


10-7-14
CM-21
14-0859

Memorandum
No. 15-55

City Attorney's Office

To: Wendy Gonyea, Assistant City Clerk IV

From: Robert B. Dunckel, Assistant City Attorney 

Date: June 3, 2015

Re: Revocable License Agreement and Agreement Ancillary to Revocable License Agreement with TRG New River II, Ltd.

Attached please find an original Agreement Ancillary to Revocable License Agreement between the City and TRG New River II, Ltd. which has been recorded in the public records of Broward County. Commission Agenda Memo 14-0859 authorized execution of the Revocable License Agreement and Agreement Ancillary to Revocable License Agreement on October 7, 2014 by item CM-21.

As we recently discussed, our office did not have an original Revocable License Agreement, but as you can see the recorded Agreement Ancillary to Revocable License Agreement contains the Revocable License as Exhibit A.

RBD/ka/15-055

Attachment

cc: Judy Johnson, Administrative Assistant I

L:\RBD\memos\2015\M - 15-055 Jonda TRG New River II.docx

CITY CLERK
2015 JUN -3 PM 6:37

This Instrument prepared
by and return to:
Robert Duncel, Assistant City Attorney
City of Ft. Lauderdale
100 N. Andrews Avenue
Ft. Lauderdale, FL 33301

INSTR # 112888615
Recorded 03/26/15 09:31:22 AM
Broward County Commission
Deputy Clerk 3370
#1, 36 Pages

**AGREEMENT ANCILLARY
TO
REVOCABLE LICENSE AGREEMENT
("Agreement")**

THIS IS AN AGREEMENT ANCILLARY TO A REVOCABLE LICENSE AGREEMENT (hereinafter "Agreement") made and entered into this 20th day of October by and between:

TRG NEW RIVER II, LTD., a Florida Limited Partnership organized and authorized to conduct business in the State of Florida, having a principal address of 315 S. Biscayne Boulevard - 3rd Floor, Miami, FL 33131, FEI/EIN No. 201900244, its successors and assigns (hereinafter "LICENSEE")

and

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida having a principal address of 100 North Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter, "CITY")

CITY CLERK
2015 JUN -3 PM 6:37

RECITALS

WHEREAS, CITY and LICENSEE are about to enter into a Revocable License Agreement with Broward County, a political subdivision of the State of Florida (hereinafter, "COUNTY") relative to LICENSEE'S installation and maintenance of certain landscaping and related improvements in the right of way for South Andrews Avenue, the installation and maintenance of such improvements being subject to certain terms and conditions; and

WHEREAS, the Revocable License Agreement with COUNTY and CITY is attached hereto as **Exhibit "A"** and incorporated herein by reference (hereinafter, "RLA"); and

WHEREAS, pursuant to the Florida Transportation Code, South Andrews Avenue is within the County Road System; and

WHEREAS, there are a number of provisions within the RLA that cast obligations on the CITY that exceed that of CITY accepting the obligation of ongoing maintenance of the landscaping, irrigation and other related improvements in the event LICENSEE fails to perform in accordance with the RLA; and

WHEREAS, Section 4.5 of the RLA, provides in pertinent part:

MUNICIPALITY hereby acknowledges and affirms that it shall be responsible for and assume the LICENSEE'S responsibilities and obligations for the ongoing maintenance of the landscaping, irrigation, and related improvements, should LICENSEE *fail to perform or comply with any terms or conditions* of this Agreement. MUNICIPALITY shall be responsible for and assume LICENSEE's responsibilities and obligations upon notice from the COUNTY that LICENSEE has failed to perform or comply with any terms of conditions of this Agreement. (Emphasis supplied.)

WHEREAS, Section 4.6 of the RLA, provides in pertinent part:

The obligations of LICENSEE as set forth in this Agreement may be performed by LICENSEE or MUNICIPALITY through the use of employees, or LICENSEE or MUNICIPALITY may enter into a contract with a third party to perform the services. In the event LICENSEE or MUNICIPALITY contracts with a third party, each shall remain fully responsible hereunder and shall ensure that its contractor complies at all times with each and every term, condition, duty, and obligation set forth herein.

WHEREAS, Section 8 of the RLA provides for indemnification of the COUNTY by the LICENSEE; and

WHEREAS, Section 8 of the RLA provides for the indemnification of the COUNTY by the LICENSEE for that acts or omissions of LICENSEE'S contractors; and

WHEREAS, Section 9 of the RLA obligates LICENSEE to provide certain insurance coverages; and

WHEREAS, by virtue of the clause in Section 4.5 obligating CITY to "be responsible for and assume LICENSEE'S responsibility and obligations . . . should LICENSEE fail to perform or comply with any terms or conditions of this Agreement" the RLA has placed obligations upon CITY that are tantamount to CITY being the guarantor of all of LICENSEE'S acts or omissions under the RLA, including those acts or omissions of any of LICENSEE'S third party contractors; and

WHEREAS, in order to induce the CITY into entering the RLA with the COUNTY and LICENSEE, as a condition precedent to executing the RLA, CITY is requiring LICENSEE to enter into this Agreement with CITY;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other good and valuable considerations, the sufficiency and adequacy of which is hereby acknowledged, LICENSEE and CITY agree as follows:

1. Recitals. The foregoing recitals are true and correct and are hereby ratified and confirmed and incorporated herein.

2. Defined Terms. The following terms, as used and referred to herein, shall have the meanings set forth below, unless the context indicates otherwise.

City Manager means CITY's Chief Executive Officer, its CITY Manager, or his or her designee.

Contract Administrator means the City Engineer of the CITY, or his designee. In the administration of this Revocable License, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator.

Day(s). In computing any period of time expressed in day(s) in this Revocable License, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation.

Effective Date means the effective date of this Agreement, which shall be the date upon which both (i) this Agreement is executed by the proper corporate officials for LICENSEE and (ii) CITY and (iii) the RLA is executed by all parties thereto.

Florida Building Code means The Florida Building Code adopted pursuant to Chapter 553, Florida Statutes and includes the Broward County Amendments thereto.

License Area means that area identified as "Property" in the RLA, being more particularly described in that Sketch and Description attached thereto as **Exhibit "B"**.

LICENSEE means **TRG NEW RIVER II, LTD.**, a Florida Limited Partnership organized and authorized to conduct business in the State of Florida, whose principal address is 315 S. Biscayne Boulevard - 3rd Floor, Miami, FL 33131.

Permit means either a Building Permit issued by the Building Official pursuant to the Florida Building Code and Broward County Administrative Amendments thereto or an Engineering Permit issued by the Office of the CITY Engineer, or both, whichever the case may be.

Person means any individual, firm, partnership (general or limited), corporation, company, association, joint venture, joint stock association, estate, trust, business trust,

cooperative, limited liability corporation, limited liability partnership, limited liability company or association, or body politic, including any heir, executor, administrator, trustee, receiver, successor or assignee or other person acting in a similar representative capacity for or on behalf of such Person.

Plans and Specifications means the signed and sealed engineering drawings, plans, specifications, schematics, drawings, details, and topographic survey for the Project Improvements to be installed, constructed, operated, maintained, repaired within and removed from the License Area(s).

Project means the implementation, construction, installation, operation, maintenance, repair and replacement from time to time of the Project Improvements within the designated License Area for the purpose of establishing, installing, operating, maintaining and repairing, from time to time the Project Improvements as more particularly identified in **Exhibit "C"** to the RLA. The term *Project* also includes the ongoing obligation of maintenance and repair of the Project Improvements within the designated License Area, including reconstruction, repair or reinstallation of Project Improvements from time to time and shall also include the operational activities involved in the Project Improvements as more particularly set forth in the RLA. The term *Project* shall not include the possession, use or occupancy of the designated License Areas for any other purpose, except as expressly authorized in this Revocable License. The term *Project* includes any portion thereof.

Project Improvements means the placement, installation, construction, fabrication of certain improvements within the License Area as more particularly identified in the RLA and **Exhibit "C"** to the RLA. The term *Project Improvements* includes any portion thereof. The Project Improvements are demonstrated schematically on **Exhibit "C"** to the RLA.

