

ORDINANCE NO. 2024-11

AN ORDINANCE OF THE CITY OF PORT ORANGE,  
VOLUSIA COUNTY, FLORIDA, APPROVING THE FIRST  
AMENDMENT TO THE RESTATED MASTER  
DEVELOPMENT AGREEMENT FOR THE CATFISH  
COMMONS PLANNED COMMERCIAL DEVELOPMENT;  
PROVIDING FOR THE REPEAL OF CONFLICTING  
ORDINANCES; PROVIDING FOR SEVERABILITY OF; AND  
PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City and Developer desire to enter into the First Amendment to the Restated Master Development Agreement for the Catfish Commons Planned Commercial (hereinafter referred to as the “First Amendment”); and

WHEREAS, the Owner submitted a request to the Planning Commission to approve the First Amendment; and

WHEREAS, a public hearing was held following public notice as prescribed by ordinance; and

WHEREAS, the Planning Commission has by majority vote recommended approval of the proposed First Amendment; and

WHEREAS, the City Council has approved by a majority vote of the members present the First Amendment.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The City Council of the City of Port Orange does hereby approve the First Amendment (attached hereto as **Exhibit “1”**).

Section 2. The Mayor and City Clerk are hereby authorized to execute said First Amendment.

Section 3. All ordinances or parts of ordinances in conflict with the provisions of

this ordinance are hereby repealed to the extent of such conflict.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this ordinance are declared severable.

Section 5. This ordinance shall become effective immediately upon adoption.

\_\_\_\_\_  
MAYOR DONALD O. BURNETTE

ATTEST:

\_\_\_\_\_  
Robin L. Fenwick, MMC, City Clerk

Passed on first reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2024

Passed and adopted on second and final reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2024

Reviewed and Approved: \_\_\_\_\_  
Shannon K. Balmer, Assistant City Attorney

# EXHIBIT "1"

## FIRST AMENDMENT TO THE RESTATED MASTER DEVELOPMENT AGREEMENT FOR THE CATFISH COMMONS PLANNED COMMERCIAL DEVELOPMENT

This agreement constitutes the First Amendment to the Restated Master Development Agreement for the Catfish Commons Planned Commercial Development ( "First Amendment"), entered into between the City of Port Orange, a Florida municipal corporation, having a mailing address of 1000 City Center Circle, Port Orange, Florida 32129 (hereinafter the "City"); and Commons 4075, LLC having a mailing address of 4190 Halifax Drive, Port Orange, Florida 32127 (the "Owner" or "Developer"), who hereby agree and covenant and bind their successors and assigns as follows:

**WHEREAS**, the Owner is the owner of the property described in Exhibit "A", which is attached hereto and by reference made a part hereof (the "Property"), the only property impacted by this First Amendment; and

**WHEREAS**, The City and Property Owners have previously entered into a Restated Master Development Agreement for Catfish Commons Planned Commercial Development recorded in Official Record Book 8278, Page 3843 all in Public Records, Volusia County, Florida ("Original MDA"); and

**WHEREAS**, the City and Owner want to amend the Original MDA as it applies to the Property for the purposes as set forth herein below.

NOW, THEREFORE, the City and Owner hereby agree as follows:

1. The premises stated above are true, and correct and form a material part of the First Amendment to the Restated Master Development Agreement for Catfish Commons Planned Commercial Development.
2. Paragraph 14. "SIGNAGE," Section A of the Restated Master Development Agreement, is hereby amended to read as follows:
  - A. The tenant at 4009 Halifax Dr shall be permitted to have a sign panel on the monument sign at 4075 Ridgewood Avenue. A multi-tenant monument sign at 4075 Ridgewood Avenue may have a maximum sign area not to exceed 84 square feet.
3. This First Amendment to the Restated Master Development Agreement shall be effective as of the date it is executed by all parties.
4. This First Amendment to the Restated Master Development Agreement shall be recorded in the public records of Volusia County, Florida, at the Developer's expense.
5. The Restated Master Development Agreement, as previously enacted, shall remain in full force and effect except with respect to those matters specifically amended by this First Amendment to the Restated Master Development Agreement

[SIGNATURES ON FOLLOWING PAGE]

**IN WITNESS WHEREOF**, the parties have executed this First Amendment to the Restated Master Development Agreement, by and through their duly authorized representatives, on the respective dates below:

**WITNESSES:**

**CITY:**

**CITY OF PORT ORANGE**, a Florida municipal Corporation

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

By: \_\_\_\_\_  
Donald O. Burnette, Mayor

Attest: \_\_\_\_\_  
Robin L. Fenwick, MMC, City Clerk

Date: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of [XX] physical presence or [ ] online notarization this \_\_\_\_\_ day of \_\_\_\_\_ 2024, by Donald O. Burnette, Mayor and by Robin L. Fenwick, City Clerk, both of the City of Port Orange, Florida a Florida Municipal Corporation, on behalf of the City. They are personally known to me and did not take an oath.

\_\_\_\_\_  
Print Name:  
Notary Public, State of Florida  
My commission expire

WITNESSES:

**COMMONS 4075 LLC, a Florida limited liability company**

\_\_\_\_\_  
*Print Name:* \_\_\_\_\_

By: \_\_\_\_\_  
Brendan Galbreath, Member

\_\_\_\_\_  
*Print Name:* \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me by means of  physical presence or  online notarization this \_\_\_ day of \_\_\_\_\_ 2024, by Brendan Galbreath, Manager of **Commons 4075, LLC**, who is  personally known to me or  who have produced \_\_\_\_\_ as identification and who did not take an oath.

