

RESOLUTION NO. 17-137

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING A VACANT LAND CONTRACT WITH 1492 EAST BROWARD BOULEVARD LLC TO ACQUIRE A TEMPORARY CONSTRUCTION EASEMENT AND PERMANENT EASEMENT LOCATED ON THE SW CORNER OF SE 15<sup>TH</sup> AVENUE AND BROWARD BOULEVARD IN THE AMOUNT OF \$69,100.00; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Fort Lauderdale (the "City") completed a comprehensive traffic, mobility, and pedestrian safety study in 2013 for streets within the Colee Hammock neighborhood including SE 15<sup>th</sup> Avenue and Las Olas Boulevard; and

WHEREAS, recommendations were made to improve mobility along SE 15<sup>th</sup> Avenue; and

WHEREAS, these recommendations were further analyzed through additional traffic observations between 2015 and 2016; and

WHEREAS, privately owned right-of-way at the southwest corner of SE 15<sup>th</sup> Avenue and Broward Boulevard is needed to accommodate a larger turning radius and a new left turn lane to facilitate traffic mobility along SE 15<sup>th</sup> Avenue between Broward Boulevard and Las Olas Boulevard; and

WHEREAS, the City is seeking a permanent easement over a portion of the property located 1492 East Broward Boulevard, Fort Lauderdale, FL (the "Property") to construct roadway improvements that will reduce travel delays, reduce queuing of vehicles and enhance pedestrian infrastructure at the southwest intersection of SE 15<sup>th</sup> Avenue and Broward Boulevard, Fort Lauderdale, Broward County, Florida; and

WHEREAS, the City, at its expense, intends to make certain improvements within the easements to enlarge the turning radius at this intersection, restore the sidewalk ramp, remove and relocate the pedestrian crosswalk signal, provide for storm water drainage and other public improvements; and

WHEREAS, the proposed public improvements lie within the Property owned by 1492 East Broward Boulevard, LLC (the "Owner") and the Owner seeks to facilitate these public improvements by granting a Permanent Easement and a Temporary Construction Easement;

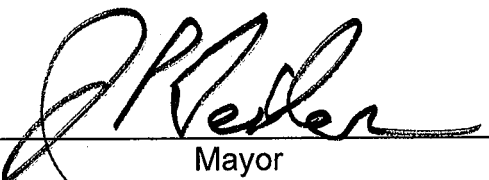
NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

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

SECTION 2. That the City Manager is hereby delegated authority to execute a Vacant Land Contract and Addendum (attached hereto as Exhibit "A") between 1492 East Broward Boulevard, LLC and the City for a Temporary and Permanent Easement on the SW corner of SE 15<sup>th</sup> Avenue and Broward Boulevard along with any other necessary documents to consummate this transaction, subject to final review and approval by the City Attorney. Further, the total compensation for the Permanent and Temporary Easement is \$69,100.00 and the City Manager is authorized to pay same in accordance with the Vacant Land Contract, as amended.

SECTION 3. That this Resolution shall be in full force and effect immediately upon and after its passage.

ADOPTED this the 11th day of July, 2017.

  
\_\_\_\_\_  
Mayor  
JOHN P. "JACK" SEILER

ATTEST:



\_\_\_\_\_  
City Clerk  
JEFFREY A. MODARELLI

EXHIBIT "A"

VACANT LAND CONTRACT

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5. Financing: (Check as applicable)

- (a)  Buyer will pay cash for the Property with no financing contingency.
- (b)  This contract is contingent on Buyer qualifying for and obtaining the commitment(s) or approval(s) specified below ("Financing") within \_\_\_\_\_ days after Effective Date (Closing Date or 30 days after Effective Date, whichever occurs first, if left blank) ("Financing Period"). Buyer will apply for Financing within \_\_\_\_\_ days after Effective Date (5 days if left blank) and will timely provide any and all credit, employment, financial, and other information required by the lender. If Buyer, after using diligence and good faith, cannot obtain the Financing within the Financing Period, either party may terminate this contract and Buyer's deposit(s) will be returned.

(1)  **New Financing:** Buyer will secure a commitment for new third party financing for \$ \_\_\_\_\_ or \_\_\_\_\_% of the purchase price at (Check one)  a fixed rate not exceeding \_\_\_\_\_%  an adjustable interest rate not exceeding \_\_\_\_\_% at origination (a fixed rate at the prevailing interest rate based on Buyer's creditworthiness if neither choice is selected). Buyer will keep Seller and Broker fully informed of the loan application status and progress and authorizes the lender or mortgage broker to disclose all such information to Seller and Broker.

(2)  **Seller Financing:** Buyer will execute a  first  second purchase money note and mortgage to Seller in the amount of \$ \_\_\_\_\_, bearing annual interest at \_\_\_\_\_% and payable as follows:

The mortgage, note, and any security agreement will be in a form acceptable to Seller and will follow forms generally accepted in the county where the Property is located; will provide for a late payment fee and acceleration at the mortgagee's option if Buyer defaults; will give Buyer the right to prepay without penalty all or part of the principal at any time(s) with interest only to date of payment; will be due on conveyance or sale; will provide for release of contiguous parcels, if applicable; and will require Buyer to keep liability insurance on the Property, with Seller as additional named insured. Buyer authorizes Seller to obtain credit, employment, and other necessary information to determine creditworthiness for the financing. Seller will, within 10 days after Effective Date, give Buyer written notice of whether or not Seller will make the loan.