Property means the real property identified as the "Burdened Parcel" in the RLA, a Sketch and Description of which is attached as **Exhibit "A"** to the RLA.

Staging of Materials or Equipment means the placement of materials or equipment or parking of vehicles within the License Area or vehicular travel lanes adjacent thereto during the assembling or construction of the Project Improvements in any manner other than (a) temporarily and (b) for the purpose of and while actually engaged in the act of loading or off-loading materials or equipment from a vehicle. Staging of Materials or Equipment shall include equipment or materials off-loaded from a vehicle and placed within the License Area when not being removed from the License Area to LICENSEE's Property as soon as practicable.

Storage is synonymous with *Staging of Materials or Equipment* during the assembling or construction of the Project Improvements and shall mean the placement of materials or equipment within the License Area or any public right of way within two blocks of the Property in such a manner as would constitute *Staging of Materials or Equipment* if the materials or equipment were within the License Area.

3. Compliance and Default. LICENSEE shall comply with each and every term and condition set forth in the RLA and failure to so comply within the applicable cure period

shall constitute a default under this Agreement. Any acts or omissions by LICENSEE or LICENSEE'S contractors which are not in compliance with the terms and conditions of the RLA not cured within the applicable cure period shall constitute a default under this Agreement. Furthermore, LICENSEE shall comply with each and every term and condition set forth in this Agreement.

4. Conditions. The Revocable License granted herein is subject to the following conditions:

4.1 No construction of the Project Improvements shall be commenced prior to issuance of the required Permits.

4.2 For the License Area where the Project Improvements are to be placed, installed or constructed, prior to construction and installation of Project Improvements within the License Area CITY, at the discretion of the City Engineer shall perform, at its sole cost and expense, a sub-surface utility investigation.

4.2.1 In the event defects to any of the subterranean utilities are detected as a result of the sub-surface utility investigation, CITY shall cause to be repaired such defects prior to construction and installation of the Project Improvements.

4.2.2 In the event no defects to any of the subterranean utilities are detected as a result of the sub-surface utility investigation under 4.2.1., LICENSEE shall bear the cost of any repairs required after construction of the Project Improvements for a period of one (1) year after receiving a Certificate of Completion from the CITY Engineer.

4.3 Any damage to existing pavement or to any publicly owned property or rights-of-way, including sidewalk easement, caused by the installation, movement or removal of temporary barrier fencing shall be repaired to the satisfaction of the City Engineer and the cost of such repairs shall be borne by LICENSEE.

4.4 LICENSEE shall provide to the Office of the City Engineer as-built plans, specifications, details and surveys after construction of the Project Improvements.

4.5 LICENSEE shall be responsible for making all utility notifications and obtaining all locations and clearances prior to performing any excavation work, including for the installation of signs and fence posts.

4.6 Any damage to existing pavement or to any publicly owned property or rights-of-way caused by the installation, movement or removal of Project Improvements promptly upon notice from the CITY to LICENSEE shall be repaired to the satisfaction of the Office of City Engineer and the cost of such repairs shall be borne by LICENSEE.

4.7 At the conclusion of the construction and installation phase of the Project, all damage to any elements such as pavement, curbs, sidewalks, signs, markings, landscaping, trees, irrigation, parking meters, light poles, etc. located within the public right of way or License Area promptly upon notice from CITY to LICENSEE shall be repaired or restored to a condition equal to or better than that existing prior to commencement of construction of the Project.

4.8 Storage of construction materials or equipment shall be limited to the Property or other permissible area subject to the limitations referenced herein and shall not be stored within any of the public rights-of-way within a two-block radius of the Property. Staging of Materials and Equipment in the public right of ways is strictly prohibited.

4.9 Storage of dumpsters and debris shall be limited to the Property and shall not be stored, placed or collected within the any of the public rights-of-way within a two-block radius of the Property.

4.10 If needed, as determined by the Contract Administrator, LICENSEE shall provide labor to clean surrounding streets and sidewalks of dirt and debris.

4.11 All material or equipment deliveries shall be placed within the boundaries of the Property, inside the perimeter fencing for the Property, for off-loading to avoid conflicts with pedestrian or vehicular traffic.

5. Cost Recovery and Fees.

5.1 **Annual Inspection Fees.** LICENSEE agrees to pay to CITY for each fiscal year that this Agreement is in effect, commencing with the Effective Date hereof and continuing annually on the first day of January of each year thereafter, an annual inspection fee to be determined by the City Manager which such fee shall be based on CITY'S reasonable projected cost of periodically inspecting the License Area for compliance with the terms and conditions set forth in this Agreement over the then current fiscal year (October 1st through September 30th), such reasonable projected cost of periodic inspections not to exceed \$200.00 per annum.

5.2 **Recovery of Additional Costs of Administration.** In addition to the annual inspection fees set forth above, LICENSEE shall also be obligated to pay additional fees to CITY amounting to the recovery of reasonable costs incurred by CITY in the creation, administration, monitoring and enforcement of this Agreement and the RLA, including, but not limited to, staff time incurred relative thereto, and reasonable cost of CITY'S attorneys' services associated with the preparation and administration of this Agreement and any amendments thereto and including enforcement of the terms thereof, with such reasonable cost of services not to exceed \$500.00 per annum.

5.3 **Rendition of Statement.** Upon CITY providing a statement of fees and/or costs to LICENSEE, LICENSEE shall pay CITY within thirty (30) days the amounts

owed in accordance with the Statement. The Statement shall provide sufficient detail as to the nature of the cost, services rendered, inclusive dates services rendered, time consumed and cost relating thereto. For each month beyond thirty (30) days from rendition of the Statement to LICENSEE for which the fee remains unpaid, simple interest of six percent (6%) per month shall be due CITY, but not to exceed the highest lawful amount allowed by law. If a dispute arises as to the fees owed CITY under the Statement, and such dispute is not resolved within ninety (90) days after the date of rendition of the Statement, LICENSEE shall pay the undisputed amount and shall provide CITY with a bond or other security acceptable to the City Manager for the disputed amount pending a resolution of the dispute by negotiation or litigation. In addition to any other remedies available to CITY, CITY shall be entitled to recover from LICENSEE all costs of collection, including reasonable attorneys' fees and court costs incurred at all tribunal and appellate levels, provided CITY ultimately prevails.

6. ADA. LICENSEE shall have the continuing obligation of compliance with the Americans With Disabilities Act, as same may be amended from time to time, with respect to the Project as it is applicable.

7. Condition of License Areas. LICENSEE accepts the License Area in an "AS IS" condition as of the Effective Date of this Agreement. If LICENSEE finds any conditions altered after an initial inspection of the License Area, which have a material adverse effect on the Project, CITY shall be notified immediately.

8. Compliance with Regulations of Public Bodies. LICENSEE shall, at its sole cost and expense, possess, use, construct, operate, maintain and repair and replace, from time to time, the Project Improvements within the License Area of the Project and perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the License Area, Project Improvements and the Project in order to comply with health and sanitary requirements, fire hazard requirements, zoning requirements, building code requirements, City of Fort Lauderdale Engineering Standards, Americans With Disabilities Act requirements, environmental requirements and other similar regulatory requirements.

9. No Property or Contract Right. LICENSEE expressly acknowledges that pursuant to the terms hereof, it gains no property or contract right through this Agreement to the continued possession, use, operation and maintenance of the Project or Project Improvements within the License Area.

10. Repairs and Maintenance. LICENSEE shall not commit waste or injury to the License Area or the use, operation and maintenance of the Project Improvements maintained therein. LICENSEE shall, at its own cost and expense, at all times cause the Project Improvements within the License Area to be safely and securely maintained, kept in good condition, repair, clean, and free of rubbish and other hazards to Persons using the License Area. LICENSEE further covenants and agrees, to make or cause to be made any and all repairs or replacements, ordinary or extraordinary, structural or otherwise, necessary to maintain the License Area and Project Improvements in their original condition at the time of the commencement of the term of the RLA. The Office of the CITY Engineer shall approve all structural repairs and replacements. When making repairs, replacements and maintenance

LICENSEE shall comply with all laws, CITY or applicable County Codes, ordinances, Florida Building Code, regulations promulgated by federal, state, county, CITY or any other agency with jurisdiction over the Project and Project Improvements and CITY Engineering standards then in effect; provided, however, that LICENSEE shall only be responsible to make such repairs and replacements as required under the RLA. The License Area shall be maintained in a neat and orderly appearance at all times.

