

RESOLUTION NO. 21-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING EXECUTION OF A FIFTH AMENDMENT TO THE GROUND LEASE AGREEMENT, AS AMENDED, BETWEEN THE CITY OF FORT LAUDERDALE AND LAS OLAS SMI, LLC FOR THE PROPERTY LOCATED AT 201 SOUTH BIRCH ROAD AND 240 E. LAS OLAS CIRCLE, FORT LAUDERDALE, FLORIDA; REPEALING ANY AND ALL RESOLUTIONS IN CONFLICT HEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Fort Lauderdale (“Lessor”) is the owner in fee simple of certain uplands located at 201 South Birch Road in the City of Fort Lauderdale, Broward County, Florida and the leasehold owner of certain submerged sovereign land located at 240 E. Las Olas Circle in the City of Fort Lauderdale, Broward County, Florida (commonly known as the “Las Olas Marina”); and

WHEREAS, Lessor and Las Olas SMI, LLC (“Lessee”) executed that certain Ground Lease Agreement with an Effective Date of April 30, 2018 (the “Lease”) whereby Lessor leased to Lessee the Las Olas Marina pursuant to Resolution No. 17-154 for a 50-year term plus 5 years for construction; and

WHEREAS, the First Amendment to the Lease, pursuant to Resolution No. 19-69, authorized the Lessee to extend the Predevelopment Period from May 3, 2019 to December 31, 2019 to complete its due diligence; and

WHEREAS, the Second Amendment to the Lease, pursuant to Resolution No. 19-141, authorized revision of the definition of Plans set forth in Section 8.1 thereof to replace the Site Plan rendering previously approved by the City Commission under Resolution No. 16-180 and introduced the new Site Plan known as Alternate Proposal Site D; and

WHEREAS, the Third Amendment to the Lease, pursuant to Resolution No. 19-246, revised the conditions for the pre-development Period; and

WHEREAS, the Fourth Amendment to the Lease, pursuant to Resolution No. 21-74, revised the definitions of Demised Premises, Percentage Rent and other definitions, added the definition of Wayfinding Signage, provided for an offset in rent and made other material modifications to the Lease; and

WHEREAS, the Lessee has requested Lessor approve a Fifth Amendment to the Lease, to modify the Lease to confirm the date of Possession, Commencement Date and other critical dates under the Lease and to defer satisfaction of certain preconditions.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. The Recitals are true and correct and incorporated herein by reference.

SECTION 2. That the City Commission of the City of Fort Lauderdale, Florida, hereby approves the Fifth Amendment and confirmation letter attached to the Fifth Amendment, in substantially the form attached to CAM 21-0905.

SECTION 3. That the City Commission of the City of Fort Lauderdale, Florida hereby authorizes execution of the Fifth Amendment to the Lease, as amended, by the Mayor and City Manager, subject to final review and approval by the City Attorney's office.

SECTION 4. That any and all Resolutions, or parts thereof, in conflict herewith are hereby repealed.

SECTION 5. That this Resolution shall take effect upon final passage.

ADOPTED this _____ day of _____, 2021.

Mayor
DEAN J. TRANTALIS

ATTEST:

City Clerk
JEFFREY A. MODARELLI