(3)  **Mortgage Assumption:** Buyer will take title subject to and assume and pay existing first mortgage to

LN# \_\_\_\_\_ in the approximate amount of \$ \_\_\_\_\_ currently payable at \$ \_\_\_\_\_ per month, including principal, interest,  taxes and insurance, and having a  fixed  other (describe) \_\_\_\_\_ interest rate of \_\_\_\_\_% which  will  will not escalate upon assumption. Any variance in the mortgage will be adjusted in the balance due at closing with no adjustment to purchase price. Buyer will purchase Seller's escrow account dollar for dollar. If the interest rate upon transfer exceeds \_\_\_\_\_% or the assumption/transfer fee exceeds \$ \_\_\_\_\_, either party may elect to pay the excess, failing which this contract will terminate; and Buyer's deposit(s) will be returned. If the lender disapproves Buyer, this contract will terminate; and Buyer's deposit(s) will be returned.

6. Assignability: (Check one) Buyer  may assign and thereby be released from any further liability under this contract,  may assign but not be released from liability under this contract, or  may not assign this contract.

7. Title: Seller has the legal capacity to and will convey marketable title to the Property by  statutory warranty deed  special warranty deed  other (specify) Temporary and Permanent Easement, free of liens, easements, and encumbrances of record or known to Seller, but subject to property taxes for the year of closing; covenants, restrictions, and public utility easements of record; existing zoning and governmental regulations; and (list any other matters to which title will be subject) none, provided there exists at closing no violation of the foregoing.

(a) **Title Evidence:** The party who pays for the owner's title insurance policy will select the closing agent and pay for the title search, including tax and lien search if performed, and all other fees charged by closing agent. Seller will deliver to Buyer, at

(Check one)  Seller's  Buyer's expense and (Check one)  within 10 days after Effective Date  at least \_\_\_\_\_ days before Closing Date, (Check one)

(1)  a title insurance commitment by a Florida licensed title insurer setting forth those matters to be discharged by Seller at or before closing and, upon Buyer recording the deed, an owner's policy in the amount of the purchase price for fee simple title subject only to the exceptions stated above. If Buyer is paying for the owner's title insurance policy and Seller has an owner's policy, Seller will deliver a copy to Buyer within 15 days after Effective Date.

- 164 and other pertinent regulations and restrictions, such as subdivision or deed restrictions, concurrency,  
 165 growth management, and environmental conditions, are acceptable to **Buyer**. This contract is not  
 166 contingent on **Buyer** conducting any further investigations.
- 167 (b) **Government Regulations:** Changes in government regulations and levels of service which affect **Buyer's**  
 168 intended use of the Property will not be grounds for terminating this contract if the Feasibility Study Period has  
 169 expired or if Paragraph 8(a)(2) is selected.
- 170 (c) **Flood Zone:** **Buyer** is advised to verify by survey, with the lender, and with appropriate government  
 171 agencies which flood zone the Property is in, whether flood insurance is required, and what restrictions apply  
 172 to improving the Property and rebuilding in the event of casualty.
- 173 (d) **Coastal Construction Control Line ("CCCL"):** If any part of the Property lies seaward of the CCCL as  
 174 defined in Section 161.053, Florida Statutes, **Seller** will provide **Buyer** with an affidavit or survey as required  
 175 by law delineating the line's location on the Property, unless **Buyer** waives this requirement in writing. The  
 176 Property being purchased may be subject to coastal erosion and to federal, state, or local regulations that  
 177 govern coastal property, including delineation of the CCCL, rigid coastal protection structures, beach  
 178 nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida  
 179 Department of Environmental Protection, including whether there are significant erosion conditions associated  
 180 with the shore line of the Property being purchased.  
 181\*  **Buyer** waives the right to receive a CCCL affidavit or survey.

182 9. **Closing Procedure; Costs:** Closing will take place in the county where the Property is located and may be  
 183 conducted by mail or electronic means. If title insurance insures **Buyer** for title defects arising between the title  
 184 binder effective date and recording of **Buyer's** deed, closing agent will disburse at closing the net sale proceeds  
 185 to **Seller** (in local cashier's check if **Seller** requests in writing at least 5 days before closing) and brokerage fees to  
 186 Broker as per Paragraph 19. In addition to other expenses provided in this contract, **Seller** and **Buyer** will pay the  
 187 costs indicated below.

