

ORDINANCE NO. 2018-041

ORDINANCE APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BY AND AMONG FDG COUNTYLINE, LLC, A DELAWARE LIMITED LIABILITY COMPANY, FDG BN EXPANSION, LLC, A DELAWARE LIMITED LIABILITY COMPANY, AND THE CITY OF HIALEAH, FLORIDA, DATED MARCH 31, 2014 APPROVED BY HIALEAH, FLA. ORDINANCE 2014-18 (MARCH 25, 2014), A COPY OF THE AMENDMENT IN SUBSTANTIAL FORM IS ATTACHED HERETO AND MADE A PART HEREOF AS EXHIBIT "1", PROVIDING FOR CHANGES IN THE IMPROVEMENTS TO THE CITY PARK TO BE PERMITTED AND CONSTRUCTED BY THE DEVELOPER IN EXCHANGE FOR THE PAYMENT OF \$500,000.00 BY THE CITY TO THE DEVELOPER UPON CONVEYANCE, APPROVING THE FORM OF DEED, MANNER OF CONVEYANCE AND RESTRICTIONS UPON THE LAND, PROVIDING FOR CHANGES TO THE CONFIGURATION OF THE ROADWAYS TO BE BUILT AND DEDICATED BY DEVELOPER, DEFINING THE LOCATION OF THE EASEMENTS RESERVED BY DEVELOPER ON THE CITY PARK AND PROVIDING FOR DEVELOPER'S OBLIGATIONS FOR CONDUCT WITHIN THE EASEMENT, AMONG OTHER THINGS.

PROPERTY COMPRISING APPROXIMATELY 504 ACRES WITHIN AN AREA BOUNDED ON THE WEST BY NW 107 AVENUE, ON THE NORTH BY NW 170 STREET, ON THE EAST BY NW 97 AVENUE AND ON THE SOUTH BY NW 154 STREET; ALL LOCATED IN HIALEAH, FLORIDA. PROPERTY HAVING A LAND USE CLASSIFICATION OF INDUSTRIAL AND LOCATED WITHIN THE BDH BUSINESS DEVELOPMENT ZONING DISTRICT. REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR A SEVERABILITY

CLAUSE; AND PROVIDING FOR AN
EFFECTIVE DATE.

WHEREAS, the City of Hialeah, FDG Countyline, LLC and FDG BN Expansion, LLC are parties to a Development Agreement dated March 31, 2014, entered into pursuant to the Florida Local Development Agreement Act, sections 163-3220 et seq., Florida Statutes; and

WHEREAS, the Development Agreement provides for the dedication of certain portions for principal roadways to the City, dedication and development of internal roads within the approximately 504-acre development, landfill closure, stormwater drainage plan, mechanism of site plan approval according to a project program for retail and office uses with a land use exchange matrix, and dedication to the City of improved acreage for a park to serve the residential community located in the Annexation Area; and

WHEREAS, the parties now seek to amend the Development Agreement to provide for the design, permitting, landscaping and other improvements to the City Park by the Developer in exchange for the payment of \$500,000.00 as provided for in the Amendment; the time, manner and conditions on the conveyance of the City Park; certain changes to the configuration of the network of roadways to be dedicated and built by the Developer; and the location of the easements reserved by Developer and Developer's obligations for its ongoing operations within the easement area.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this ordinance are hereby adopted and incorporated by reference as if fully set forth herein.

Section 2: The City of Hialeah, Florida hereby approves the Amendment to the Development Agreement dated March 31, 2014 by and among FDG Countyline, LLC., a Delaware limited liability company, FDG BN Expansion, LLC, a Delaware limited liability company, and the City of Hialeah, Florida, a copy of which in substantial form is attached hereto and made a part hereof as Exhibit "1" and in furtherance thereof, the City of Hialeah authorizes the Mayor and City Clerk, as attesting witness, on behalf of the City, to execute the Amendment to the Development Agreement and any other document relating thereto. The Development Agreement covers property comprising approximately 504 acres within an area bounded on the west by NW 107 Avenue, on the north by NW 170 Street, on the east by NW 97 Avenue and on the south by NW 154 Street; all located in Hialeah, Florida. Property having a land use classification of Industrial and located within the BDH Business Development Zoning District.

Section 3: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 4: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 5: Severability Clause.

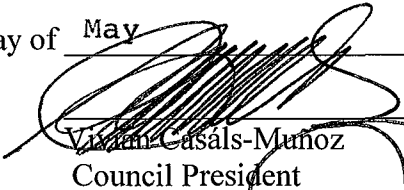
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

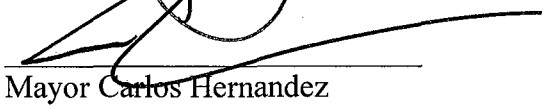
This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.


PASSED and ADOPTED this 22 day of May, 2018.

THE FOREGOING ORDINANCE OF THE CITY OF HIALEAH WAS PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF FLORIDA STATUTE 166.041 PRIOR TO FINAL READING.

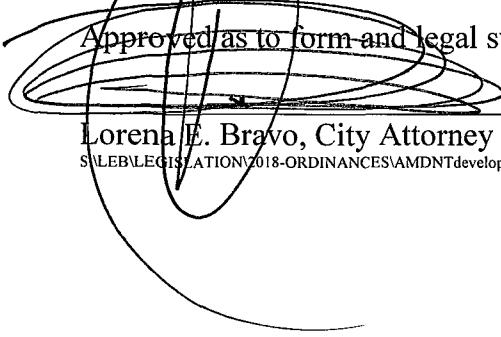

Vivian Casals-Munoz
Council President

Approved on this 24 day of May, 2018.


Mayor Carlos Hernandez


Marbelys Fatjo, City Clerk

Approved as to form and legal sufficiency:


Lorena E. Bravo, City Attorney

Ordinance was adopted by a 6-0-1 vote with Councilmembers, Caragol, Zogby, Lozano, Casals-Munoz, Hernandez and Cue-Fuente voting "Yes" and Garcia-Martinez absent.