11. Emergencies. If an emergency situation arises with respect to the License Areas where the License Areas or any condition thereof presents an imminent threat to the health or safety of Persons or property, CITY shall make reasonable efforts to provide telephone and fax or e-mail notice to the LICENSEE's Contact Person. If, following that notice, LICENSEE fails to take timely action to correct the emergency situation, and allowing the emergency situation to continue would pose an imminent threat to health or safety to Persons or property, CITY may undertake such limited actions as are necessary to eliminate the emergency; and CITY shall be entitled to recover its reasonable costs of cure from LICENSEE in accordance with provisions hereof. For the purposes of this Paragraph, LICENSEE's Contact Person shall be **Patrick Campbell**, TRG New River II, Ltd. c/o THE RELATED GROUP, 315 s. Biscayne Blvd., 4th Floor, Miami, FL 33131 telephone number 305-460-9900; and e-mail address: **pcampbell@relatedgroup.com**. In the event the LICENSEE's Contact Persons or any other information pertaining to the LICENSEE's Contact Person shall change, such change shall be provided to the CITY Engineer in writing.

12. Damage to Public Property. In the event the use, operation, maintenance, repair, construction, demolition or reconstruction of the Project Improvements cause(s) any damage whatsoever to any other public property, then LICENSEE shall be responsible for the cost of repair and shall, at CITY's option, make said repairs, subject to CITY's reasonable satisfaction.

13. Removal, Restoration and Security for Performance.

13.1 Except as may otherwise be expressly provided herein or in the RLA, it is agreed that upon termination of RLA, in whole or in part, as to the License Area, upon written request of CITY within thirty (30) days of such termination, LICENSEE shall remove all or any part of the Project Improvements and any components thereof upon revocation or termination of the RLA as aforesaid as to the License Area and upon demand of COUNTY or CITY for removal of all or any part of the Project Improvements as to the License Area and LICENSEE shall restore the surface of the such License Area to the conditions that existed prior to LICENSEE's installation of all or any of the Project Improvements within the License Area. Such removal shall be at LICENSEE's sole cost and expense. In the event LICENSEE fails to begin to remove all or any parts of the Project Improvements contemplated herein with thirty (30) days after written demand by the COUNTY or CITY, CITY is hereby authorized to remove such Project Improvements that interfere with the easement rights or the public's use of dedicated rights-of-way and restore the respective License Area to the conditions that existed prior to the LICENSEE's construction of Project Improvements, and all reasonable costs associated with the removal and restoration thereof shall be fully reimbursed by LICENSEE. Notwithstanding the foregoing, LICENSEE shall have the obligation to immediately begin the

process of removing any or all of the Project Improvements within the License Area upon termination, in whole or in part, of the RLA.

13.2. In the event LICENSEE fails to remove the Project Improvements and COUNTY or CITY finds it necessary to remove the Project Improvements in accordance with the foregoing, then the total expense incurred by CITY in removing the Project Improvements and the administrative costs associated therewith shall be considered a special assessment and lien upon the Property. LICENSEE shall have thirty (30) days from the date of the statement of the total expenses incurred by CITY and the administrative costs associated therewith within which to pay to CITY the full amount due. Failure to timely pay the amount due or serve upon the CITY Manager a written letter contesting the statement of assessed expenses and administrative costs will result in the matter being scheduled before the CITY Commission for consideration of and adoption of a Resolution assessing against the Property the expenses and administrative costs associated with CITY's removal of the Project Improvements. The Resolution may also impose a special assessment lien against the Property for the expenses and costs so assessed. A Notice of the Special Assessment assessed by the CITY Commission for the unpaid expenses and costs as stated above shall be recorded with the CITY Clerk and in the Public Records of Broward County, Florida. The assessed expenses and costs and the lien provided for herein may be foreclosed in the manner provided by law.

14. Damage and Destruction. LICENSEE shall not by its possession, use, occupancy, operation, maintenance or repair of the License Area, suffer or permit any damage to the License Area or to the adjacent real property. If during the term of the RLA or this Agreement, LICENSEE becomes aware that the Project Improvements within the License Area have been damaged, destroyed or deteriorated in whole or in part by fire, casualty, obsolescence, failure to maintain or any other cause, and whether or not such destruction or damage is covered by any insurance policy on the Project, LICENSEE shall give to CITY prompt notice thereof, and LICENSEE shall:

(a) seek the necessary Permits and approvals from the regulatory agencies with jurisdiction over the License Area, Project Improvements or adjacent real property to repair, replace and rebuild the same or cause the same to be repaired, replaced or rebuilt as nearly as possible to their original condition; or

(b) to the extent that such destruction or damage affected the Project Improvements within the License Area or real property adjacent thereto, or any part thereof, if LICENSEE elects to remove such Project Improvements consistent with the terms of the RLA, then LICENSEE shall seek the Permits and approvals, if any, required for such removal and cause such Project Improvements to be removed from the License Area and return the License Area to the condition that existed prior to the Effective Date of the RLA.

15. Indemnity.

15.1 LICENSEE shall protect, defend, indemnify and hold harmless CITY, its officers, employees and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges and other expenses charged or incurred, including reasonable attorney's fees actually incurred, or liabilities of every kind, nature

or degree arising out of or in connection with the rights, responsibilities and obligations of LICENSEE under the RLA and this Agreement, conditions contained therein, the location, construction, repair, maintenance use or occupancy by LICENSEE of the License Area, Project Improvements or Project, or the breach or default by LICENSEE of any covenant or provision of the RLA or this Agreement, except for any occurrence arising out of or resulting from the intentional wrongful or gross negligence of CITY, its officers, agents and employees. Without limiting the foregoing, any and all such charges, claims, suits, causes of action relating to personal injury, death, damage to property, defects in construction, rehabilitation or restoration of the License Area by LICENSEE or others, alleged infringement of any patents, trademarks, copyrights or of any other tangible or intangible personal or real property right by LICENSEE, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court by LICENSEE, is included in the indemnity.

15.2 LICENSEE further agrees that upon proper and timely notice to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and agrees to bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by CITY, LICENSEE shall assume and defend not only itself but also CITY in connection with any claims, suits or causes of action, and any such defense shall be at no cost or expense whatsoever to CITY, provided that CITY (exercisable by CITY's Risk Manager) shall retain the right to select counsel of its own choosing. This indemnification shall survive termination, revocation or expiration of the Revocable License and shall cover any acts or omissions occurring during the term of the Revocable License, including any period after termination, revocation or expiration of the Revocable License while any curative acts are undertaken.

15.3 CITY does not waive its sovereign immunity and the indemnify set forth above shall not expand the rights or remedies of any third parties.

16. Insurance. At all times during the term of the RLA and this Agreement, LICENSEE, at its expense, shall keep or cause to be kept in effect the insurance coverages set forth in the RLA and LICENSEE shall cause such coverage to be extended to CITY as and additional insured and shall furthermore provide Certificates of Insurance to CITY at least fourteen (14) days prior to the commencement of the License Term and annually thereafter on the anniversary date of the policies.

17. Remedies of CITY.

17.1 In the event the LICENSEE fails to perform or violates any of the terms or conditions of RLA or this Agreement or is in breach or default in any term or condition hereof, COUNTY or CITY shall provide written notice thereof to LICENSEE and LICENSEE shall cure such violation within the time provided in such Notice, which such time for cure shall be reasonable in light of all the circumstances. LICENSEE shall be obligated to serve upon the CITY any notices of breach of default served upon LICENSEE by COUNTY.

17.1.1 In the event the Contract Administrator finds that the LICENSEE has failed to timely cure such violation, the Contract Administrator shall provide written Notice thereof to LICENSEE and impose or assess a fine equal to the damages suffered by the CITY.