- 188 (a) **Seller Costs:**  
 189 Taxes on deed  
 190 Recording fees for documents needed to cure title  
 191 Title evidence (if applicable under Paragraph 7)  
 192\* Other: \_\_\_\_\_

- 193 (b) **Buyer Costs:**  
 194 Taxes and recording fees on notes and mortgages  
 195 Recording fees on the deed and financing statements  
 196 Loan expenses  
 197 Title evidence (if applicable under Paragraph 7)  
 198 Lender's title policy at the simultaneous issue rate  
 199 Inspections  
 200 Survey  
 201 Insurance  
 202\* Other: \_\_\_\_\_

203 (c) **Prorations:** The following items will be made current and prorated as of the day before Closing Date: real  
 204 estate taxes (including special benefit tax liens imposed by a CDD), interest, bonds, assessments, leases,  
 205 and other Property expenses and revenues. If taxes and assessments for the current year cannot be  
 206 determined, the previous year's rates will be used with adjustment for any exemptions.

207 (d) **Special Assessment by Public Body:** Regarding special assessments imposed by a public body, **Seller**  
 208 will pay (i) the full amount of liens that are certified, confirmed, and ratified before closing and (ii) the amount  
 209 of the last estimate of the assessment if an improvement is substantially completed as of Effective Date but  
 210 has not resulted in a lien before closing; and **Buyer** will pay all other amounts. If special assessments may be  
 211\* paid in installments,  **Seller**  **Buyer** (**Buyer** if left blank) will pay installments due after closing. If **Seller** is  
 212 checked, **Seller** will pay the assessment in full before or at the time of closing. Public body does not include a  
 213 Homeowners' or Condominium Association.

214 (e) **PROPERTY TAX DISCLOSURE SUMMARY: BUYER SHOULD NOT RELY ON THE SELLER'S CURRENT**  
 215 **PROPERTY TAXES AS THE AMOUNT OF PROPERTY TAXES THAT BUYER MAY BE OBLIGATED TO**  
 216 **PAY IN THE YEAR SUBSEQUENT TO PURCHASE. A CHANGE OF OWNERSHIP OR PROPERTY**  
 217 **IMPROVEMENTS TRIGGERS REASSESSMENTS OF THE PROPERTY THAT COULD RESULT IN**  
 218 **HIGHER PROPERTY TAXES. IF YOU HAVE ANY QUESTIONS CONCERNING VALUATION, CONTACT**  
 219 **THE COUNTY PROPERTY APPRAISER'S OFFICE FOR FURTHER INFORMATION.**

272 (b) **Buyer Default:** If Buyer fails, neglects, or refuses to perform Buyer's obligations under this contract,  
273 including payment of deposit(s), within the time(s) specified, Seller may elect to recover and retain the  
274 deposit(s), paid and agreed to be paid, for the account of Seller as agreed upon liquidated damages,  
275 consideration for execution of this contract, and in full settlement of any claims, whereupon Seller and Buyer  
276 will be relieved from all further obligations under this contract; or Seller, at Seller's option, may proceed in  
277 equity to enforce Seller's rights under this contract.

278 **16. Attorney's Fees; Costs:** In any litigation permitted by this Contract, the prevailing party shall be entitled to  
279 recover from the non-prevailing party costs and fees, including reasonable attorney's fees, incurred in conducting  
280 the litigation. This Paragraph 16 shall survive Closing or termination of this Contract.

281 **17. Escrow Agent; Closing Agent:** Seller and Buyer authorize Escrow Agent and closing agent (collectively  
282 "Agent") to receive, deposit, and hold funds and other items in escrow and, subject to Collection, disburse them  
283 upon proper authorization and in accordance with Florida law and the terms of this contract, including disbursing  
284 brokerage fees. "Collection" or "Collected" means any checks tendered or received have become actually and  
285 finally collected and deposited in the account of Agent. The parties agree that Agent will not be liable to any  
286 person for misdelivery of escrowed items to Seller or Buyer, unless the misdelivery is due to Agent's willful  
287 breach of this contract or gross negligence. If Agent interpleads the subject matter of the escrow, Agent will pay  
288 the filing fees and costs from the deposit and will recover reasonable attorneys' fees and costs to be paid from the  
289 escrowed funds or equivalent and charged and awarded as court costs in favor of the prevailing party.

290 **18. Professional Advice; Broker Liability:** Broker advises Seller and Buyer to verify all facts and representations  
291 that are important to them and to consult an appropriate professional for legal advice (for example, interpreting  
292 this contract, determining the effect of laws on the Property and this transaction, status of title, foreign investor  
293 reporting requirements, the effect of property lying partially or totally seaward of the CCCL, etc.) and for tax,  
294 property condition, environmental, and other specialized advice. Buyer acknowledges that Broker does not reside  
295 in the Property and that all representations (oral, written, or otherwise) by Broker are based on Seller  
296 representations or public records. Buyer agrees to rely solely on Seller, professional inspectors, and  
297 government agencies for verification of the Property condition and facts that materially affect Property  
298 value. Seller and Buyer respectively will pay all costs and expenses, including reasonable attorneys' fees at all  
299 levels, incurred by Broker and Broker's officers, directors, agents, and employees in connection with or arising  
300 from Seller's or Buyer's misstatement or failure to perform contractual obligations. Seller and Buyer hold  
301 harmless and release Broker and Broker's officers, directors, agents, and employees from all liability for loss or  
302 damage based on (i) Seller's or Buyer's misstatement or failure to perform contractual obligations; (ii) the use or  
303 display of listing data by third parties, including, but not limited to, photographs, images, graphics, video  
304 recordings, virtual tours, drawings, written descriptions, and remarks related to the Property; (iii) Broker's  
305 performance, at Seller's or Buyer's request, of any task beyond the scope of services regulated by Chapter 475,  
306 Florida Statutes, as amended, including Broker's referral, recommendation, or retention of any vendor; (iv)  
307 products or services provided by any vendor; and (v) expenses incurred by any vendor. Seller and Buyer each  
308 assume full responsibility for selecting and compensating their respective vendors. This Paragraph will not relieve  
309 Broker of statutory obligations. For purposes of this Paragraph, Broker will be treated as a party to this contract.  
310 This Paragraph will survive closing.

