

PREPARED BY AND RETURN TO:
Lynn Solomon, Esq.
City Attorney's Office
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, Florida 33301

AMENDED AND RESTATED
DECLARATION OF RESTRICTIVE COVENANTS

This Amended and Restated Declaration of Restrictive Covenants is intended to replace and supersede that Declaration of Restrictive Covenants recorded February 5, 2021 under instrument No. 117037834.

THIS INDENTURE is made this _____ day of _____, 2022.

WHEREAS, in furtherance of the Plan (defined herein), and pursuant to duly convened public meetings, a certain Fort Lauderdale Community Redevelopment Agency Development Agreement for Non-Residential (Commercial) Façade Improvement Program Agreement dated January 13, 2021, (the "Agreement") was executed by and between Fort Lauderdale Community Redevelopment Agency, a community redevelopment agency created pursuant to Chapter 163, Part III, Florida Statutes ("Agency") and BH3 DJ Flagler LLC, a Delaware limited liability company ("Developer") such Agreement being on file with the City Clerk of the City of Fort Lauderdale, Florida, 100 North Andrews Avenue, Fort Lauderdale, Florida, and such Agreement being in connection with improvements to the Property described in Exhibit "A" owned by Developer; and

WHEREAS, the owner of the Property, BH3 DJ Sub LLC, a Florida limited liability company ("Owner") shall join in this Agreement as amended and restated and the Developer and Owner collectively shall be referred to as Developer under this Agreement as amended; and

WHEREAS, pursuant to the terms of the Agreement, Agency and Developer anticipated that the Property would be subject to a Declaration of Restrictive Covenants, the primary purpose of such Declaration of Restrictive Covenants being to ensure development and operation of the Property in accordance with the Plan which affects this Property and other properties in the vicinity; and

WHEREAS, pursuant to City Commission Resolution No. 95-86, adopted June 20, 1995, and by Resolution No. 01-121, adopted on July 10, 2001, the City of Fort Lauderdale established an area of economic restoration ("CRA Area") for which a Community Redevelopment Plan pursuant to Section 163.360, Florida Statutes was approved by the City Commission by Resolution No. 95-170 on November 7, 1995, as amended on May 15, 2001 by Resolution No. 01-86, and as subsequently amended (the

“Plan”); and

WHEREAS, the Property is located within the CRA Area which has conditions of slum and blight as those conditions are defined in the Constitution of the State of Florida, Section 163.01, Florida Statutes, Chapter 163, Part III, Florida Statutes and other applicable provisions of law and ordinances and Resolutions of the City of Fort Lauderdale and Agency implementing the Community Redevelopment Act; and

WHEREAS, in order to effectuate the terms and conditions contained in the Agreement, and the goals and objectives of the Community Redevelopment Plan, as amended, it is necessary and proper to create this Declaration of Restrictive Covenants; and

NOW, THEREFORE, Developer hereby declares that the Property shall be, held, conveyed, encumbered, leased, rented, used, occupied and improved, subject to the following limitations, restrictions, conditions and covenants, all of which shall run with the land and are declared to be in furtherance of the Agreement and the Plan, as amended, and that such limitations, restrictions, conditions and covenants are also established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and every part thereof and to establish a development compatible with the properties under the Plan, and, in accordance therewith, Developer does hereby create and establish the following Declaration of Restrictive Covenants:

1. Construction and Intent. This Declaration shall be construed and interpreted in conjunction with the terms set forth in the Agreement, as same may be amended from time to time, provided, however, that it is the intent of the Developer that only those sections of the Agreement specifically referenced below shall be construed as covenants running with the property.