17.1.2 LICENSEE shall provide written Notice to CITY when the violation has been cured. In the event the Contract Administrator finds the violation was not cured on the date alleged by LICENSEE, Contract Administrator shall provide LICENSEE with written Notice thereof. Contract Administrator shall provide written Notice to LICENSEE when Contract Administrator finds that the violation has been cured.

17.1.3 In the event LICENSEE disagrees with either the COUNTY's or the Contract Administrator's (a) finding that a violation exists or continues to exist, or (b) imposition or assessment of a per diem fine, or (c) determination of the date of compliance or noncompliance, LICENSEE shall file a written Notice of Appeal to the COUNTY or the CITY Manager within five (5) days of receiving notice of (a), (b) or (c) above.

17.1.4 Within ten (10) days of receiving a Notice of Appeal under Section 17.1.3, the CITY Manager shall hear presentations thereon and render a written Final Order thereon, serving a copy thereof upon LICENSEE. In deciding an Appeal filed under Section 17.1.3, the CITY Manager may affirm, reverse or modify, in whole or in part, the findings of the Contract Administrator. The CITY Manager may equitably adjust downward any fines in the interests of justice.

17.1.5 In the event LICENSEE contests the Final Order of the CITY Manager under Section 17.1.4 above, LICENSEE may file a Notice of Appeal with the CITY Clerk including all written arguments in support of contesting the Final Order. The CITY Commission shall review the Notice of Appeal and the written arguments in support of contesting the Final Order as soon as a hearing thereon may be reasonably scheduled. At the hearing on the Appeal, the CITY Commission shall hear presentations by the LICENSEE and CITY Manager and shall render an Order ("Order on Appeal") thereon affirming, reversing or modifying the Final Order in whole or in part.

17.1.6 Any fines resulting from the process set forth in Sections 17.1.1 through 17.1.6 shall be paid to CITY within sixty (60) days from the final adjudication resulting from that process.

17.1.7 [This section is intentionally deleted.]

17.1.8 [This section is intentionally deleted.]

17.1.9 [This section is intentionally deleted.]

17.2 In the event LICENSEE fails to timely cure the violation within the time specified in Section 17.1, CITY, as an alternative to the procedures set forth in Sections 17.1.1 through 17.1.6, may

17.2.1 take any equitable action to enforce the terms and conditions of the RLA or this Agreement, it being stipulated by the parties that since this RLA deals with the right to use public easements and rights-of-way or COUNTY or CITY owned or dedicated lands used for a governmental purpose, a violation or breach of any term or condition of the RLA constitutes an irreparable injury to the public and CITY for which there is no adequate remedy at law; or

17.2.3 take such curative action that was required to be taken by LICENSEE under the RLA and the cost and expense incurred in CITY's curative actions shall be passed on to and owed by LICENSEE, in which case LICENSEE shall be liable for payment to CITY for all reasonable and necessary costs and expenses incurred by CITY in connection with the performance of the action or actions. LICENSEE shall reimburse CITY within sixty (60) days following written demand for payment thereof. Interest shall accrue on the unpaid amount at the rate of twelve percent (12%) per annum simple interest but in no event shall interest exceed the highest amount allowed by Florida law. The demand shall include reasonable documentation supporting the expenses incurred by CITY. If a dispute arises as to the need for, or amount due to CITY for repairs or maintenance undertaken by CITY in accordance with this License, and such dispute is not resolved within forty-five (45) days after the date that CITY makes the original written demand for payment, LICENSEE shall pay to CITY the undisputed amount and shall provide CITY with a bond or other security acceptable to CITY for the disputed amount pending a resolution of the dispute by negotiation or litigation.

17.3 If LICENSEE does not make the payments required under this Section within the thirty (30) day period set forth herein, then CITY shall have a right to record a Claim of Lien against the Property, which Lien may be either (a) for the total amount of the fines resulting from the procedures set forth in Sections 17.1 and 17.2, including all subsections thereunder, or (b) for all reasonable and necessary costs and expenses of any cure undertaken by CITY in accordance with this Section, the cost of any interim insurance policy as provided herein, and reasonable attorneys' fees and costs associated therewith. The Lien shall be effective upon the recording of a Claim of Lien in the Public Records of Broward County, Florida, which Claim of Lien shall state all amounts due and owing to CITY. The Lien may be foreclosed by CITY in the same manner as provided by law for foreclosure of mortgage liens. The Lien shall continue until payment to CITY of the amounts set forth in the Lien (at which time CITY shall record a satisfaction of such lien). In addition to the Lien, CITY shall have all other rights and remedies granted to it at law or in equity for LICENSEE'S failure to pay the fines owed or reimburse CITY for curative actions taken by CITY. LICENSEE shall be entitled to pursue all legal and equitable remedies to contest the amount or existence of any such lien.

17.4 CITY shall have all other rights and remedies granted to it at law or in equity for LICENSEE's failure to pay the fines owed or reimburse CITY for curative actions taken by CITY. LICENSEE shall be entitled to pursue all legal and equitable remedies to contest the amount or existence of any such lien. The remedies found within this Section 17, including all subsections thereof, are cumulative. The exercise of one does not preclude the exercise of any other remedy.

18. Requirement for Notice. LICENSEE shall give CITY prompt written notice of any accidents on, in, over, within, under and above the License Area. LICENSEE shall also give CITY prompt written notice of any notices of violation received from the COUNTY.

19. Notices.

(a) Except as provided in subparagraph (c) below, whenever it is provided herein that notice, demand, request or other communication shall or may be given to, or served upon, either of the parties by the other, or either of the parties shall desire to give or serve upon the other any notice, demand, request or other communication with respect hereto or with respect to any matter set forth in this Revocable License, each such notice, demand, request or other communication shall be in writing and any law or statute to the contrary notwithstanding shall not be effective for any purpose unless the same shall be given by hand delivery, or by a nationally recognized overnight courier, or by mailing the same by registered or certified mail, postage prepaid, return receipt requested, addressed to the party at the address set forth below, or at such other address or addresses and to such other person or firm as LICENSEE may from time to time designate by notice as herein provided.

(b) All notices, demands, requests or other communications hereunder shall be deemed to have been given or served for all purposes hereunder upon receipt if by hand delivery, or upon one (1) business day after deposit with such overnight courier as required above, or upon two (2) business days after deposit with the United States mail, postage prepaid, in the manner aforesaid, provided, however, that for any distance in excess of five hundred (500) miles, air mail service or Federal Express or similar carrier shall be utilized, if available.

AS TO CITY: CITY Manager
City Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301

With copy to: CITY Attorney
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301

AS TO LICENSEE: Matt Allen
TRG New River II
315 S. Biscayne Boulevard
Miami, FL 33131

AS TO LICENSEE: Patrick Campbell
TRG New River II, Ltd. c/o THE RELATED GROUP
315 s. Biscayne Blvd., 4th Floor
Miami, FL 33131

AS TO LICENSEE: Nectaria M. Chakas, Esq.
Lochrie & Chakas, P.A.
1401 East Broward Boulevard, Suite 303
Fort Lauderdale, FL 33301

(c) As to activities under Paragraph 11, Emergencies, notice need not be given in accordance with subparagraph (a) above, but notice shall be sufficient if given to the Contact Person pursuant to Paragraph 13, Emergencies.

20. Assignment, Pledge, Security Interest. LICENSEE shall not voluntarily, involuntarily or by operation of law, assign, sell, pledge, grant a security interest, or in any manner transfer the License or any interest therein or grant any right to the License Area to a party which is not the owner (or mortgagee of the owner of the Property) without the prior written consent of COUNTY and CITY, which such consent shall not unreasonably be withheld. The obligations under this Agreement are covenants running with the Property and upon transfer of the Property will be released of all liability hereunder arising after such transfer and then the owner of the Property will be responsible under this Agreement.

