

RESOLUTION NO. 24-57

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AMENDMENT TO THE CITY'S LEASE AGREEMENT WITH RUSSELL-FIELDS PIER DEVELOPMENT GROUP, LLC, FOR THE LEASE OF THE CITY'S RUSSELL-FIELDS PIER BEACHFRONT PROPERTY AS MORE FULLY SET FORTH IN THE BODY OF THE AMENDMENT; AND AUTHORIZING A BUDGET AMENDMENT FOR THIS PURPOSE.


BE IT RESOLVED by the City Council of the City of Panama City Beach, Florida that:

1. The appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain First Amendment to the Beachfront Lease Agreement between the City and Russell-Fields Pier Development Group, LLC, relating to the lease of the City's Beachfront Property at the Russell-Fields Pier, in substantially the form **attached** as Exhibit A and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.
2. The following budget amendment (#8) is adopted for the City of Panama City Beach, Florida, for the fiscal year beginning October 1, 2023, and ending September 30, 2024, to provide for the expenditure of funds contemplated herein.

THIS RESOLUTION shall be effective immediately upon passage.

PASSED in regular session this 14th day of December, 2023.

CITY OF PANAMA CITY BEACH

By: 
Mark Sheldon, Mayor

ATTEST:


Lynne Fasone, City Clerk

FIRST AMENDMENT TO BEACHFRONT LEASE AGREEMENT

THIS FIRST AMENDMENT TO LEASE (this "First Amendment"), is made and entered into as of the 15th day of December, 2023 (the "Effective Date") by and between CITY OF PANAMA CITY BEACH, a Florida municipal corporation ("Landlord") and RUSSELL-FIELDS PIER DEVELOPMENT GROUP, LLC, a Florida limited liability company ("Tenant").

WHEREAS, Landlord Tenant entered into that certain Lease Agreement dated December 8, 2022 (the "Lease"); and

WHEREAS, the Lease pertains to City's property at the Russell-Fields Pier (the "Leased Parcel") and requires that Tenant make certain improvements as a performance obligation of the lease (the "Approved Additions"); and

WHEREAS, Landlord and Tenant have agreed to modify the Lease in certain other respects as more particularly set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Amendment to Section 4.01(G). The Lease is hereby amended by amending Section 2 of the Lease as follows:

G. Prior to the placement of any Approved Additions on the Pier Deck by Tenant, Tenant shall replace the wooden decking on the Pier Deck based upon specifications agreed by the parties but at a minimum the replacement decking shall consist of heat-resistant composite decking secured by corrosion resistant materials (the "Deck Replacement"). ~~Prior to commencement of the Deck Replacement, Tenant shall (i) submit the project's proposed specifications, design, materials, and construction schedule to the City, (ii) receive written approval of the information submitted in sub-paragraph (i) of this section, and (iii) the parties shall enter into a cost sharing agreement to establish the amount the Deck Replacement cost which shall be borne by the City.~~ Prior to the placement of any additional improvements on the Pier Deck by Tenant, Tenant shall replace the wooden decking on the Pier Deck based upon specifications agreed by the parties but at a minimum the replacement decking shall consist of heat-resistant composite decking secured by corrosion resistant materials (the "Deck Replacement"). **In addition, the Deck Replacement shall consist of repair and replacement, as deemed necessary in the sole discretion of the City, of the sub-flooring, support stringers and joint system and reinforcement to specified areas of the Pier Deck to provide a suitable surface for light-weight work vehicle support. Upon the completion of the Decking Improvement, the City's final inspection and approval of all work associated with the Decking Improvements, the City shall reimburse Tenant in the following not-to-exceed amounts:**

1. Surface-level deck replacement (Phase One): \$110,739.90

2. Sub-surface infrastructure repair and reinforcement (Phase Two): \$64,260.10

Total Maximum Reimbursement: \$175,000.

The City agrees to be a co-applicant on State and Federal permit applications and to provide reasonable efforts to cooperate with Tenant to the extent necessary for permitting and compliance with any regulatory requirements associated with the Deck Replacement. **Notwithstanding the cost-share allowances provided in this section, all** costs and management of the permitting, administration, and control over the Deck Replacement shall be the Tenant's sole responsibility. The Deck Replacement shall be completed in accordance with the schedule set forth in Section 3.03 herein.

4. This First Amendment constitutes the entire agreement between the parties concerning the amendment of the Lease and there are no other terms, conditions, promises, undertakings, or representations, express or implied, concerning the subject matter addressed herein. This First Amendment shall become binding and enforceable between the parties hereto upon the full and complete execution and unconditional delivery of this First Amendment by all parties hereto. No amendment to the Lease or this First Amendment (express or implied) shall be binding upon the parties unless such amendment shall be in writing and shall be signed and unconditionally delivered by all parties hereto. No conduct, statements or activities outside the express terms of this First Amendment shall be construed as an amendment (express or implied) to the Lease or this First Amendment unless such matters are reduced to writing in an amendment that is signed and unconditionally delivered by all parties hereto. Except as herein modified, all the terms, covenants and conditions of the Lease are hereby ratified, reaffirmed and shall remain in full force and effect.

5. This First Amendment shall become effective as of the date set out above. In the event of any inconsistency or conflict between the terms of this First Amendment and of the Lease, the terms hereof shall control.

6. Tenant and Landlord hereby warrant that they have full authority to enter into this First Amendment and the individual(s) executing this First Amendment on their behalf hereby covenant(s) and warrant(s) that such individual(s) is/are duly authorized by Tenant, and Landlord, respectively, to execute and deliver this First Amendment on behalf of Tenant, and Landlord, respectively. Further, Landlord hereby warrants that other than Ameris Bank, no other signature, act, consent or authorization is necessary to bind Landlord to the provisions of this First Amendment.


7. This First Amendment shall be binding upon and inure to the benefit of the parties hereto, and to their respective heirs, executors, administrators, predecessors, successors, assigns, parent and subsidiary corporations, divisions, officers, directors, partners, agents, attorneys, and employees, as applicable.

8. This First Amendment may be executed in multiple original counterparts, each of which shall be deemed to be an original and all of which, when taken together, shall constitute one instrument. A counterpart signed by one or more parties and delivered by electronic or facsimile transmission shall be deemed an original counterpart for all purposes.

IN WITNESS WHEREOF, Landlord and Tenant have executed this First Amendment as of the Effective Date set forth above.

LANDLORD:

**THE CITY OF PANAMA CITY BEACH,
FLORIDA,**


By: 
Name: ~~Drew Whitman~~ Holly J White
Title: City Manager
ACTING

ATTEST:


Lynne Fasone, City Clerk

TENANT:

Russell-Fields Pier Development Group, LLC

By: 
Name: Adria Pencher
Title: President

**CITY OF PANAMA CITY BEACH
BUDGET TRANSFER FORM BF-10**

BA# 8

	LEDGER ACCOUNT	ACCOUNT DESCRIPTION	APPROVED BUDGET	BUDGET ADJUSTMENT	AMENDED BUDGET
TO	402-7500-575.65-90	Pier Deck Improvements	-	175,000	175,000
FROM	402-7500-575.97-00	Reserves Renewal & Replacement	800,000	(175,000)	625,000
Check Adjustment Totals:			800,000	0	800,000

BRIEF JUSTIFICATION FOR BUDGET ADJUSTMENT:
 To appropriate funding from available reserves for boardwalk deck improvements at the Pier

FINANCE REVIEW: _____
RESOLUTION #: _____
DATE: _____