

**This Instrument Was Prepared By and  
After Recording, Return to:  
Robert B. Dunckel, Esq.  
Assistant City Attorney  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301**

**FOURTH AMENDMENT  
TO  
LEASE AGREEMENT**

THIS FOURTH AMENDMENT TO LEASE AGREEMENT (this "Fourth Amendment") is entered into this 4th day of June, 2013 by and between:

**CITY OF FORT LAUDERDALE**, a municipal corporation, its successors and assigns, 100 North Andrews Avenue, Fort Lauderdale, FL. 33301 (hereinafter, "LESSOR")

and

**CASTILLO GRAND, L.L.C.**, a Florida Limited Liability Company, its successors and assigns, 2455 E. Sunrise Boulevard, Suite 916, Fort Lauderdale, FL 33304 (hereinafter, "LESSEE")

WHEREAS, execution of this Fourth Amendment to Lease Agreement was authorized by adoption of a motion by the City of Fort Lauderdale City Commission at their Regular Meeting held June 4, 2013; and

WHEREAS, LESSOR and LESSEE entered into a Lease Agreement, dated March 20, 2001, recorded March 22, 2001 at Official Records Book 31401, Page 1823 of the Public Records of Broward County, Florida, pursuant to which LESSEE leased from LESSOR certain ingress/egress rights from southbound roadway A-I-A to LESSEE's hotel property as described therein (the "Initial Lease Agreement");

WHEREAS, the Initial Lease Agreement was amended by that certain First Amendment to Lease Agreement, dated April 5, 2001, recorded May 18, 2001 at Official Records Book 31614, Page 0821 of the Public Records of Broward County, Florida; that certain Second Amendment to Lease Agreement, dated June 10, 2003, recorded June 17, 2003 at Official Records Book 35393, Page 1341 of the Public Records of Broward County, Florida; and that certain Second (sic) Amendment to Lease Agreement dated March 7, 2006, recorded at Official Records Book 41842, Page 1256 of the Public Records of Broward County, Florida (the Initial Lease Agreement, as so amended, the "Lease Agreement"); and

WHEREAS, LESSOR and LESSEE desire to further amend the Lease Agreement as set forth herein.

NOW, THEREFORE, that in consideration of the foregoing, and the mutual covenants exchanged herein and other good and valuable considerations, to which the receipt and sufficiency are stipulated between the parties, LESSOR and LESSEE agree as follows:

1. The foregoing recitals are true and correct.
2. Paragraph 7.3 of the Lease Agreement is hereby amended as follows:

“7.3 Unity of Title, Assignment.

(a) LESSEE agrees, for itself and its successors and assigns, that fee simple ownership of the St. Regis Hotel Property and LESSEE’s right, title, interest, obligations and responsibilities under this Lease shall be irrevocably bound together during the term of this Lease, it being the intent of the parties that this Lease and LESSEE’s right, title, interest, obligations and responsibilities under this Lease shall be deemed covenants running with the St. Regis Hotel Property during the term of this Lease.

(b) LESSEE may not sell, transfer or assign its leasehold interest under this Lease or any interest herein, without the prior written consent of LESSOR, which such consent shall be given to the assignee or transferee of LESSEE’s fee simple interest in the St. Regis Hotel Property and shall be given in a recordable form and shall be recorded by LESSEE or LESSEE’s assignee or transferee. Such consent shall be conditioned upon LESSEE’s assignee or transferee assumption of all obligations arising under this Lease, past, present and future, and LESSEE shall be fully released and relieved from all liability and obligation hereunder. LESSEE shall not assign or attempt to assign its leasehold interest in this Lease or any portion thereof prior to completion of construction. Assignment of this Lease shall only be made to the fee simple owner of the St. Regis Hotel Property.

(c) Notwithstanding the foregoing, LESSEE may collaterally assign this Lease to any institutional lender that holds a first mortgage lien on the St. Regis Hotel Property (“Mortgage Lender”) and may transfer or assign LESSEE’s interest in this Lease to such Mortgage Lender upon foreclosure or acceptance of a deed in lieu of foreclosure of such first mortgage lien. Upon such transfer or assignment upon foreclosure or deed in lieu of foreclosure, LESSOR shall recognize the Mortgage Lender as the lessee under this Lease and such Mortgage Lender shall be entitled to all of the rights and privileges of LESSEE under this Lease.”

3. Paragraph 9.1 of the Lease Agreement is hereby amended as follows:

“9.1 **Workers’ Compensation.** At all times during this Lease, LESSEE shall, at its sole cost and expense, ~~carry, maintain, and pay~~ cause to be carried, maintained and paid for all necessary Workers’ Compensation insurance with coverage for its any employees, agents, contractors and subcontractors and their respective employees performing any work on the Leased Premises, Landscape Parcels or Castillo Street Improvements.”