21. Compliance with Laws and Regulations. LICENSEE shall comply with all applicable statutes, laws, ordinances, rules, regulations and lawful orders of the United States of America, State of Florida, City of Fort Lauderdale, and of any other public authority that may be applicable to RLA or this Agreement and the possession, use, occupancy and maintenance of the License Area and the conduct of the Project permitted herein.

22. Public Entity Crime Act. [Intentionally omitted.]

23. Independent Contractor. As between CITY and LICENSEE, LICENSEE is an independent contractor under this Agreement. Services provided by LICENSEE pursuant to this Agreement shall be subject to the supervision of LICENSEE. In providing such services, neither LICENSEE nor its agents shall act as officers, employees, or agents of CITY. No partnership, joint venture, or other joint relationship is created hereby. CITY does not extend to LICENSEE or LICENSEE'S agents any authority of any kind to bind CITY in any respect whatsoever.

24. Joint Preparation. Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

25. Interpretation of Agreement; Severability. This Agreement shall be construed in accordance with the laws of the State of Florida. If any provision hereof, or its application to any person or situation, is deemed invalid or unenforceable for any reason and to any extent, the remainder of this Agreement or the application of the remainder of the provisions, shall not be affected. Rather, this Agreement is to be enforced to the extent permitted by law. The captions, headings and title of this Agreement are solely for convenience of reference and are not to affect its interpretation. Each covenant, term, condition, obligation or other provision of the Agreement is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this Agreement, unless otherwise expressly provided. All terms and words used in this Agreement, regardless of the number or gender in which they are used, are deemed to include any other number and other gender, as the context requires.

26. Successors. This Agreement shall be binding on and inure to the benefit of the parties, their successors and assigns.

27. No Waiver of Sovereign Immunity. Nothing contained in this Agreement is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

28. No Third Party Beneficiaries. The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based on this Agreement. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

29. Non-Discrimination. LICENSEE shall not discriminate against any Person in the performance of duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.

30. Records. Each party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each party shall be responsible for compliance with any public documents request served upon it pursuant to Chapter 119, Florida Statutes, and any resultant award of attorney's fees of non-compliance with that law.

31. Entire Agreement. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

32. Waiver. The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

33. Governing Law. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement or interpretation of any rights hereunder, shall be brought exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Revocable License shall be exclusively in such state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **By entering into this Revocable License, CITY and LICENSEE hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Revocable License or any acts or omissions in relation thereto.**

34. Force Majeure. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds alone on the part of LICENSEE be deemed Force Majeure.

35. Recording. This Agreement shall be recorded in the Public Records of Broward County, Florida. CITY shall record the Agreement, subject to LICENSEE reimbursing CITY for the cost thereof. A copy of the recorded Agreement shall be provided to LICENSEE and filed with the CITY Clerk's Office of the CITY of Fort Lauderdale.

36. Estoppel. Upon request, CITY, through its CITY Manager, will provide an estoppel certificate to LICENSEE confirming to the best of CITY's knowledge whether or not LICENSEE is current and in good standing under this Agreement and the amount owed, if any, to CITY hereunder.

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

AS TO CITY:

WITNESSES:

CITY OF FORT LAUDERDALE

Jeanette A. Johnson
Jeanette A. Johnson
[Witness type or print name]

By [Signature]
John P. "Jack" Seiler, Mayor

Miranda Scott
MIRANDA SCOTT
[Witness type or print name]

By [Signature]
Lee R. Feldman, City Manager

ATTEST:

(CORPORATE SEAL)

Jonda K. Joseph
Jonda K. Joseph, City Clerk

Approved as to form:

[Signature]
Robert B. Dunkel,
Assistant City Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 15th day of October, 2014, by **John P. "Jack" Seiler**, Mayor of the CITY of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)



Jeanette A. Johnson
Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)
Jeanette A. Johnson
Name of Notary Typed,
Printed or Stamped

My Commission Expires: 1/31/15

Commission Number EE 33367

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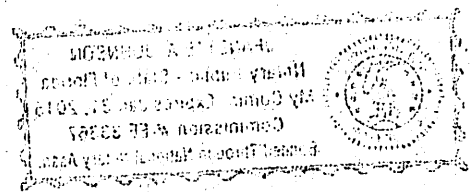
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Journal of Management Studies, 36(7), 809-826
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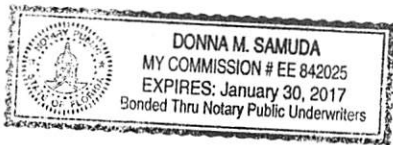
WATER RESOURCES



STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 10th day of October, 2014, by Susanne M. Torrente, Acting City Manager for: Lee R. Feldman, City Manager of the CITY of Fort Lauderdale, a municipal corporation of Florida. S He is personally known to me and did not take an oath.

(SEAL)



Susanne M. Torrente
Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

DONNA M. SAMUDA
Name of Notary Typed,
Printed or Stamped

My Commission Expires: January 30, 2017
EE 842025
Commission Number

AS TO LICENSEE:

TRG NEW RIVER II, LTD., a Florida Limited Partnership

WITNESSES:

By: TRG NEW RIVER II, INC., a Florida corporation, as its sole general partner

Priscilla King
[Witness type or print name]

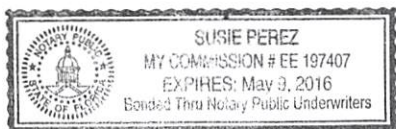
By: Matt Allen
Matt Allen, Vice President

Debbie Ramsey
[Witness type or print name]

STATE OF FLORIDA:
COUNTY OF BROWARD:

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by **Matt Allen**, as Vice-President of TRG NEW RIVER II, INC., a Florida corporation. He is personally known to me or has produced _____ as identification and did take an oath.

(SEAL)



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

Susie Perez
Name of Notary Typed,
Printed or Stamped

My Commission Expires: May 9, 2016

EE 197407
Commission Number

EXHIBIT A
Revocable License Agreement
with Broward County

Return recorded copy to:

Broward County Highway Construction &
Engineering Division
1 North University Drive, Suite 300B
Plantation, FL 33324-2038

Document prepared by:
Al DiCalvo
Assistant County Attorney
Broward County Attorney's Office
115 South Andrews Avenue, Room 423
Fort Lauderdale, FL 33301

**NOTICE: PURCHASERS, GRANTEES, HEIRS, SUCCESSORS AND
ASSIGNS OF ANY INTEREST IN THE BURDENED PARCEL SET FORTH
ON EXHIBIT "A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS
SET FORTH WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE
BURDENED PARCEL.**

REVOCABLE LICENSE AGREEMENT

THIS IS AN AGREEMENT made and entered into by and among: BROWARD
COUNTY, a political subdivision of the State of Florida, hereinafter referred to as the
"COUNTY,"

TRG NEW RIVER II, LTD., a limited partnership organized and authorized to
conduct business in the State of Florida, hereinafter referred to as the "LICENSEE,"

and

CITY OF FORT LAUDERDALE, a municipal corporation organized and existing
under the laws of the State of Florida, hereinafter referred to as the "MUNICIPALITY,"
collectively referred to as the "Parties."

WHEREAS, LICENSEE is the Owner of property which is described in Exhibit "A,"
attached hereto and incorporated herein (the "Burdened Parcel"); and

WHEREAS, Broward County is the jurisdiction that owns and controls the right-of-
way for Andrews Avenue, including that portion of the right-of-way area that lies under the
Andrews Avenue Bridge adjacent to the Burdened Parcel; and

WHEREAS, LICENSEE seeks the non-exclusive access and use of a portion of said
right-of-way described in Exhibit "B," attached hereto and incorporated herein (the
"Property"); and

TRG NEW RIVER II RLA

1

Approved BCC 3/17/15 #32
Submitted By Hced
RETURN TO DOCUMENT CONTROL

4/c.

