

ORDINANCE NO. \_\_\_\_\_

---

**AN ORDINANCE AUTHORIZING A SECOND AMENDMENT TO FUNDING AND DEVELOPMENT AGREEMENT WATERWAY BOULEVARD EAST, AS AMENDED, BETWEEN THE CITY OF GULF SHORES, ALABAMA AND COASTAL RESORT PROPERTIES LP**

---

WHEREAS, the City of Gulf Shores (the “City”) and Coastal Resort Properties LP (“CRP”) have heretofore executed and delivered a Funding and Development Agreement Waterway Boulevard East dated as of November 23, 2020 (the “Funding and development Agreement”) and a First Amendment to Funding and Development Agreement Waterway Boulevard East dated April 13, 2021 (the “First Amendment”) (the Funding and Development Agreement and the First Amendment are sometimes hereinafter collectively referred to as the “Current Agreement”).

WHEREAS, the Current Agreement is in full force and effect.

WHEREAS, CRP has requested to amend the requirement in the Current Agreement that CRP post a letter of credit in favor of the City as security for the obligations of CRP thereunder.

WHEREAS, the City has agreed to such request upon the condition that, instead of posting a letter of credit in favor of the City as security for the obligations of CRP, CRP wire-transfer liquid funds in the outstanding amount of such letter of credit to an account in the name of the City, which will be drawn on by the City pursuant to procedures set forth in the Agreement defined below.

WHEREAS, the City and CRP have agreed and determined that is in their mutual interest to execute and deliver the Second Amendment to Funding and Development Agreement Waterway Boulevard East to be dated March 27, 2023 (the “Second Amendment”) attached hereto as Exhibit A. The Current Agreement, as amended by the Second Amendment, is sometimes hereinafter collectively referred to as the “Agreement”).

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GULF SHORES, ALABAMA AS FOLLOWS:

**Section 1. Findings and Representations.**

The City of Gulf Shores (the “City”), by and through the City Council, its governing body, does hereby find and determine that the foregoing WHEREAS clauses are accurate and correct in all general respects and are hereby incorporated herein by reference.

**Section 2. Authorization of Second Amendment to Funding and Development Agreement Waterway Boulevard East.**

(a) The Second Amendment to Funding and Development Agreement Waterway Boulevard East, to be dated March 27, 2023, in substantially the form presented to this meeting, is hereby approved and authorized and the Mayor and City Clerk/Treasurer are further authorized and directed to execute, attest, seal, and deliver the same.

(b) A copy of the substantially final form of such Second Amendment to Funding and Development Agreement Waterway Boulevard East is attached hereto as Exhibit A and incorporated herein by reference.

**Section 3. Severability.**

The provisions of this Ordinance are severable. In the event that any one or more of such provisions or the provisions of the Warrant shall, for any reason, be held illegal or invalid, such illegality or invalidity shall not affect the other provisions of this Ordinance or of the Agreement, and this Ordinance and the Agreement shall be construed and enforced as if such illegal or invalid provision had not been contained herein or therein.

**Section 4. Repeal of Conflicting Provisions.**

All ordinances, proceedings and orders or parts thereof in conflict with this Ordinance are, to the extent of such conflict, hereby repealed.

STATE OF ALABAMA  
BALDWIN COUNTY

**CERTIFICATE OF CITY CLERK/TREASURER**

I, the undersigned, do hereby certify as follows: (1) I am the duly elected, qualified and City Clerk/Treasurer of the City of Gulf Shores (the "City"), (2) as City Clerk of the City I have access to all original records of the City and I am duly authorized to make certified copies of its records on its behalf, (3) the above and foregoing pages constitute a complete, verbatim and compared copy of excerpts from the minutes of a rescheduled regular meeting of the City Council of the City duly held on March 27, 2023, (4) the ordinance set forth in such excerpts is a complete, verbatim and compared copy of such ordinance as introduced and adopted by the City Council on such date, and (5) said ordinance is in full force and effect and has not been repealed, amended or changed.

IN WITNESS WHEREOF, I have hereunto set my hand as Clerk/Treasurer of the City of Gulf Shores and have affixed the official seal of the City, this the 27th day of March, 2023.

---

Clerk/Treasurer

CITY SEAL

**EXHIBIT A**

**Form of Second Amendment to Funding and Development Agreement Waterway Boulevard East**

**SECOND AMENDMENT TO FUNDING AND DEVELOPMENT AGREEMENT**  
**WATERWAY BOULEVARD EAST**

This **SECOND AMENDMENT TO FUNDING AND DEVELOPMENT AGREEMENT WATERWAY BOULEVARD EAST**(the "Second Amendment") is hereby made and entered into on March 27, 2023 (the "Effective Date") by and between the **CITY OF GULF SHORES, ALABAMA**, an Alabama municipal corporation (the "City"), and **COASTAL RESORT PROPERTIES LP**, an Alabama limited partnership (collectively with its successors and assigns, "CRP"). CRP and the City are herein together sometimes referred to individually as a "Party" or collectively as the "Parties."