4. Paragraph 9.5 of the Lease Agreement is hereby amended as follows:

**“9.5 Policies.** Subject to the last sentence of this Paragraph 9.5, LESSEE shall deliver to LESSOR’s Risk Manager ~~duplicate copies~~ certificates of insurance for ~~of~~ all insurance policies required under this Article and proof of full payment therefor within ten (10) days prior to the Commencement Date of this Lease. From time to time, LESSEE shall procure and pay for renewals of this insurance before it expires. LESSEE shall deliver to LESSOR the ~~renewal policy~~ certificates of insurance at least twenty (20) days before the existing policy expires. All of the policies of insurance provided for in this Lease:

(i) shall be in the form and substance approved by the Insurance Department of the State of Florida (“D.O.I.”),

(ii) shall be issued only by companies licensed by the D.O.I.,

(iii) shall be with a carrier having an A Best’s Rating of not less than A<sub>-</sub>, class VII,

(iv) shall bear endorsements showing the receipt by the respective companies of the premiums thereon or shall be accompanied by other evidence of payment of such premiums to the insurance companies, including evidence of current annual payment, if on any installment payment basis,

(v) shall provide (i) that they may not be canceled by the insurer for thirty (30) days after service of notice of the proposed cancellation upon LESSOR and shall not be invalidated as to the interest of LESSOR by any act, omission or neglect of LESSEE and (ii) waiver of subrogation as to LESSEE’s claims against LESSOR, and

(vi) with the exception of Worker’s Compensation and General Commercial Liability Insurance coverage, all such insurance to be provided by LESSEE under this Lease shall name the LESSEE and LESSOR as insured or additional insured, as their respective interests may appear. The All Risk Policy shall include LESSOR’s interest as a loss payee. All such policies of insurance shall also provide for the adjustment of claims under such policies by LESSEE.

In any case where the original policy of any such insurance shall be delivered to LESSEE, a duplicate original or certificate of such policy shall thereupon be delivered to LESSOR. All insurance policies shall be renewed by LESSEE, and certificates evidencing such renewals, bearing endorsements or accompanied by other evidence of the receipt by the respective insurance companies of the premiums thereon, shall be delivered to LESSOR, at least twenty (20) days prior to their respective expiration dates.

Notwithstanding the foregoing, LESSEE shall not be required to deliver copies of any insurance policies to LESSOR provided that (a) reasonably

satisfactory certificates evidencing such insurance policies are delivered to LESSOR; and (b) copies of such insurance policies are made available to LESSOR for review upon reasonable advance notice.

5. LESSOR and LESSEE hereby ratify and confirm the Lease Agreement, as amended.

6. This Fourth Amendment shall be recorded at LESSEE's sole cost and expense, in the Public Records of Broward County, Florida and a copy thereof shall be filed with the City Clerk's Office of the City of Fort Lauderdale.

7. In the event and to the extent of conflict between the terms and conditions of this Fourth Amendment and the terms and conditions of the Lease Agreement, then, to the extent of conflict, the terms and conditions of this Fourth Amendment shall supersede and prevail over any conflicting terms and conditions set forth in the Lease Agreement.

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IN WITNESS WHEREOF, the parties have set their hands and seals the day and year first above written.

WITNESSES:

CITY OF FORT LAUDERDALE

\_\_\_\_\_  
[Witness type or print name]

By: \_\_\_\_\_  
Mayor

\_\_\_\_\_  
[Witness type or print name]

By: \_\_\_\_\_  
City Manager

[CORPORATE SEAL]

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida, who is personally known to me or has produced \_\_\_\_\_ (state) driver's license or \_\_\_\_\_ as identification.

My Commission Expires:

(AFFIX NOTARY SEAL)

\_\_\_\_\_  
Notary Public (Signature)

\_\_\_\_\_  
(Printed Name)

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_, City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida, who is personally known to me or has produced \_\_\_\_\_ (state) driver's license or \_\_\_\_\_ as identification.

My Commission Expires: \_\_\_\_\_

(AFFIX NOTARY SEAL)

\_\_\_\_\_  
Notary Public (Signature)

\_\_\_\_\_  
(Printed Name)

EXECUTED IN THE PRESENCE OF:

CASTILLO GRAND, L.L.C., a Florida Limited Liability Company

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2013, by \_\_\_\_\_ as \_\_\_\_\_ of CASTILLO GRAND, L.L.C., a Florida Limited Liability Company, on behalf of the limited liability company, who is personally known to me or has produced \_\_\_\_\_ (state) driver's license or \_\_\_\_\_ as identification.

My Commission Expires: \_\_\_\_\_

(AFFIX NOTARY SEAL)

\_\_\_\_\_  
Notary Public (Signature)

\_\_\_\_\_  
(Printed Name)