311 **19. Commercial Real Estate Sales Commission Lien Act:** If the Property is commercial real estate as defined by  
312 Section 475.701, Florida Statutes, the following disclosure will apply: The Florida Commercial Real Estate Sales  
313 Commission Lien Act provides that when a broker has earned a commission by performing licensed services  
314 under a brokerage agreement with you, the broker may claim a lien against your net sales proceeds for the  
315 broker's commission. The broker's lien rights under the act cannot be waived before the commission is earned.

316 **20. Brokers:** The brokers named below are collectively referred to as "Broker." **Instruction to closing agent:**  
317 Seller and Buyer direct closing agent to disburse at closing the full amount of the brokerage fees as specified in  
318 separate brokerage agreements with the parties and cooperative agreements between the Brokers, except to the  
319 extent Broker has retained such fees from the escrowed funds. This Paragraph will not be used to modify any  
320 MLS or other offer of compensation made by Seller or Seller's Broker to Buyer's Broker.

321\* (a) \_\_\_\_\_ (Seller's Broker)  
322\* will be compensated by  Seller  Buyer  both parties pursuant to  a listing agreement  other  
323\* (specify): \_\_\_\_\_

324\* (b) \_\_\_\_\_ (Buyer's Broker)  
325\* will be compensated by  Seller  Buyer  both parties  Seller's Broker pursuant to  a MLS offer of  
326\* compensation  other (specify): \_\_\_\_\_

## ADDENDUM TO COMMERCIAL CONTRACT

**SELLER:** 1492 East Broward Blvd, LLC, a Florida limited liability company, whose address is 1492 East Broward Blvd, Fort Lauderdale, Florida 33301

**BUYER:** CITY OF FORT LAUDERDALE, a Florida municipal corporation, whose address is 100 North Andrews Avenue, Fort Lauderdale, FL 33301

**PROPERTY:** See Section 1 of the Contract

(hereinafter "Real Property" or "Property")

The following Addendum to the Commercial Contract (hereinafter, "Contract") is hereby incorporated into that Contract between Buyer and Seller and Buyer and Seller do hereby agree as follows:

**1. Purchase Price.** Both parties acknowledge that Seller has agreed to convey exclusive Temporary and Permanent Easements to Buyer in form and content acceptable to Buyer and in substantially the form attached hereto as **Exhibits "C" and "D"**, subject to final approval by Buyer's City Attorney. Buyer requires the joinder and consent of any and all holders of liens or encumbrances on the Property. Seller shall execute and deliver closing documents as reasonably requested by Buyer, including without limit corporate authorization or resolutions. Based on an appraisal secured by Buyer, the value of the Temporary Easement is Three Thousand Six Hundred and No/100 Dollars (\$3,600.00) and the value of the Permanent Easement is Forty Three Thousand Nine Hundred and No/100 Dollars (\$43,900.00) plus payment of reasonable attorney's fees, appraisals and architect fees of Seller for a total consideration of Sixty Nine Thousand One Hundred and No/100 Dollars (\$69,100.00). Buyer shall not be liable for payment of any other fees or costs of Seller arising from or related to this acquisition. Seller represents that Tom Bolf has assisted Seller in this matter and is the only attorney that is entitled to compensation for services rendered in negotiating the easements and review of documents. Seller indemnifies and holds harmless Buyer, its employees, agents and public officials from any and all claims, demands, costs and expenses, including reasonable attorney's fees and costs of any third party demand or claim for compensation related to this transaction. This indemnity shall survive closing.

**2. Right of Cancellation.** Intentionally Omitted.

**3. Leases.** Conveyance of title to the Property shall be free of any leasehold interests or claims by persons in possession of the Property.

**4. Personal Property.** Seller represents and acknowledges that there is no personal property located on the Property that is a part of the Easements.

(d) No Bankruptcy or Dissolution. No "Bankruptcy/Dissolution Event (as defined below) has occurred with respect to Seller. As used herein, a "Bankruptcy/Dissolution Event" means any of the following: (a) the commencement of a case under Title 11 of the U.S. Code, as now constituted or hereafter amended, or under any other applicable federal or state bankruptcy law or other similar law; (b) the appointment of a trustee or receiver of any property interest; (c) an assignment for the benefit of creditors; (d) an attachment, execution or other judicial seizure of a substantial property interest; (e) the taking of, failure to take, or submission to any action indicating an inability to meet its financial obligations as they accrue; or (f) a dissolution or liquidation, death or incapacity.