WHEREAS, COUNTY is willing to permit the non-exclusive access and use of a portion of said Property; and

WHEREAS, MUNICIPALITY, by motion of its governing body adopted on the 7 day of October, 2014, has approved the acceptance of the responsibility, should LICENSEE fail to comply with the terms of this Agreement, for the ongoing maintenance and repair of the Property pursuant to the terms of this Agreement, and has authorized the appropriate municipal officers to execute this Agreement; and

WHEREAS, the Parties have agreed to enter into this Revocable License Agreement in relation to the use of the right-of-way described in Exhibit "B," as provided below; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, and covenants hereinafter set forth, COUNTY, LICENSEE, and MUNICIPALITY agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.
2. DESCRIPTION OF PROPERTY. That portion of the right-of-way as described in Exhibit "B," attached hereto and incorporated herein (the "Property").
3. TERM. The term of this Agreement shall commence upon its execution by all Parties and shall continue until such time as the COUNTY notifies LICENSEE, in accordance with Article 12, to cease using the Property.
4. USE OF PROPERTY. COUNTY hereby grants to LICENSEE the revocable license for non-exclusive access and use of the Property for installation of an ingress-only driveway for passenger vehicles ("P" design vehicles as defined by the American Association of State Highway Transportation Officials) only, landscaping, irrigation, hardscape, lighting, a concrete barrier wall, and related improvements (the "improvements"), including the ongoing maintenance and repair thereof, as detailed in the approved plans, attached hereto and incorporated herein as Exhibit "C," hereinafter referred to as the "Licensed Use." The Property shall not be used for any other purpose whatsoever without written amendment of this Agreement. LICENSEE shall not use or allow the Property to be used for deliveries or for access by any vehicle larger than a passenger car ("P" design vehicles as defined by the American Association of State Highway Transportation Officials). COUNTY retains the right to close-off LICENSEE's access and use of the Property on a temporary basis to perform maintenance or repairs to the Andrews Avenue bridge or other County-owned improvements within the Property. COUNTY shall provide LICENSEE with advanced notice of at least thirty (30) days prior to such closure. LICENSEE shall not permit the Property to be used in any manner which will violate any laws or regulations of any governmental entity or agency.

- 4.1 LICENSEE shall submit plans for the installation of the improvements, together with a schedule for the ongoing maintenance thereof, to the Broward County Highway Construction and Engineering Division at least thirty (30) days before installation, and shall not install the improvements until written approval is obtained from the Director, Broward County Highway Construction and Engineering Division. The landscaping plans shall incorporate a minimum fifty percent (50%) native species by plant types (i.e. canopy tree, palm tree, and shrub) and, together with the schedule for the ongoing maintenance, shall comply with the Broward County Naturescape program and Florida-Friendly Landscaping principles.
- 4.2 LICENSEE shall notify the Director, Broward County Highway Construction and Engineering Division within five (5) days after installation of the improvements. The Broward County Highway Construction and Engineering Division may require LICENSEE to reinstall or remove the improvements, if the improvements or use do not comply with this Agreement or the approved plans.
- 4.3 COUNTY, its agents or authorized employees, shall continue to have unimpeded and unrestricted access to the Property at any and all times to examine it to determine if LICENSEE is properly using and maintaining the Property pursuant to the terms and conditions of this Agreement.
- 4.4 Any replacement of the improvements by LICENSEE shall require the prior submittal of plans and approval by the Broward County Highway Construction and Engineering Division, consistent with the requirements under Sections 4.1 and 4.2, above.
- 4.5 MUNICIPALITY hereby acknowledges and affirms that it shall be responsible for and assume the LICENSEE's responsibilities and obligations for the ongoing maintenance and repair of the improvements, should LICENSEE fail to perform or comply with the terms or conditions of this Agreement. MUNICIPALITY shall be responsible for and assume LICENSEE's responsibilities and obligations upon notice from COUNTY that LICENSEE has failed to perform or comply with the terms or conditions of this Agreement. COUNTY shall not be obligated to proceed against LICENSEE or exhaust any other remedies it may have against LICENSEE or MUNICIPALITY prior to enforcing the obligations of MUNICIPALITY herein.
- 4.6 The obligations of LICENSEE as set forth in this Agreement may be performed by LICENSEE or MUNICIPALITY through the use of its employees, or LICENSEE or MUNICIPALITY may enter into a contract with a third party to perform the services. In the event LICENSEE or MUNICIPALITY contracts with a third party, each shall remain fully responsible hereunder and shall ensure that its contractor complies at all

times with each and every term, condition, duty, and obligation set forth herein.

5. ASSIGNMENT. Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered, except to successors or assignees taking title to LICENSEE's Burdened Parcel, without the written consent of the COUNTY. Should LICENSEE attempt to do so, then this Agreement shall terminate immediately, without prior notice to LICENSEE.
6. DAMAGE TO PROPERTY. LICENSEE shall not by its access or use cause damage to the Property. The Parties agree that all personal property placed by LICENSEE upon the Property shall remain the property of LICENSEE, and shall be placed upon the Property at the risk of LICENSEE. LICENSEE shall give the COUNTY, or its agent, prompt written notice by registered or certified mail of any occurrence, incident, or accident occurring on the Property.
7. COMPENSATION. No payment shall be made by the LICENSEE for the privileges granted in this Agreement.
8. INDEMNIFICATION OF COUNTY.
 - 8.1 LICENSEE agrees to indemnify, hold harmless, and, at County Attorney's option, defend or pay for an attorney selected by County Attorney to defend COUNTY, its officers agents, servants, and employees against any and all claims, losses, liabilities, and expenditures of any kind, including attorney fees, court costs, and expenses, caused by negligent act or omission of LICENSEE, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement, including, without limitation, any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. The provisions of this section shall survive the expiration or earlier termination of this Agreement.
 - 8.2 In the event that LICENSEE contracts with a third party to perform any of LICENSEE's obligations under this Agreement, any contract with such third party shall include the following provisions:
 - 8.2.1 Indemnification: LICENSEE's contractor shall indemnify and hold harmless COUNTY, its officers, agents, and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of LICENSEE's contractor, and other persons employed or utilized by LICENSEE's contractor in the performance of this Agreement. These indemnifications shall survive the term of this Agreement. To the extent permitted by law, in the event that any action or proceeding is

brought against COUNTY by reason of any such claim or demand, LICENSEE's contractor shall, upon written notice from COUNTY, resist and defend such action or proceeding by counsel satisfactory to COUNTY.

8.2.2 To the extent permitted by law, the indemnification provided above shall obligate LICENSEE's contractor to defend, at its own expense, to and through appellate, supplemental, or bankruptcy proceeding, or to provide for such defense, at COUNTY's option, any and all claims of liability and all suits and actions of every name and description covered by subsection 8.2.1 above which may be brought against COUNTY, whether services were performed by LICENSEE's contractor or persons employed or utilized by LICENSEE's contractor.

8.3 MUNICIPALITY is an entity subject to Section 768.28, Florida Statutes, as may be amended from time to time, and agrees to be fully responsible for the acts and omissions of its agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by MUNICIPALITY to be sued by third parties in any matter arising out of this Agreement or any other contract.

9. INSURANCE.

9.1 LICENSEE shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverage set forth in this article, in accordance with the terms and conditions required by this article.

9.2 Such policy shall be issued by companies authorized to do business in the State of Florida, with an AM Best financial rating of A- or better. LICENSEE shall specifically protect COUNTY and the Broward County Board of County Commissioners (the "Board") by naming "Broward County" as an additional insured under the Commercial General Liability Insurance policy described below.