**Recitals**

The City and CRP have heretofore executed and delivered a Funding and Development Agreement Waterway Boulevard East dated as of November 23, 2020 (the "Funding and development Agreement") and a First Amendment to Funding and Development Agreement Waterway Boulevard East dated April 13, 2021 (the "First Amendment") (the Funding and Development Agreement and the First Amendment are sometimes hereinafter collectively referred to as the "Current Agreement").

The Current Agreement is in full force and effect.

CRP has requested to amend the requirement in the Current Agreement that CRP post a letter of credit in favor of the City as security for the obligations of CRP thereunder.

The City has agreed to such request upon the condition that, instead of posting a letter of credit in favor of the City as security for the obligations of CRP, CRP wire-transfer liquid funds in the outstanding amount of such letter of credit to an account in the name of the City, which will be drawn on by the City pursuant to procedures set forth in the Agreement defined below.

The City and CRP have agreed and determined that is in their mutual interest to execute and deliver this Second Amendment. The Current Agreement, as amended by this Second Amendment, is sometimes hereinafter collectively referred to as the "Agreement."

**Agreement**

**NOW, THEREFORE**, for and in consideration of the foregoing premises, the covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby covenant, agree and bind themselves as follows:

**SECTION 1. AMENDMENTS TO CURRENT AGREEMENT.**

(a) Amendment to Section 4(a) of the Current Agreement. Section 4(a) of the Current Agreement, requiring CRP to deliver a letter of credit in favor of the City, is hereby deleted in its entirety and replaced with the following:

"As consideration for the agreements of the City hereunder, CRP shall, not later than 12:00 p.m. (Gulf Shores, Alabama Time) on March 31, 2023, deposit the sum of \$9\_\_\_\_,\_\_\_\_ into an account in the name of the City (the "Reimbursement Account") pursuant to the wire instructions provided to CRP by the City."

(b) Amendment to Sections 6(c) and (e) of the Current Agreement. Sections 6(c) and (e) are hereby deleted in their entirety.

(c) Amendment to Section 6(d) of the Current Agreement. Section 6(d) of the Current Agreement is hereby renamed as “Section 6(c)”.

(d) Addition of Section 6(d) to the Agreement. Section 6(d) of the Agreement shall read as follows:

“The payment(s) to the City by CRP shall be evidenced by the withdrawal by the City of the Quarterly Reimbursement Amount from the Reimbursement Account.”

(e) Amendment to Section 6(f) of the Current Agreement. Section 6(f) of the Current Agreement is hereby renamed as “Section 6(e).”

**SECTION 2. Binding Effect; Governing Law.** This Agreement shall inure to the benefit of and shall be binding upon the City and CRP and their respective successors and assigns. This Agreement shall be governed exclusively by the applicable laws of the State of Alabama.

**SECTION 3. Severability.** The provisions of this Agreement shall be severable. In the event any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any of the remaining provisions hereof.

**SECTION 4. Effective Date.** This Funding Agreement shall take effect upon the date hereof.

**IN WITNESS WHEREOF**, the City and CRP have each caused this Agreement to be duly executed in its name, under seal, and the same attested, all by officers thereof duly authorized thereunto, and have caused this Agreement to be dated the date and year first above written.

ATTEST:

**CITY OF GULF SHORES**

\_\_\_\_\_  
City Clerk/Treasurer

By: \_\_\_\_\_  
Mayor

(SEAL)

**COASTAL RESORT PROPERTIES LP**

By: Coastal Resort GP LLC  
Its General Partner

By: \_\_\_\_\_  
J. Scott Mattei, as Co-Manager

**STATE OF ALABAMA** )  
**BALDWIN COUNTY** )

I, the undersigned authority, a Notary Public in and for said State at Large, hereby certify that Robert Craft, whose name, as Mayor of the City of Gulf Shores, a municipal corporation, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of this instrument, she, as such officer, executed the same voluntarily for and as the act of said corporation on the day the same bears date.

GIVEN under my hand and official seal this \_\_\_\_\_ day of March, 2023.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_

**STATE OF ALABAMA** )  
**BALDWIN COUNTY** )

I, the undersigned authority, a Notary Public in and for said State at Large, hereby certify that J. Scott Mattei, whose name as Co-Manager of Coastal Resort GP LLC, the General Partner of Coastal Resort Properties LP, an Alabama limited partnership, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day, that being informed of the contents of this instrument, \_he, in such capacity, executed the same voluntarily for and as the act of said limited liability company on the day the same bears date.

GIVEN under my hand and official seal this \_\_\_\_\_ day of March, 2023.

(SEAL)

\_\_\_\_\_  
Notary Public  
My Commission Expires \_\_\_\_\_