 31, 2019, originally entered into by and among the City and 7450 OCEAN TERRACE LLC, 7436 OCEAN TERRACE LLC, 7420 OCEAN TERRACE INVESTMENT, LLC, 7410 OCEAN TERRACE LLC, 7400 OCEAN TERRACE, LLC, 7409 COLLINS AVE INVESTMENT, LLC, 7421 COLLINS AVE INVESTMENT, LLC, 7433 COLLINS AVE INVESTMENT, LLC, 7439 COLLINS AVE INVESTMENT LLC, 7441 COLLINS AVE INVESTMENT, LLC (collectively, the "Initial Developer Parties"), recorded at Book 31563, Page 1201, of the Official Records of Miami Dade County, Florida (the "Original Development Agreement"), as affected by that certain Letter Agreement dated December 10, 2019, by and between the City and the Initial Developer Parties; that certain Closing Certificate dated as of December 10, 2019, by and among the Initial Developer Parties, the City, and First American Title Insurance Company, recorded at Book 31720, Page 4947, of the Official Records of Miami Dade County, Florida; that certain Settlement Agreement dated May 3, 2021, by and among the Initial Developer Parties and Ocean Terrace Holdings, LLC, the City, and Thomas R. Mooney, in his official capacity as Planning Director for the City; that certain Partial Assignment and Assumption of Development Agreement dated November 6, 2024, by and among the Initial Developer Parties and Park Developer, notice of which was delivered to the City on November 8, 2024; that certain Estoppel Certificate issued by the City on November 14, 2024; and that certain Partial Assignment and Assumption of Development Agreement dated March 10, 2025, by and among the Initial Developer Parties and Project Developer, notice of which was delivered to the City on March 11, 2025.

B. Developer is in process of developing the Project and the Park/Streetscape Improvements, which together will help revitalize and improve the character and appearance of the surrounding neighborhood, will have a significant positive fiscal impact for the City, and will provide a significant public amenity and increase recreational open space in the City.

C. The Original Development Agreement specifies that the Project must include at least 75 hotel units. In response to market conditions that currently favor residential uses over hotel uses, the City and Developer desire to amend the Original Development Agreement to eliminate the requirement that the Project include a minimum number of hotel units.

D. Having fully considered this Amendment at two duly noticed public hearings in compliance with Section 163.3225 of the Act, and having determined that it is in the City's best interest to enter into this Amendment in compliance with the Act and with all other applicable Laws and Requirements, the City has agreed to enter into this Amendment with the Developer.

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

Terms and Conditions

1. Recitations. The foregoing recitations are true and correct and are incorporated herein by this reference.

2. Authority. This Agreement is entered into pursuant to the authority and procedures provided by the Act and the City's Land Development Regulations.

3. Definitions. All capitalized terms used but not defined in this Amendment shall have the definitions set forth in the Original Development Agreement. The term "Agreement" as used in the Original Development Agreement and this Amendment shall mean the Original Development Agreement as modified by this Amendment.

4. Amendment. The definition of "Project" in Section 3.43 of the Original Development Agreement is hereby amended and restated in its entirety as follows (~~striethrough~~ indicates deletions):

"3.43 "Project" shall mean the development, design and construction of the Development Site (including, after the Closing, the Developer's right, title, and interest in and to the City Parcel) consistent with the City's Land Development Regulations for the Ocean Terrace Overlay District and the underlying CD-2 and MXE zoning districts, as the same may be amended from time to time, but subject to Section 28 of this Agreement, and provided that the Project ~~must include at least 75 hotel units and~~ may only include one tower in excess of 125 feet."

5. Short-Term Rental Covenant. The Project Developer anticipates that the Project will contain seventy-six (76) units, including fifty-two (52) residential units in the tower building that is legally described in **Exhibit "1"** attached hereto (the "Tower Building"), and twenty-four (24) condo hotel units in a mid-rise building, in addition to other uses. In consideration of the City's approval and execution of this First Amendment, Ocean Terrace Trustee LLC, as the fee-simple owner of the Tower Building, shall execute and record a Declaration of Restrictive Covenants,

substantially in the form of **Exhibit "2"** attached hereto, against title to the Tower Building, providing that none of the residential units within the Tower Building shall be leased or rented for a period of less than six (6) months and one (1) day.

6. Consistency with the Act. The Parties hereby incorporate by reference each and every applicable requirement set forth in the Act. In accordance with the Act and the City's Land Development Regulations, the City hereby reaffirms and ratifies the findings made in the Original Development Agreement pursuant to the Act, and hereby finds and declares that: (a) the Project and the Park/Streetscape Improvements will continue to benefit the City and the public; (b) the conditions, terms, restrictions and requirements of this Amendment are necessary for the public health, safety or welfare of its citizens; (c) the development permitted or proposed pursuant to this Amendment is consistent with the City's Comprehensive Plan and Land Development Regulations (subject to all applicable requirements, permits and approvals); and (d) this Amendment meets all of the requirements of the Act and all other applicable Laws and Requirements. Further, the failure of this Amendment to address a particular permit, condition, term, or restriction shall not relieve the Developer of the necessity of complying with the law governing said permitting requirements, conditions, term, or restriction.

7. Severability. In the event any term or provision of this Amendment be determined by appropriate judicial authority to be illegal or otherwise invalid, such provision shall be given its nearest legal meaning or construed as deleted, as such authority determines, and the remainder of this Amendment shall be construed to be in full force and effect.