Commercial General Liability insurance with minimum limits of One Million Dollars (\$1,000,000) per occurrence and One Million Dollars (\$1,000,000) per aggregate with a combined single limit for bodily injury and property damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability policy as filed by the Insurance Services Office without restrictive endorsements excluding or limiting coverage for:

- A. Premises and/or Operations
- B. Contractual Liability

- C. Broad Form Property Damage
- D. Independent Contractors
- E. Personal Injury
- F. Explosion/Collapse/Underground Hazard

- 9.3 LICENSEE shall provide to COUNTY proof of insurance in the form of Certificates of Insurance and Endorsements, Declarations pages or policies as required by this article upon execution of this Agreement. Broward County shall be named Certificate Holder. Proof of coverage renewal shall be provided upon expiration of any insurance policy/ies evidencing coverage in continuous force throughout the term of this Agreement.
- 9.4 In the event that LICENSEE contracts with a third party to perform any of LICENSEE's obligations under this Agreement, any contract with such third party shall include, at a minimum, the following provisions:
- 9.4.1 Commercial General Liability insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000) per occurrence and per aggregate with a combined single limit for bodily injury and property damage.
 - 9.4.2 Business Automobile Liability insurance with minimum limits of Five Hundred Thousand Dollars (\$500,000) per occurrence combined single limit for bodily injury and property damage.
 - 9.4.3 Workers' Compensation insurance coverage in compliance with Florida Statutes. Policy shall include employers' liability with minimum limits of One Hundred Thousand Dollars (\$100,000).
 - 9.4.4 LICENSEE's contractor shall list "Broward County" and LICENSEE as additional insureds on the Commercial General Liability policy and, upon request, shall furnish to the COUNTY, Certificates of Insurance and Endorsements evidencing the insurance coverage specified above.
 - 9.4.5 Coverage is not to cease and is to remain in full force and effect until all performance required of LICENSEE's contractor is completed.
- 9.5 MUNICIPALITY shall furnish COUNTY with written verification of liability protection in accordance with state law prior to final execution of this Agreement. Additionally, if MUNICIPALITY elects to purchase excess liability coverage, MUNICIPALITY agrees that COUNTY will be furnished with a Certificate of Insurance listing "Broward County" as certificate holder on each policy and as an additional insured on the Comprehensive General Liability and Excess Insurance policies.

10. MAINTENANCE, REPAIRS, AND OTHER OBLIGATIONS. LICENSEE shall be responsible for all costs associated with the Licensed Use of the Property, including maintenance and repair, utility relocation, mitigation of landscaping, and costs for repairing any damage to the Property or adjacent right-of-way. It shall be the responsibility of LICENSEE to keep the Property clean, sanitary, and free from trash and debris. LICENSEE specifically agrees to install, maintain, and repair the improvements as detailed in the plans as shown in Exhibit "C," in a manner that will not pose a hazard to persons or vehicles on adjacent property or the right-of-way.
11. [Intentionally Left Blank.]
12. TERMINATION. This Agreement is merely a right to access and use, and grants no estate in the Property. This Agreement may be terminated by COUNTY, through the Board of County Commissioners or the County Administrator, with or without cause and at any time during the term hereof, upon thirty (30) days written notice to LICENSEE and MUNICIPALITY. It is expressly understood by the Parties that LICENSEE is receiving from COUNTY a revocable license which may be terminated at any time by COUNTY for any or no cause whatsoever.
13. SURRENDER UPON TERMINATION.

LICENSEE shall peaceably surrender its use of and deliver the Property to the COUNTY, or its agents, immediately upon expiration or termination of this Agreement.

LICENSEE shall remove from the Property, at LICENSEE'S own expense, the improvements placed upon it unless the COUNTY, in writing, authorizes LICENSEE to leave the improvements on the Property. COUNTY shall have no obligation to move, reinstall, replace, or in any way compensate LICENSEE for any loss resulting from or arising out of the termination of this Agreement, the requirement to remove the improvements, or the removal of the same by COUNTY upon failure of the LICENSEE to restore the Property. LICENSEE agrees to restore the Property to its original or a safe condition, as determined by and at the sole discretion of the COUNTY, through its Director of Highway Construction and Engineering Division, following removal of the improvements. LICENSEE shall be obligated to repair or pay for any damage to COUNTY property resulting from the removal of the improvements.
14. WAIVER. COUNTY's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

covenant, condition, or right; but the same shall remain in full force and effect. None of the conditions, covenants, or provisions of this Agreement shall be waived or modified by the Parties unless done so in writing as provided for in Article 23 below.

15. NOTICES. Whenever any Party desires to give notice to the others, such notice must be in writing sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgement of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this article. For the present, the Parties designate the following:

Notice to COUNTY shall be addressed to:

Director, Broward County Highway Construction and Engineering Division
1 North University Drive, Suite 300B
Plantation, FL 33324-2038

Notice to LICENSEE shall be addressed to:

Matt Allen
TRG New River II
315 S Biscayne Blvd.
Miami, FL 33131

Notice to MUNICIPALITY shall be addressed to:

City Manager
City of Fort Lauderdale
100 North Andrews Avenue
Fort Lauderdale, FL 33301

16. ENTIRE AGREEMENT. This Agreement embodies the entire agreement between the Parties. It may not be modified or terminated except as provided in this Agreement. If any provision herein is invalid, it shall be considered deleted from this Agreement, and such deletion shall not invalidate the remaining provisions.
17. COMPLIANCE WITH LAWS. LICENSEE shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations relating to the use of the Property.
18. LAW, JURISDICTION, VENUE, WAIVER OF JURY TRIAL. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. All Parties agree and accept that jurisdiction of any controversies or legal disputes arising out of this Agreement, and any action involving the

courts, forsaking any other jurisdiction which the Parties may claim by virtue of its residency or other jurisdictional device. BY ENTERING INTO THIS AGREEMENT, THE PARTIES HEREBY EXPRESSLY WAIVE ANY RIGHTS EACH PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS ARTICLE, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

19. COVENANTS RUNNING WITH THE LAND AND RECORDATION OF AGREEMENT. It is specifically intended that LICENSEE's obligations under this Agreement shall be a covenant upon the Burdened Parcel and shall run with the Burdened Parcel to all succeeding owners. This covenant shall be subject to specific performance in addition to any and all other remedies available to COUNTY. This Agreement shall be recorded in the Public Records of Broward County, Florida, at LICENSEE's expense. Upon termination of this Agreement, a document of equal dignity to this document shall be executed and recorded by COUNTY.
20. INTERPRETATIONS. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter," refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires.
21. EXHIBITS. The attached Exhibits "A," "B," and "C" are incorporated into and made a part of this Agreement.
22. FURTHER ASSURANCES. The Parties hereby agree to execute, acknowledge, and deliver and cause to be done, executed, acknowledged, and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
23. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the COUNTY, LICENSEE, and MUNICIPALITY.

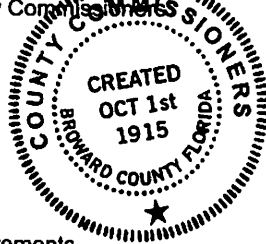
[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the Parties have made and executed this Agreement:
 BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by
 and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the
17th day of March, 2015, TRG NEW RIVER II, LTD., signing by and through its
General Counsel TRG New River, Inc. V.P., duly authorized to execute same, and
 CITY OF FORT LAUDERDALE, signing by and through its Mayor & City Manager duly
 authorized to execute same.

COUNTY

ATTEST:

[Signature]
 Broward County Administrator, as
 Ex-Officio Clerk of the Broward County
 Board of County Commissioners



Insurance requirements
 approved by Broward County
 Risk Management Division

By [Signature] 1/9/15
 Signature (Date)
 Print Name and Title above

BROWARD COUNTY, by and through
 its Board of County Commissioners

By [Signature] Mayor
 17th day of March, 2015

Approved as to form by
 Joni Armstrong Coffey
 Broward County Attorney
 Governmental Center, Suite 423
 115 South Andrews Avenue
 Fort Lauderdale, Florida 33301
 Telephone: (954) 357-7600
 Telecopier: (954) 357-7641

By [Signature] 1/23/15
 Al A. DiCalvo (Date)
 Assistant County Attorney
[Signature] 1/28/15
 Michael J. Kerr
 Chief Trial Counsel

AAD
 9/19/13; 1/17/14; 5/8/14; 6/2/14; 6/5/14
 TRGNewRiverLtd&FLaud(NewRiverYachtClub)-RLA_v4Final-061314.a01

REVOCABLE LICENSE AGREEMENT AMONG BROWARD COUNTY, TRG NEW RIVER II, LTD., AND CITY OF FORT LAUDERDALE FOR NONEXCLUSIVE ACCESS AND USE OF A PORTION OF COUNTY RIGHT-OF-WAY

LICENSEE

Signed and sealed in the presence of:

WITNESSES:

[Signature]
Signature
PATRICK CAMPBELL
Print Name

[Signature]
Signature
Richard Connor
Print Name

TRG NEW RIVER II, LTD., a Florida limited partnership

By: TRG NEW RIVER, INC., a Florida corporation, its general partner

By: [Signature]
President/Vice-President

Printed Name: MATTHEW J. ALLEN

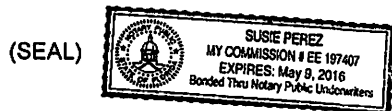
Title: VICE PRESIDENT

ACKNOWLEDGEMENT

STATE OF Florida)
COUNTY OF Dade) ss.