(e) Litigation. Except as may be set forth in **Exhibit "E"**, Seller has received no written notice of any pending or threatened action, litigation, condemnation or other proceeding against the Real Property or against Seller with respect to the Real Property, nor is Seller aware of any such pending or anticipated action or litigation regarding Seller or the Real Property.

(f) Compliance. Except as may be set forth in **Exhibit "F"**, Seller has received no written notice from any governmental authority having jurisdiction over the Real Property to the effect that the Real Property is not in compliance with applicable laws, ordinances, rules or regulations.

(g) FIRPTA. Seller is not a "foreign person" within the meaning of the Internal Revenue Code, and at Closing, Seller shall deliver to Buyer an affidavit to such effect. Seller acknowledges and agrees that Buyer shall be entitled to fully comply with Internal Revenue Code Section 1445 and all related sections and regulations, as same may be amended from time to time, and Seller shall act in accordance with all reasonable requirements of Buyer in order to effect such full compliance by Buyer.

At Closing, the Seller shall provide to the Buyer an updated certification certifying that all the representations and warranties of the Seller remain in full force and effect.

**8. Computation of Days.** In computing any period of time expressed in day(s) in this Contract, 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.

**9. Notice.** All notices under this Contract to be given by one party to the other shall be in writing and the same shall only be deemed given if forwarded as follows:

(a) By certified mail, return receipt requested, to the following addresses:

Addendum / Contract to Purchase  
Seller: 1492 East Broward Blvd LLC  
Buyer: City of Fort Lauderdale



**11. Purchase "As Is".** Subject to the provisions herein, Buyer acknowledges that it has performed, or will perform pursuant to this Contract, sufficient inspections of the Property in order to fully assess and make itself aware of the condition of the Property, and that Buyer is purchasing the Property in an "AS IS" condition. Nothing contained in this Paragraph shall be construed as to negate Seller's obligation to convey marketable title to the Temporary and Permanent Easements. Except as may be expressly set forth in or required by this Contract, Buyer acknowledges that the Seller has made no other representations or warranties as to the condition or status of the Property and that Buyer is not relying on any other representations or warranties of the Seller, any broker(s), or any agent of Seller in purchasing the Property. Except as may be expressly set forth in or required by this Contract, Buyer acknowledges that neither Seller nor any agent of Seller has provided any other representations, warranties, promises, covenants, agreements or guaranties of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to:

- (a) The nature, quality or condition of the Property, including, without limitation, the water, soil and geology;
- (b) The income to be derived from the Property;
- (c) The suitability of the Property for any and all activities and uses which Buyer may conduct thereon;
- (d) The compliance of or by the Property or its operation with any laws, rules, ordinances or regulations of any applicable governmental authority or body;
- (e) The habitability, merchantability or fitness for a particular purpose of the Property; or
- (f) Any other matter with respect to the Property.

Without limiting the foregoing, Seller does not and has not made and specifically disclaims any other representation or warranty regarding the presence or absence of any hazardous substances, as hereinafter defined, at, on, under or about the Property or the compliance or non-compliance of the Property with any laws, rules, regulations or orders regarding Hazardous Substances (collectively the "Hazardous Substance Laws"). For purposes of this Contract, the term "Hazardous Substances" shall mean and include those elements or compounds which are contained in the list of Hazardous Substances adopted by the United States Environmental Protection Agency and the list of toxic pollutants designated by Congress or the Environmental Protection Agency or under any Hazardous Substance laws. Hazardous Substances shall also include Radon Gas. Buyer further acknowledges that neither Seller nor any agent of Seller has provided any representation or warranty with respect to the existence of

Addendum / Contract to Purchase  
Seller: 1492 East Broward Blvd LLC  
Buyer: City of Fort Lauderdale

and the name(s) and address (es) of each and every person having a beneficial interest in the Real Property; provided, however, disclosure of beneficial interests in nonpublic entities shall not be required as to persons or entities holding less than five (5%) per cent of the beneficial interest in the Seller.

(b) The beneficial interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, whose interest is for sale to Buyer is exempt from the provisions of this Section.

(c) If the Seller is an individual or individuals, no Public Disclosure is required.

**14. Conflict.** In the event of any conflict or ambiguity between this Addendum and the underlying Contract that it modifies, this Addendum shall control.

**15. Commission.** The terms and conditions of this Contract and Addendum are subject to approval of the City Commission of Buyer at a duly noticed publicly held meeting.

**16. Miscellaneous.**

(a) Incorporation of Exhibits. All exhibits attached and referred to in this Contract are hereby incorporated herein as fully set forth in (and shall be deemed to be a part of) this Agreement.

(b) Time of the Essence. Time is of the essence of this Agreement.

(c) Severability. If any term or provision of this Contract or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Contract, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each such term and provision of this Contract shall be valid and be enforced to the fullest extent permitted by law.

