

RESOLUTION NO. 71-17

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING THE TERMINATION OF DEVELOPMENT AGREEMENT BETWEEN THE CITY AND EDWARDS CDS LLC, EDWARDS ATLANTIC AVENUE LLC, AND EDWARDS INTRACOASTAL, LLC, AS SUCCESSORS IN INTEREST TO CDR ATLANTIC PLAZA, LTD, AND CDS DELRAY REDEVELOPMENT, LLC, FOR THE ATLANTIC CROSSING PROJECT GENERALLY LOCATED BETWEEN NE 6TH AVENUE AND VETERANS PARK AND BETWEEN ATLANTIC AVENUE AND NE1ST STREET; AUTHORIZING EXECUTION OF THE TERMINATING AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Delray Beach, Florida (the “City”) and EDWARDS CDS LLC, a Delaware limited liability company, EDWARDS ATLANTIC AVENUE LLC, an Ohio limited liability company and EDWARDS INTRACOASTAL, LLC, an Ohio limited liability company (collectively the “Developer”) as successor in interest to CDR ATLANTIC PLAZA, LTD, a Florida limited partnership and CDS DELRAY REDEVELOPMENT, LLC, a Florida limited liability company (collectively, “Original Developer”) entered into a Development Agreement in 2011, recorded in Official Records Book 24662, Page 1975 of the Public Records of Palm Beach County, Florida (the “Development Agreement”), related to the 2009 approval of the Atlantic Crossing site plan for property generally located between NE 6th Avenue and Veterans Park and between Atlantic Avenue and NE1st Street; and

WHEREAS, the City and the Developer entered into that certain Settlement Agreement (the “Settlement Agreement”) dated March 3, 2017 and having its effective date April 14, 2017, and the related site plan amendment application was approved by the City on June 20, 2017, to resolve certain State and Federal lawsuits among the parties; and

WHEREAS, the Settlement Agreement requires that the parties terminate the Development Agreement; and

WHEREAS, the City Commission finds that the terms of the Development Agreement are no longer relevant to the current site plan on the project or have been otherwise addressed; and

WHEREAS, the City Commission finds that approval of the termination of Development Agreement is in the best interests of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

**Section 1.** That the foregoing “WHEREAS” clauses are ratified and confirmed as being true and correct factual findings and are made a specific part of this Resolution.

**Section 2.** The Development Agreement is hereby terminated as provided in the “Termination of Development Agreement” attached hereto and incorporated herein as Exhibit 1.

**Section 3.** The Mayor is authorized to execute the Termination of Development Agreement.

**Section 4.** The City Manager is authorized to do all things necessary and expedient to carry out the aims of this Resolution.

**Section 5.** This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED by the City Commission of the City of Delray Beach this 19<sup>th</sup> day of October, 2017.

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MAYOR

ATTEST:

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City Clerk