

STATE OF SOUTH CAROLINA) AN ORDINANCE OF THE TOWN OF SURFSIDE BEACH  
) TO AUTHORIZE THE LEASE BY THE TOWN OF SURFSIDE  
COUNTY OF HORRY ) BEACH TO PIER OUTFITTERS, INC., RETAIL SPACE ON THE  
) SURFSIDE BEACH PIER ON A MONTH-TO-MONTH AGREEMENT  
TOWN OF SURFSIDE BEACH )

**WHEREAS**, the Mayor and Town Council of the Town of Surfside Beach, in council duly assembled on this 12<sup>th</sup> day of March 2019; and

**WHEREAS**, the Town of Surfside Beach as Landlord entered into a Lease dated 29th February 2008, ("original lease") with Pier Properties, Inc., the predecessor in title to Tenant, for the lease of approximately 1,963 square feet of retail space on the Surfside Pier (depicted on Exhibit A), which Lease had an initial term ending on December 31, 2012 with provisions for automatic extension until December 31, 2017; and

**WHEREAS**, May 10, 2010, Landlord and Tenant entered into a comprehensive Amended Lease Agreement, ("First Amended Lease") which term ran April 1, 2010 to December 31, 2017; and

**WHEREAS**, July 7, 2014, Landlord and Tenant entered into an amended lease agreement ("Second Amended Lease") making certain changes to the Original and First Amended Leases, and incorporating unchanged provisions, but leaving the December 31, 2017 expiration date unchanged; and

**WHEREAS**, January 24, 2017 Landlord at a meeting of Town Council duly assembled, enacted Resolution #17-179 "Memorandum of Understanding" ("2017 MOU") extending the Term to December 31, 2018; and

**WHEREAS** April 24, 2018, Landlord, at a meeting of Town Council duly assembled, enacted Resolution #18-188 "Memorandum of Understanding" ("2018 MOU") agreeing to extend the Term through December 31, 2018, unless earlier termination was required, acknowledging the Pier damage and month to month nature of the extension, eliminating compensation beyond the annual rate, which was raised to \$60,000 (\$12,000 per month May 1, June 1, July 1, August 1, September 1) ; and

**WHEREAS**, under Sec. 3.2, incorporated from the First Amended Lease, the lease terminated without notice thereof December 31, 2018; and

**WHEREAS**, under Sec. 3.3, incorporated from the First Amended Lease, Tenant is holding over, and remains in possession of the premises, in the absence of a written extension of the Lease or a demand by Landlord that Tenant vacate the premises; and

**WHEREAS**, the Lease is now a month-to-month lease, **terminable by either party on 30-days written notice**, and the parties wish to define those terms; and

**WHEREAS**, Landlord has entered into a contract for the demolition of the Surfside Pier, damaged by Hurricane Matthew in 2016, and the Premises are located thereon, making any use of the premises and/or lease impossible at commencement of the demolition contract;

**WHEREAS**, South Carolina Code Section 57-7-260(6) and Town Code Section 2-56 requires that council sell or lease or contract to sell or lease any lands of the municipality by ordinance.

**NOW, THEREFORE**, by the power and authority granted to the Surfside Beach Town Council by the State of South Carolina that of the Surfside Beach Code of Ordinances is hereby approves the terms

of the Mutual Extension and Amendment of Lease Agreement, attached hereto as Exhibit A, which is made a part here of as if fully set out, and hereby directs the Town Administrator to execute said Exhibit A on behalf of the Town of Surfside Beach.

**SEVERABILITY.** If any provision, clause, sentence, or paragraph of this ordinance or the application thereof to any person or circumstances shall be held invalid, that invalidity shall not affect the other provisions of this article, which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

**EFFECT OF SECTION HEADINGS.** The headings or titles of the sections hereof shall be solely for convenience of reference and shall not affect the meaning, construction, interpretation or effect of this ordinance.

**REPEAL AND EFFECTIVE DATE.** All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed. This ordinance shall take effect immediately upon second reading by the Mayor and Town Council of the Town of Surfside Beach.

**BE IT ORDERED AND ORDAINED** by the Mayor and Town Council of the Town of Surfside Beach, South Carolina, in assembly and by the authority thereof, this 26<sup>th</sup> day of March 2019.

**Surfside Beach Town Council**

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Robert F. Childs, III, Mayor

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David L. Pellegrino, Mayor Pro Tempore

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Bruce H. Dietrich, Town Council

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Mark L. Johnson, Town Council

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Ron Ott, Town Council

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Debbie Scoles, Town Council

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Randle M. Stevens, Town Council

Attest:

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Debra E. Herrmann, CMC, Town Clerk