(d) Interpretation. Words used in the singular shall include the plural and vice-versa, and any gender shall be deemed to include the other. Whenever the words "including", "include" or "includes" are used in this Contract, they should be interpreted in a non-exclusive manner. The captions and headings of the Paragraphs of this Contract are for convenience of reference only, and shall not be deemed to define or limit the provisions hereof. Except as otherwise indicated all Exhibits and Paragraph references in this Contract shall be deemed to refer to the Exhibits and Paragraphs in this Contract. Each party acknowledges and agrees that this Contract (a) has been reviewed by it and its counsel; (b) is the product of negotiations between the parties, and (c) shall not be deemed prepared or drafted by any one party. In the event of any dispute between the parties concerning this Contract, the parties agree that any ambiguity in the language of the Contract is to not to be resolved against Seller or Buyer, but

Addendum / Contract to Purchase  
Seller: 1492 East Broward Blvd LLC  
Buyer: City of Fort Lauderdale

signing the Easements are authorized to enter into a binding agreement on behalf of Seller and otherwise in form and content acceptable to Buyer and Buyer's City Attorney.

(n) Notwithstanding the Contract, Buyer shall pay all reasonable closing costs of this transaction. Further, both parties acknowledge that taxes, assessments and any charges by a public body against the Easement shall be borne by the Seller.

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

**AS TO SELLER:**

WITNESSES

**1492 East Broward Blvd, LLC, a Florida limited liability company**

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

Print Name: \_\_\_\_\_  
Print Title: \_\_\_\_\_

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

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2017, by \_\_\_\_\_ as \_\_\_\_\_ of 1492 East Broward Blvd, LLC who is personally known to me or has produced \_\_\_\_\_ as identification and did not (did) take an oath.

(SEAL)

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

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped  
My Commission Expires:

Addendum / Contract to Purchase  
Seller: 1492 East Broward Blvd LLC  
Buyer: City of Fort Lauderdale

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF THE ENTIRE SITE**

Addendum / Contract to Purchase  
Seller: 1492 East Broward Blvd LLC  
Buyer: City of Fort Lauderdale

**EXHIBIT "B"**

**LEGAL DESCRIPTION AND  
SKETCH OF EASEMENT AREA**

Addendum / Contract to Purchase  
Seller: 1492 East Broward Blvd LLC  
Buyer: City of Fort Lauderdale

**EXHIBIT "C"**

**TEMPORARY CONSTRUCTION EASEMENT**

Addendum / Contract to Purchase  
Seller: 1492 East Broward Blvd LLC  
Buyer: City of Fort Lauderdale

the Grantee seeks to facilitate these public improvements by granting a Temporary Construction Easement; and

WHEREAS, Grantee has agreed to compensate the Grantor for the Temporary Construction Easement pursuant to a separate agreement; and

WHEREAS, Grantor intends to grant a permanent easement to Grantee upon completion of the proposed public improvements to a portion of Grantor's Property,

NOW, THEREFORE, in consideration of the foregoing;

Grantor, for and in consideration of the sum of TEN and No/100 DOLLARS (\$10.00) and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt of which is hereby acknowledged, has granted, bargained and sold unto Grantee, its successors and assigns, a temporary construction easement for, under, across, and over the Property of the Grantor, situate in the City of Fort Lauderdale, County of Broward, State of Florida, and more particularly described and depicted in Exhibit "B" attached hereto and made (the "Easement Area"):

Together with the right of the Grantee, its successors and assigns, to go onto the Easement Area with necessary labor, equipment, vehicles or materials to facilitate the construction of public improvements associated with the Permanent Easement and for doing anything necessary, useful or convenient for the enjoyment of the easement herein granted.

And the Grantor does hereby covenant with the said Grantee as follows:

1. That the Grantor is lawfully seized of the land upon which said temporary construction easement is granted, and has good and marketable title to such real estate, and the Grantor therefore has good and lawful right to convey the temporary construction easement reference herein, and Grantor fully warrants and shall defend title to the Easement Area against the claims of all persons whomsoever.
2. That the said easement is free and clear from encumbrances of record, which would interfere with the intended use by Grantee.
3. That the Grantee shall quietly enjoy its rights in and to the said easement without disturbance and interference by the Grantor, and to the extent within the control, whether directly or indirectly or to the extent under its direction, Grantor shall keep the Easement Area free of all obstructions. Grantor, or its agents, employees, licensee

IN WITNESS WHEREOF, the Grantor has hereunto set Grantor's hand and seal the day and year first above written.

**GRANTOR:**

**1492 East Broward Blvd. LLC,**  
a Florida Limited Liability Company

WITNESSES:

\_\_\_\_\_

[Witness print/type name]

\_\_\_\_\_

[Witness print/type name]

\_\_\_\_\_  
**Paul Wigoda, Managing Member**

STATE OF FLORIDA: COUNTY  
OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_ 2017 by **Paul Wigoda, as Managing Member** of and on behalf of **1492 East Broward Blvd. LLC,** a Florida limited liability company. He/She is personally known to me or has produced as identification and did not (did) take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
Signature of Notary taking Acknowledgement

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

\_\_\_\_\_  
Commission Number



STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by JOHN P. "JACK" SEILER, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida.  
(SEAL)

\_\_\_\_\_  
Signature: Notary Public, State of Florida

\_\_\_\_\_  
Name of Notary Typed, Printed or Stamped

Personally Known

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by LEE R. FELDMAN, City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida.