The foregoing instrument was acknowledged before me this 27th day of June, 2014, by Matthew Allen, as vice president of TRG NEW RIVER, INC, a Florida corporation, the general partner of TRG NEW RIVER, LTD., a Florida limited partnership. He/she is:

☒ personally known to me or
☐ produced as identification. Type of identification produced _____



My Commission expires:
MAY 9, 2016

Signed: [Signature]
Print Name: SUSIE PEREZ

TRG NEW RIVER II RLA

REVOCABLE LICENSE AGREEMENT AMONG BROWARD COUNTY, TRG NEW RIVER II, LTD., AND CITY OF FORT LAUDERDALE FOR NONEXCLUSIVE ACCESS AND USE OF A PORTION OF COUNTY RIGHT-OF-WAY

MUNICIPALITY

WITNESSES:

Janette A. Johnson
Signature
Janette A. Johnson
Print Name

Miranda Scott
Signature

MIRANDA SCOTT
Print Name

(CORPORATE SEAL)



CITY OF FORT LAUDERDALE

By [Signature]
John P. "Jack" Seiler, Mayor

By [Signature]
Lee R. Feldman, City Manager

ATTEST:

Jonda K. Joseph
Jonda Joseph, City Clerk

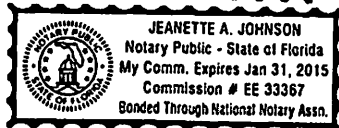
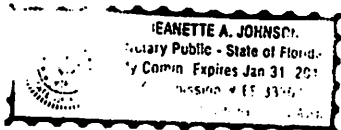
Approved as to form:

[Signature]
Assistant City Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 15th day of October, 2014, by John P. "Jack" Seiler, Mayor of the CITY of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)



Jeanette A. Johnson
Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Jeanette A. Johnson
Name of Notary Typed,
Printed or Stamped

My Commission Expires: 1/31/15

Commission Number EE 33367

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 10th day of October, 2014, by Suzanne M. Torrente, Acting City Manager for: Lee R. Feldman, CITY Manager of the CITY of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and did not take an oath.

(SEAL)



Donna M. Samuda
Notary Public, State of Florida
(Signature of Notary taking
Acknowledgment)

Donna M. Samuda
Name of Notary Typed,
Printed or Stamped

My Commission Expires: January 30, 2017
EE 842025

Commission Number

TRG NEW RIVER II RLA

EXHIBIT "A"

Legal Description for the Burdened Parcel

Page 1 of 1

Lots 1 and 2 of Block 41 of TOWN OF FORT LAUDERDALE, according to the plat thereof recorded in Plat Book "B", Page 40, of the Public Records of Dade County, Florida: said lands situate, lying and being in Broward County, Florida

Together with

The West ½ of the certain portion of the 14.00 foot alley lying Easterly and adjacent to Lot 1 and Westerly of and adjacent to Lot 19, in Block 41 of the Town of Fort Lauderdale, according to the Plat thereof as recorded in Plat Book B, Page 40, of the Public Records of Miami-Dade County, Florida, said lands situate, lying and being in Broward County, Florida, vacated by Ordinance No. C-11-39 recorded in Official Records Book 48981, Page 1891, of the Public Records of Broward County, Florida, more particularly described as follows:

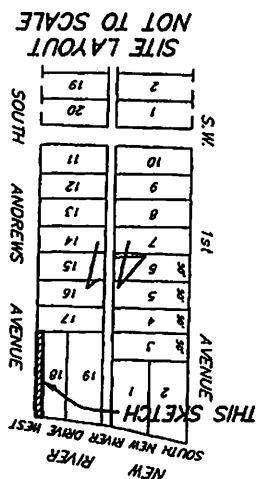
Beginning at the Northeast corner of said Lot 1, thence South 00° 00' 00" East on the East line of said Lot 1 a distance of 120.68 feet to the Southeast corner of said Lot 1; thence South 89° 34' 00" East, on the Easterly extension of the South line of said Lot 1 a distance of 14.00 feet; thence North 00° 00' 00" East on the West line of said Lot 19. a distance of 118.76 feet to the Northwest corner of said Lot 19; thence North 81° 46' 11" West, a distance of 14.15 feet to the Point of Beginning.

Together with

Lots 18 and 19 in Block 41, FORT LAUDERDALE, according to the Plat thereof, recorded in Plat Book "B", at Page 40, of the Public Records of Miami-Dade County, Florida.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida.

Exhibit "B"
(Licensed Property)



LEGAL DESCRIPTION

THE WEST ONE-HALF (W 1/2) OF THE 40 FEET OF RIGHT-OF-WAY DEDICATED BY THE "TOWN OF FORT LAUDERDALE," ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK "B," PAGE 40 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, LYING EAST OF AND ADJACENT TO LOT 18, BLOCK 41 OF SAID PLAT;

TOGETHER WITH

THAT PORTION OF SAID LOT 18, BLOCK 41 OF SAID PLAT LYING EAST OF A LINE LOCATED 44 FEET WEST OF AND PARALLEL TO THE CENTERLINE OF THE RIGHT-OF-WAY DEDICATED BY SAID "TOWN OF FORT LAUDERDALE."

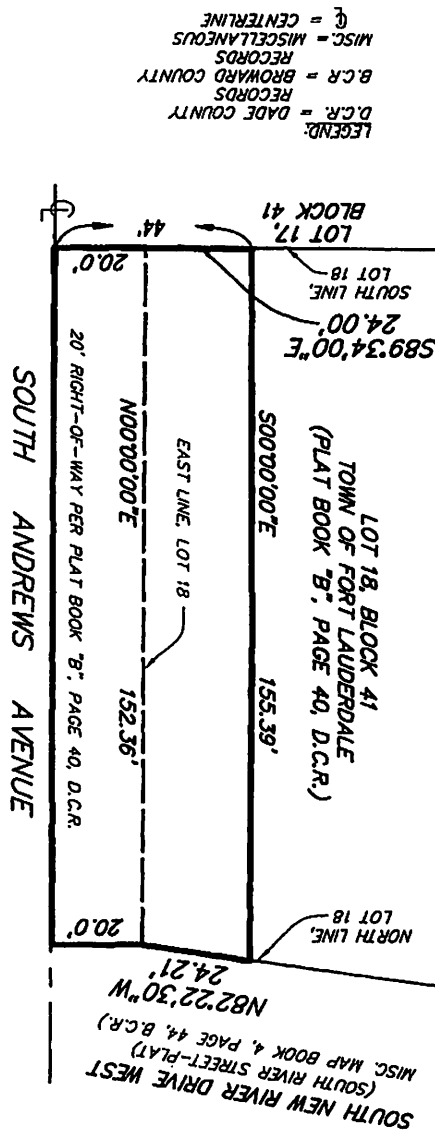


EXHIBIT "C"

A reduced copy of plans illustrating the ingress-only driveway, landscaping, irrigation, and related improvements, together with a schedule for the maintenance thereof, is included herewith. A full-size set of plans are on file with the Broward County Highway Construction and Engineering Division under Project Reference No. 120502001.

All landscaping shall be properly installed, maintained, and fertilized in accordance with the Broward County Naturescape program and Florida Friendly Landscaping principles.

Broward County Naturescape program information can be found at:
<http://www.broward.org/NaturalResources/NatureScape/Pages/Default.aspx>

Florida-Friendly Landscaping principles and information can be found at:
<http://www.floridayards.org>