2. Restrictions On Use; Declaration of Restrictive Covenants. The Developer covenants and agrees with the Agency that the Project Site shall be continuously used, owned, operated and managed as an American Legion post, as permitted and authorized under the ULDR except as prohibited herein, on the Property for which Agency funding was provided for a period of five (5) years commencing on the date the improvements are complete (“ Project Completion Date”). The Developer further agrees that the building shall not be used for those non-permitted uses as provided in the Unified Land Development Regulations (“ULDR”) and shall not be used for the following: (i) adult uses as such term is defined in Section 47-18.2 of the ULDR; (ii) intentionally omitted; or (iii) intentionally omitted; or (iv) liquor store; or (v) convenience store or convenience kiosk as provided in the ULDR, during a five (5) year term commencing on Project Completion Date.

3. Owner. The actual owner of the Property is BH3 DJ Sub LLC, a Florida limited liability company and by execution of this Amended and Restated Declaration of Restrictive Covenant acknowledges this is a covenant running with the land and is binding on the Property and the Owner shall be bound by the terms and conditions hereof.

Further, all parties, BH3 DJ Flagler LLC and the Owner acknowledge this agreement is intended to modify the Fort Lauderdale Community Redevelopment Agency Development Agreement for Non-Residential (Commercial) Façade Improvement Program to remove any prohibition on uses related to massage parlors or tattoo parlors.

SIGNATURE PAGE TO FOLLOW

OWNER:

WITNESSES:

BH3 DJ SUB, LLC, a Florida limited liability company

[Witness print or type name]

Name:
Print Title:

[Witness print or type name]

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 2022 by _____ as _____ of BH3 DJ Sub, LLC, Florida Limited Liability Company on behalf of the Company. He is personally known to me or has produced _____ as identification.

(SEAL)

Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed,
Printed or Stamped

My Commission Expires:

Commission Number

JOINDER AND CONSENT

THE DEVELOPER JOINS IN AND CONSENTS AS TO THE EXECUTION OF THE DECLARATION OF RESTRICTIVE COVENANTS AND ACKNOWLEDGES AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE RESTRICTIVE COVENANT. THE DEVELOPER ACKNOWLEDGES THAT IT HAS OR WILL RECEIVE A SUBSTANTIAL BENEFIT RESULTING FROM THE IMPROVEMENTS TO THE PROJECT SITE.

liability

DEVELOPER:
BH3 DJ FLAGLER, LLC, a Florida limited company

[Witness print or type name]

Name:
Print Title:

[Witness print or type name]

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 2022 by _____ as _____ of BH3 DJ FLAGLER, LLC, Florida Limited Liability Company on behalf of the Company. He is personally known to me or has produced _____ as identification.

(SEAL)

Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed,
Printed or Stamped

My Commission Expires:

Commission Number

EXHIBIT "A"
LEGAL DESCRIPTION

Lots 13 through 22, inclusive, Block 257, and all of that part of Block 257 lying South of said Lot 22 and East of alley in the Township of Progresso, according to the Plat thereof, as recorded in Plat Book 2, Page 18, of the Public Records of Miami-Dade County, Florida; said lands lying and being in Broward County, Florida.

Property Appraiser Identification Numbers:

4942-3406-2610;

4942-3406-2591;

4942-3406-2580; and

4942-3406-2570

PREPARED BY AND RETURN TO:
Lynn Solomon, Esq.
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City of Fort Lauderdale
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AMENDED AND RESTATED
DECLARATION OF RESTRICTIVE COVENANTS

This Amended and Restated Declaration of Restrictive Covenants is intended to replace and supersede that Declaration of Restrictive Covenants recorded February 5, 2021 under instrument No. 117037831.

THIS INDENTURE is made this _____ day of _____, 2022.