(SEAL)

\_\_\_\_\_  
Signature: Notary Public, State of Florida

\_\_\_\_\_  
Name of Notary Typed, Printed or

Stamped

Personally Known

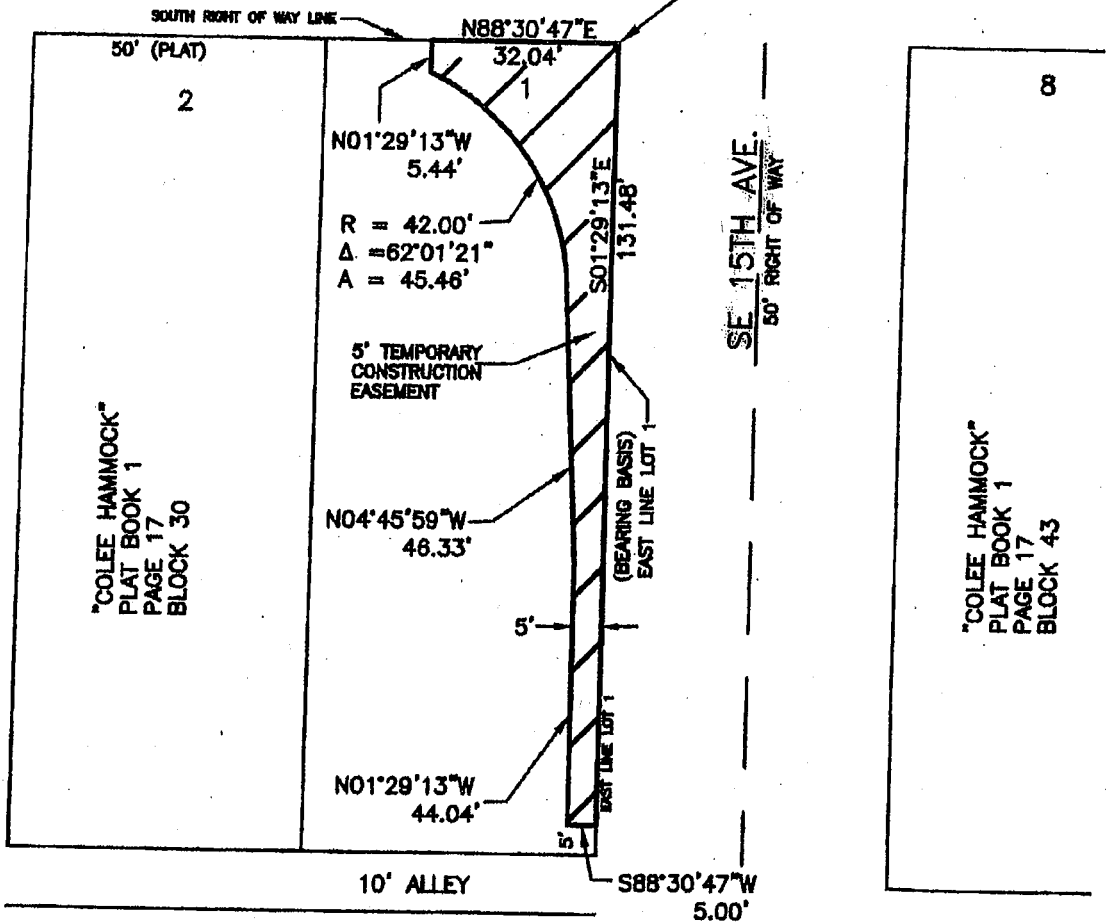
# SKETCH AND DESCRIPTION

## TEMPORARY CONSTRUCTION EASEMENT

THIS IS NOT A SURVEY

E BROWARD BLVD.  
70' RIGHT OF WAY

POINT OF BEGINNING  
NE CORNER LOT 1



**DESCRIPTION:**

A PORTION OF LOT 1, BLOCK 30, "COLEE HAMMOCK", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE 17, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

BEGIN AT THE NORTHEAST CORNER OF SAID LOT 1, THENCE SOUTH 01°29'13" EAST, ALONG SAID EAST PROPERTY LINE ALSO BEING THE WEST RIGHT OF WAY OF SE 15TH AVENUE, A DISTANCE OF 131.48 FEET; THENCE DEPARTING SAID EAST LINE SOUTH 88°30'47" WEST, A DISTANCE OF 5.00; THENCE NORTH 01°29'13" WEST, A DISTANCE OF 44.04 FEET; THENCE NORTH 04°45'59" WEST, A DISTANCE OF 48.33 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE SOUTHWEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 42.00 FEET, A CENTRAL ANGLE OF 62°01'21" AND AN ARC DISTANCE OF 45.46 FEET TO A POINT; THENCE NORTH 01°29'13" WEST, A DISTANCE OF 5.44 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 1 AND ALSO BEING THE SOUTH RIGHT OF WAY OF E. BROWARD BLVD.; THENCE NORTH 88°30'47" EAST ALONG SAID SOUTH RIGHT OF WAY, A DISTANCE OF 32.04 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA. CONTAINING 1221 SQUARE FEET OR 0.0280 ACRES MORE OR LESS.

