

**FIRST AMENDMENT TO GROUND LEASE --RETAIL
OCEAN MALL**

This First Amendment to Ground Lease – Retail (“Amendment”) is made and entered into as of May 15, 2013, by and between the **CITY OF RIVIERA BEACH**, a municipal corporation existing under the laws of the State of Florida (the “City”), and **GSF FLORIDA RETAIL LLC**, a Delaware limited liability company (the “Tenant”).

WITNESSETH:

WHEREAS, on or about December 18, 2006, the City, as Landlord, entered into a retail ground lease (the “Lease”) for certain premises known as the Ocean Mall (the “Premises”) with OMRD, LLC, a Delaware limited liability company, as Tenant (“OMRD”); and

WHEREAS, the City, OMRD, and the Riviera Beach Community Redevelopment Agency also entered into a Disposition and Development Agreement dated December 18, 2006 (“DDA”) setting out the responsibilities for the development of the Premises in two phases (Phase I and Phase II) and certain surrounding City owned property; and

WHEREAS, the DDA set out certain obligations within Section 5.02, with respect to construction of the Ocean Mall and surrounding City owned property; and

WHEREAS, on or about April 24, 2013, GSF Florida Retail LLC became the Tenant under the Lease by virtue of being the winning bidder at the foreclosure sale held in the foreclosure action on the lien of the leasehold mortgage originally held by Branch Banking and Trust Company and subsequently assigned to GSF Trust 2011-1; and

WHEREAS, immediately after the foreclosure sale on the leasehold mortgage, the Tenant paid the City \$300,000 to extend the construction completion date of Phase I under the DDA on the Premises to May 31, 2013;

WHEREAS, the parties hereby agree and acknowledge that Phase II of the DDA was terminated on or about May 21, 2013;

WHEREAS, the parties hereby agree to enter into this Amendment to facilitate a further extension to complete the Phase I construction required of the Tenant by the DDA; and

WHEREAS, the parties hereby agree that notwithstanding the extension being given under the Lease to complete the Phase I construction defined under the DDA through May 31, 2014, the DDA itself has expired by its terms on or about May 31, 2013 and is therefore also deemed terminated.

NOW, THEREFORE, in consideration of the mutual promises contained herein, the City and Tenant agree as follows:

Section 1. That section 14 (a)(vi) of Article 14, entitled "Default and Remedies" of the Lease is hereby deleted in its entirety as follows:

14(a) Each of the following events shall be an "Event of Default" hereunder:

~~(vi) if Tenant fails to observe or perform in any material respect the provisions of Section 13.01(c) of the Disposition and Development Agreement, dated as of December 18, 2006, among the Landlord, the Riviera Beach Community Redevelopment Agency and the Tenant, which results in a termination of the Disposition and Development Agreement in accordance with Section 14.01 thereof with respect to the Phase I Development (as such term is defined in the Disposition and Development Agreement); or~~

Section 2. That the Lease shall be amended by adding a new section 36 entitled "FINAL EXTENSION AND PAYMENT" as follows:

By payment of \$250,000.00 to the City on or before May 31, 2013, Tenant will be granted an extension to complete the Phase I Development as defined by the DDA ("Phase I") for a period of one year. Tenant shall complete Phase I Development on or before May 31, 2014. In the event the \$250,000.00 is not paid timely, the Lease shall be immediately extinguished and the property shall be surrendered to the City. In the event Phase I is not completed (certificate of occupancy issued) by May 31, 2014, the Lease shall automatically terminate and the property shall be surrendered to the City.

Tenant shall be granted an extension to complete Phase I beyond May 31, 2014, only if the cause of the failure to complete Phase I is based upon an "Unavoidable Delay" as defined in Section 35(o) of the Lease. In the event any delay in the completion of the Phase I Development, as defined by the DDA, beyond May 31, 2014, is caused by an "Unavoidable Delay" as defined in Section 35(o) of the Lease, Tenant shall be given additional time to complete Phase I, provided that Tenant shall diligently pursue completion of Phase I. In the event Tenant shall not diligently pursue completion of Phase I Development, as defined by the DDA, after the Unavoidable Delay has ceased to exist, the extension of time given to complete Phase I as a result of an Unavoidable Delay shall cease, and upon notice by the City, the Lease shall immediately terminate, and the Tenant shall surrender the property to the City without any Notice of Default or cure periods required.

Section 3. The parties recognize that the rent payment under the Lease for 2012 is \$27,325.29. The rent payment was due on April 1, 2013. In addition to making the 2012 rent payment immediately (which shall include any late fees due), Tenant agrees to pre-pay \$\$27,325.29 by June 1, 2013, as partial rent payment for 2013. If the actual rent payment for 2013 ultimately exceeds \$27,325.29, then Tenant agrees to pay said

difference by April 1, 2014. If the actual rent payment for 2013 is less than \$27,325.29, then the City shall credit Tenant that amount for lease year 2014.