8. Reservation of Rights. This Amendment is intended to grant Developer additional flexibility in developing the Project and is not intended to and does not reduce or otherwise adversely affect any of Developer's rights, whether existing by contract, at law, in equity, by statute, pursuant to any Permits and Approvals, or otherwise. Developer hereby expressly reserves any and all of such rights.

9. Further Assurances. The parties shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary to make this Amendment fully and legally effective, binding, and enforceable as between them and as against third parties.

10. Ratification; Recording; Binding Effect. The Original Development Agreement, as modified by this Amendment, is hereby ratified and confirmed, and remains valid, binding, and in full force and effect. Within fourteen (14) days following approval at two public hearings and execution by the Parties, the City shall record this Amendment in the Public Records of Miami-Dade County, Florida. The terms and conditions of this Amendment are covenants running with the Development Site, and this Amendment shall be binding upon and enforceable by and against the parties hereto and their personal representatives, heirs, successors, grantees and assigns.

11. Conflict. In the event of an inconsistency or conflict between the terms of this Amendment and the Original Development Agreement or any other document or instrument, the terms of this Amendment shall control.

[Signatures Follow]

City Attorney _____ Date _____

Signed, sealed and delivered
in the presence of:

OCEAN TERRACE TRUSTEE LLC,
a Delaware limited liability company

By: _____
Print Name: _____
Address: _____

By: _____
Name: _____
Title: _____

By: _____
Print Name: _____
Address: _____

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me, by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 2025 by _____, as ____
_____ of OCEAN TERRACE TRUSTEE LLC, a Delaware limited liability
company, on behalf of the company. He is personally known to me or has produced
_____ as identification and who did/did not take an oath.

NOTARY PUBLIC
Typed or printed Name of Notary
My Commission expires:
Serial No., if any _____

Signed, sealed and delivered
in the presence of:

OCEAN TERRACE RESIDENTIAL LLC,
a Delaware limited liability company

By: _____

By: _____

Print Name: _____

Name: _____

Address: _____

Title: _____

By: _____

Print Name: _____

Address: _____

STATE OF FLORIDA

)

) SS:

COUNTY OF MIAMI-DADE

)

The foregoing instrument was acknowledged before me, by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 2025 by _____, as ____
_____ of OCEAN TERRACE RESIDENTIAL LLC, a Delaware limited liability
company, on behalf of the company. He is personally known to me or has produced
_____ as identification and who did/did not take an oath.

NOTARY PUBLIC

Typed or printed Name of Notary

My Commission expires:

Serial No., if any _____

Signed, sealed and delivered
in the presence of:

**OCEAN TERRACE SHARED FACILITIES
LLC, a Delaware limited liability company**

By: _____

Print Name: _____

Address: _____

By: _____

Name: _____

Title: _____

By: _____

Print Name: _____

Address: _____

STATE OF FLORIDA)
) SS:
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me, by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 2025 by _____, as ____
_____ of OCEAN TERRACE SHARED FACILITIES LLC, a Delaware limited
liability company, on behalf of the company. He is personally known to me or has produced
_____ as identification and who did/did not take an oath.

NOTARY PUBLIC
Typed or printed Name of Notary
My Commission expires:
Serial No., if any _____

Signed, sealed and delivered
in the presence of:

**OCEAN TERRACE RETAIL LLC,
a Delaware limited liability company**

By: _____

By: _____

Print Name: _____

Name: _____

Address: _____

Title: _____

By: _____

Print Name: _____

Address: _____

STATE OF FLORIDA

)

) SS:

COUNTY OF MIAMI-DADE

)

The foregoing instrument was acknowledged before me, by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 2025 by _____, as ____
_____ of OCEAN TERRACE RETAIL LLC, a Delaware limited liability company,
on behalf of the company. He is personally known to me or has produced
_____ as identification and who did/did not take an oath.

NOTARY PUBLIC

Typed or printed Name of Notary

My Commission expires:

Serial No., if any _____

Signed, sealed and delivered
in the presence of:

7450 OCEAN TERRACE LLC,
a Delaware limited liability company

By: _____

By: _____

Print Name: _____

Name: _____

Address: _____

Title: _____

By: _____

Print Name: _____

Address: _____

STATE OF FLORIDA)

) SS:

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me, by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 2025 by _____, as ____
_____ of 7450 OCEAN TERRACE LLC, a Delaware limited liability company, on
behalf of the company. He is personally known to me or has produced
_____ as identification and who did/did not take an oath.

NOTARY PUBLIC

Typed or printed Name of Notary

My Commission expires:

Serial No., if any _____

Signed, sealed and delivered
in the presence of:

OTH STREETSCAPE, LLC,
a Delaware limited liability company

By: _____

By: _____

Print Name: _____

Name: _____

Address: _____

Title: _____

By: _____

Print Name: _____

Address: _____

STATE OF FLORIDA)

) SS:

COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me, by means of ☐ physical presence
or ☐ online notarization, this ____ day of _____, 2025 by _____, as ____
_____ of OTH STREETSCAPE, LLC, a Delaware limited liability company, on
behalf of the company. He is personally known to me or has produced
_____ as identification and who did/did not take an oath.

NOTARY PUBLIC

Typed or printed Name of Notary

My Commission expires:

Serial No., if any _____

EXHIBIT “1”

Tower Building Legal Description

[Attached]

DRAFT

EXHIBIT “2”

Declaration of Restrictive Covenants

[Attached]

DRAFT