\_\_\_\_\_  
Notary Public, State of Florida at Large  
*Printed name, commission and expiration of commission term:*



**EXHIBIT A**  
**LEGAL DESCRIPTION – 4075 RIDGEWOOD AVENUE**

PARCEL 1 PART OF LOTS 1, 2, AND 3, BLOCK 'A', WILSON'S SUBDIVISION OF PORT ORANGE, AS RECORDED IN MAP BOOK 1, PAGE 154, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

FROM A REFERENCE POINT, BEING THE INTERSECTION OF THE SOUTHERLY LINE OF BLOCK 'A', WILSON'S SUBDIVISION OF PORT ORANGE WITH THE EASTERLY LINE OF RIDGEWOOD AVENUE (U.S. HIGHWAY #1), A 100 FOOT STREET AS PRESENTLY ESTABLISHED, RUN THENCE NORTH 26 DEGREES 27 MINUTES 47 SECONDS WEST ALONG SAID EASTERLY LINE, A DISTANCE OF 35.10 FEET; THENCE CONTINUE ALONG SAID EASTERLY LINE NORTH 21 DEGREES 01 MINUTES 08 SECONDS WEST, A DISTANCE OF 38.68 FEET TO A POINT ON A CURVE CONCAVE EASTERLY; THENCE ALONG SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 126.51 FEET, A CENTRAL ANGLE OF 00 DEGREES 29 MINUTES 26 SECONDS AND A CHORD BEARING OF NORTH 24 DEGREES 14 MINUTES 04 SECONDS WEST, AN ARC LENGTH OF 1.08 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID CURVE TO THE RIGHT AND ALONG THE SOUTHERLY LINE OF THE PORT ORANGE BRIDGE APPROACH, HAVING A RADIUS OF 126.51 FEET, A CENTRAL ANGLE OF 81 DEGREES 29 MINUTES 04 SECONDS AND A CHORD BEARING OF NORTH 16 DEGREES 52 MINUTES 36 SECONDS EAST, AN ARC LENGTH OF 179.92 FEET TO A POINT; THENCE NORTH 57 DEGREES 37 MINUTES 07 SECONDS EAST, A DISTANCE OF 123.70 FEET; THENCE SOUTH 19 DEGREES 32 MINUTES 00 SECONDS EAST, FOR A DISTANCE OF 70.94 FEET; THENCE NORTH 77 DEGREES 11 MINUTES 31 SECONDS EAST, A DISTANCE OF 36.78 FEET; THENCE SOUTH 24 DEGREES 46 MINUTES 56 SECONDS EAST, A DISTANCE OF 136.60 FEET TO THE SOUTHERLY LINE OF BLOCK 'A'; THENCE SOUTH 65 DEGREES 15 MINUTES 18 SECONDS WEST, ALONG SAID SOUTHERLY LINE A DISTANCE OF 98.66 FEET; THENCE NORTH 23 DEGREES 06 MINUTES 28 SECONDS WEST, A DISTANCE OF 75.0 FEET; THENCE SOUTH 65 DEGREES 15 MINUTES 18 SECONDS WEST, AND PARALLEL TO THE SOUTHERLY LINE OF BLOCK "A", 165.40 FEET TO THE POINT OF BEGINNING.

PARCEL 2

PART OF LOT 1, BLOCK 'A', WILSON'S SUBDIVISION OF PORT ORANGE, AS RECORDED IN MAP BOOK 1, PAGE 154, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY LINE OF BLOCK 'A', WILSON'S SUBDIVISION OF PORT ORANGE WITH THE EASTERLY LINE OF RIDGEWOOD AVENUE (U.S. HIGHWAY #1), A 100 FOOT STREET AS PRESENTLY ESTABLISHED, RUN THENCE NORTH 26 DEGREES 27 MINUTES 47 SECONDS WEST ALONG SAID EASTERLY LINE A DISTANCE OF 35.10 FEET; THENCE CONTINUE ALONG SAID EASTERLY LINE NORTH 21 DEGREES 01 MINUTES 08 SECONDS WEST A DISTANCE OF 38.68 FEET TO A POINT ON A CURVE CONCAVE EASTERLY; THENCE ALONG SAID CURVE TO THE RIGHT, HAVING A RADIUS OF 126.51 FEET, A CENTRAL ANGLE OF 00 DEGREES 29 MINUTES 26 SECONDS AND A CHORD BEARING OF NORTH 24 DEGREES 14 MINUTES 04 SECONDS WEST, AN ARC LENGTH OF 1.08 FEET TO A POINT; THENCE NORTH 65 DEGREES 15 MINUTES 18 SECONDS EAST, AND PARALLEL TO THE SOUTHERLY LINE: OF BLOCK 'A', A DISTANCE OF 165.40 FEET; THENCE SOUTH 23 DEGREES 06 MINUTES 28 SECONDS EAST, A DISTANCE OF 75.00 FEET TO THE SOUTHERLY LINE OF BLOCK 'A'; THENCE SOUTH 65 DEGREES 15 MINUTES 18 SECONDS WEST ALONG SAID SOUTHERLY LINE A DISTANCE OF 164.73 FEET TO THE POINT OF BEGINNING.