Section 4. Tenant agrees to complete all items on the List of Deficiencies (except for item #14), attached hereto as Exhibit A, within 45 days of May 15, 2013 (by June 28, 2013). Tenant shall provide the City with a written status update concerning each item by June 7, 2013, and shall advise the City Community Development Director in writing when the list has been completed. Failure to complete the list within 45 days (by June 28, 2013), shall result in the Tenant being fined by the City the sum of \$100 per day until all items on Exhibit A are completed. Tenant has thirty (30) days to pay any fine levied; otherwise, it will be subject to Default as defined in the Lease.

Section 5. In all other respects, the remainder of the Lease shall remain in full force and effect and unmodified, and the parties agree to perform all duties and obligations as set forth therein. In the event there is a conflict between the Lease and this Amendment, the Amendment shall control. This Amendment may be signed in any number of counterparts, all of which taken together shall constitute one complete and whole Amendment.

[SIGNATURES ON FOLLOWING PAGE]

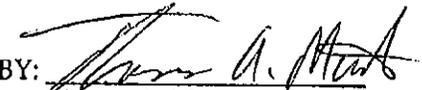
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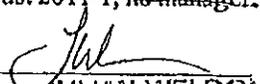
IN WITNESS WHEREOF, the Parties unto this Amendment have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH
(LANDLORD)

TENANT

GSF FLORIDA RETAIL LLC, a
Delaware limited liability company
By: ~~GSF Trust 2011-1, its manager.~~

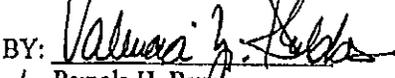
BY: 
Thomas A. Masters
Mayor

BY: 
Name: JULIAN WELDON
Title: SECRETARY

ATTEST:

BY: _____
Carrie E. Ward
City Clerk, MMC

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

BY: 
for Pamala H. Ryan
City Attorney

**EXHIBIT A
LIST OF DEFICIENCIES**

Building issues:

- 1) Broken sidewalk by 7-Eleven needs to be fixed (tripping hazard). Replace damaged section of walkway.
- 2) Re strap vent pipe. Needs to be secured at the north building by the elevator.
- 3) Extra pipes by electrical services need caps to seal them not duct tape. Cap pipes with hard caps to prevent water and vermin from entry into buildings.
- 4) Remove pipe half buried on the south side of the parking lot. It is a tripping hazard.
- 5) Need to unclog roof drain on south building. Water is coming out of overflow and landing on sidewalk. Check roof drains and remove any impediments to water flow through drains.
- 6) Powder coat on 2nd floor railing is peeling in places. Sand and paint areas where powder coating is peeling.
- 7) The walls need touch up paint where it is peeling. Where signs have been removed, paint needs to be touched up. Repaint any areas with discoloration and peeling that need repainting.
- 8) Clean second floor walkway. It has debris and a lot of trash on it.
- 9) Some of the lights are on in the daytime. Check the timers and/or photo cells to verify they are set correctly.
- 10) There are bird nests in many of the light housings over the walk ways. Clean out all light housings. It is a fire hazard.
- 11) Need to pressure wash and clean pavers outside of the Johnny Longboats restaurant.
- 12) Dumpster enclosures and pavement in front of them are unsanitary. Pressure wash dumpster areas.
- 13) Remove signage from closed businesses (e.g., Wing Flyer Store).
- 14) Existing South parking lot staging area may be used by the Tenant for staging during the demolition and construction of remaining pre 2010 buildings-(existing

location of 7-11) and must be restored to a functional safe, permitted parking lot area, as approved by the City Building Official, within 60 days of leaseholder obtaining certificate of occupancy from the City for the newly reconstructed building. The Tenant agrees to be responsible for the site until it is turned back over to the City and will indemnify the City from claims etc. as set out in section 18 of the Lease. Tenant shall also be responsible for the cost of reconstructing the parking lot.

Landscaping and irrigation issues:

- 1) Replace mulch and ground cover (dune sunflower) in all landscaped areas and islands in accordance with the Ocean Mall City's landscape code. Ground cover and mulch should be replaced around the entire Ocean Mall and parking lots. There should be no bare ground. After completion leaseholder must verify with Community Development that all work meets City code.
- 2) Remove trash from all landscape areas and islands around the entire Ocean Mall and Parking lots.
- 3) Sod between new building and old building needs to be replaced. Replace sod in all areas where there is bare ground where sod should be.
- 4) Remove Australian pine (invasive tree) in front of 7-Eleven.
- 5) Replace dead palm tree at east side of middle drive entrance going east and west between north and south parking lots.
- 6) Prune any shade trees to City Code landscape standards in west of building parking lots.
- 7) Replace all missing sprinkler and drip heads on irrigation system.
- 8) Remove Jersey Barriers from south parking lot and landscape and install irrigation along perimeter of south parking lot with landscaping materials similar to landscaping materials in main east/west entry drive aisle, i.e., cabbage palms, silver buttonwood, red tip cocoplums, green island ficus and dune sunflower. Cabbage palms must be planted no less than 8 to 10 feet apart.