WHEREAS, in furtherance of the Plan (defined herein), and pursuant to duly convened public meetings, a certain Fort Lauderdale Community Redevelopment Agency Property and Business Improvement Program Agreement dated January 13, 2021, (the "Agreement") was executed by and between Fort Lauderdale Community Redevelopment Agency, a community redevelopment agency created pursuant to Chapter 163, Part III, Florida Statutes ("Agency") and BH3 DJ Flagler LLC, a Delaware limited liability company ("Developer") such Agreement being on file with the City Clerk of the City of Fort Lauderdale, Florida, 100 North Andrews Avenue, Fort Lauderdale, Florida, and such Agreement being in connection with improvements to the Property described in Exhibit "A" owned by Developer; and

WHEREAS, the owner of the Property, BH3 DJ Sub LLC, a Florida limited liability company ("Owner") shall join in this Agreement as amended and restated and the Developer and Owner collectively shall be referred to as Developer under this Agreement as amended; and

WHEREAS, pursuant to the terms of the Agreement, Agency and Developer anticipated that the Property would be subject to a Declaration of Restrictive Covenants, the primary purpose of such Declaration of Restrictive Covenants being to ensure development and operation of the Property in accordance with the Plan which affects this Property and other properties in the vicinity; and

WHEREAS, pursuant to City Commission Resolution No. 95-86, adopted June 20, 1995, and by Resolution No. 01-121, adopted on July 10, 2001, the City of Fort Lauderdale established an area of economic restoration ("CRA Area") for which a Community Redevelopment Plan pursuant to Section 163.360, Florida Statutes was approved by the City Commission by Resolution No. 95-170 on November 7, 1995, as amended on May 15, 2001 by Resolution No. 01-86, and as subsequently amended (the "Plan"); and

WHEREAS, the Property is located within the CRA Area which has conditions of slum and blight as those conditions are defined in the Constitution of the State of Florida, Section 163.01, Florida Statutes, Chapter 163, Part III, Florida Statutes and other applicable provisions of law and ordinances and Resolutions of the City of Fort Lauderdale and Agency implementing the Community Redevelopment Act; and

WHEREAS, in order to effectuate the terms and conditions contained in the Agreement, and the goals and objectives of the Community Redevelopment Plan, as amended, it is necessary and proper to create this Declaration of Restrictive Covenants; and

NOW, THEREFORE, Developer hereby declares that the Property shall be, held, conveyed, encumbered, leased, rented, used, occupied and improved, subject to the following limitations, restrictions, conditions and covenants, all of which shall run with the land and are declared to be in furtherance of the Agreement and the Plan, as amended, and that such limitations, restrictions, conditions and covenants are also established for the purpose of enhancing and protecting the value, desirability and attractiveness of the Property and every part thereof and to establish a development compatible with the properties under the Plan, and, in accordance therewith, Developer does hereby create and establish the following Declaration of Restrictive Covenants:

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intended to modify the Fort Lauderdale Community Redevelopment Agency Property and Business Improvement Program Agreement to remove any prohibition on uses related to massage parlors or tattoo parlors.

SIGNATURE PAGE TO FOLLOW

OWNER:

WITNESSES:

BH3 DJ SUB, LLC, a Florida limited liability company

[Witness print or type name]

Name:
Print Title:

[Witness print or type name]

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 2022 by _____ as _____ of BH3 DJ Sub, LLC, Florida Limited Liability Company on behalf of the Company. He is personally known to me or has produced _____ as identification.

(SEAL)

Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Name of Notary Typed,
Printed or Stamped

My Commission Expires:

Commission Number

JOINDER AND CONSENT

THE DEVELOPER JOINS IN AND CONSENTS AS TO THE EXECUTION OF THE DECLARATION OF RESTRICTIVE COVENANTS AND ACKNOWLEDGES AND AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE RESTRICTIVE COVENANT. THE DEVELOPER ACKNOWLEDGES THAT IT HAS OR WILL RECEIVE A SUBSTANTIAL BENEFIT RESULTING FROM THE IMPROVEMENTS TO THE PROJECT SITE.

DEVELOPER:
BH3 DJ FLAGLER, LLC, a Florida limited liability company

[Witness print or type name]

Name:
Print Title:

[Witness print or type name]

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this ____ day of _____, 2022 by _____ as _____ of BH3 DJ FLAGLER, LLC, Florida Limited Liability Company on behalf of the Company. He is personally known to me or has produced _____ as identification.

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