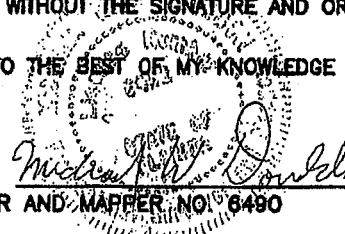
**NOTES:**

- 1) BEARINGS ARE BASED UPON A GRID BEARING OF S 01°29'13" E, ALONG THE EAST LINE OF LOT 1.
- 2) THIS IS NOT A SKETCH OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.
- 3) SUBJECT TO EXISTING EASEMENTS, RIGHT-OF-WAYS, COVENANTS, RESERVATIONS AND RESRTCTIONS OF RECORD, IF
- 4) THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFIED TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATED: JANUARY 17, 2017

MICHAEL W. DONALDSON  
PROFESSIONAL SURVEYOR AND MAPPER, NO. 6490  
STATE OF FLORIDA



CITY OF FORT LAUDERDALE		
TEMPORARY CONSTRUCTION EASEMENT		
S.E. 15TH AVE. AND E. BROWARD BLVD.		
EXHIBIT 1		
BY: M.D.	ENGINEERING	DATE: 1/17/17
CHK'D M.D.	DIVISION	SCALE: 1"=30'

**EXHIBIT "D"**

**PERMANENT EASEMENT**

Addendum / Contract to Purchase  
Seller: 1492 East Broward Blvd LLC  
Buyer: City of Fort Lauderdale

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms and conditions set forth herein, together with other good and valuable consideration provided to Grantor, the adequacy and receipt of which are hereby acknowledged, Grantor hereby voluntarily grants, creates, conveys, and establishes a perpetual easement for and in favor of Grantee upon the Property described on Exhibit " B " ("Easement Area") which shall run with the land and be binding upon the land.

The scope, nature, and character of this Easement shall be as follows:

1. **Recitals:** The recitals herein are true and correct and are hereby incorporated into and made a part of this Easement.
2. **Purpose:** It is the purpose of this Easement to grant a permanent exclusive easement over, on, upon, and across the Easement Area for the purpose of vehicular and pedestrian ingress and egress and for utilities for the benefit of the public.
3. **Duration:** This Easement shall remain in full force and effect in perpetuity.
4. **Modification:** This Easement may be amended, altered, released or revoked only by written agreement between the parties hereto or their heirs, assigns or successors-in-interest, which shall be filed in the public records in Broward County, Florida.

And the Grantor does hereby covenant with the said Grantee as follows:

1. That the Grantor is lawfully seized of the land upon which said easement is granted, and has good and marketable title to such real estate, and the Grantor therefore has good and lawful right to convey the easement reference herein, and Grantor fully warrants and shall defend title to the Easement Area against the claims of all persons whomsoever.
2. That the said easement is free and clear from encumbrances of record, which would interfere with the intended use by Grantee.
3. That the Grantee shall quietly enjoy its rights in and to the said easement without disturbance and interference by the Grantor, and to the extent within the control, whether direct or indirect, or under its direction, Grantor shall keep the Easement Area free of all obstructions. Grantor, or its agents, employees, licensees or invitees, shall place no improvements, shrubbery, landscaping or other obstructions within the Easement Area.

IN WITNESS WHEREOF, the Grantor has hereunto set Grantor's hand and seal the day and year first above written.

**GRANTOR:**

WITNESSES:

**1492 East Broward Blvd. LLC**, a Florida limited liability company

\_\_\_\_\_

[Witness print/type name]

\_\_\_\_\_

[Witness print/type name]

By: \_\_\_\_\_  
**Paul Wigoda, Managing Member**

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 2017 by **Paul Wigoda, as Managing Member** of and on behalf of **1492 East Broward Blvd. LLC**, a Florida limited liability company. He/She is personally known to me or has produced \_\_\_\_\_ as identification and did not take an oath.

(SEAL)

\_\_\_\_\_  
Notary Public, State of Florida  
Signature of Notary taking Acknowledgement

\_\_\_\_\_  
Name of Notary Typed,  
Printed or Stamped

My Commission Expires:

\_\_\_\_\_  
Commission Number

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by JOHN P. "JACK" SEILER, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida.  
(SEAL)

\_\_\_\_\_  
Signature: Notary Public, State of Florida

\_\_\_\_\_  
Name of Notary Typed, Printed or Stamped

Personally Known

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2017, by LEE R. FELDMAN, City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida.

(SEAL)

\_\_\_\_\_  
Signature: Notary Public, State of Florida

\_\_\_\_\_  
Name of Notary Typed, Printed or

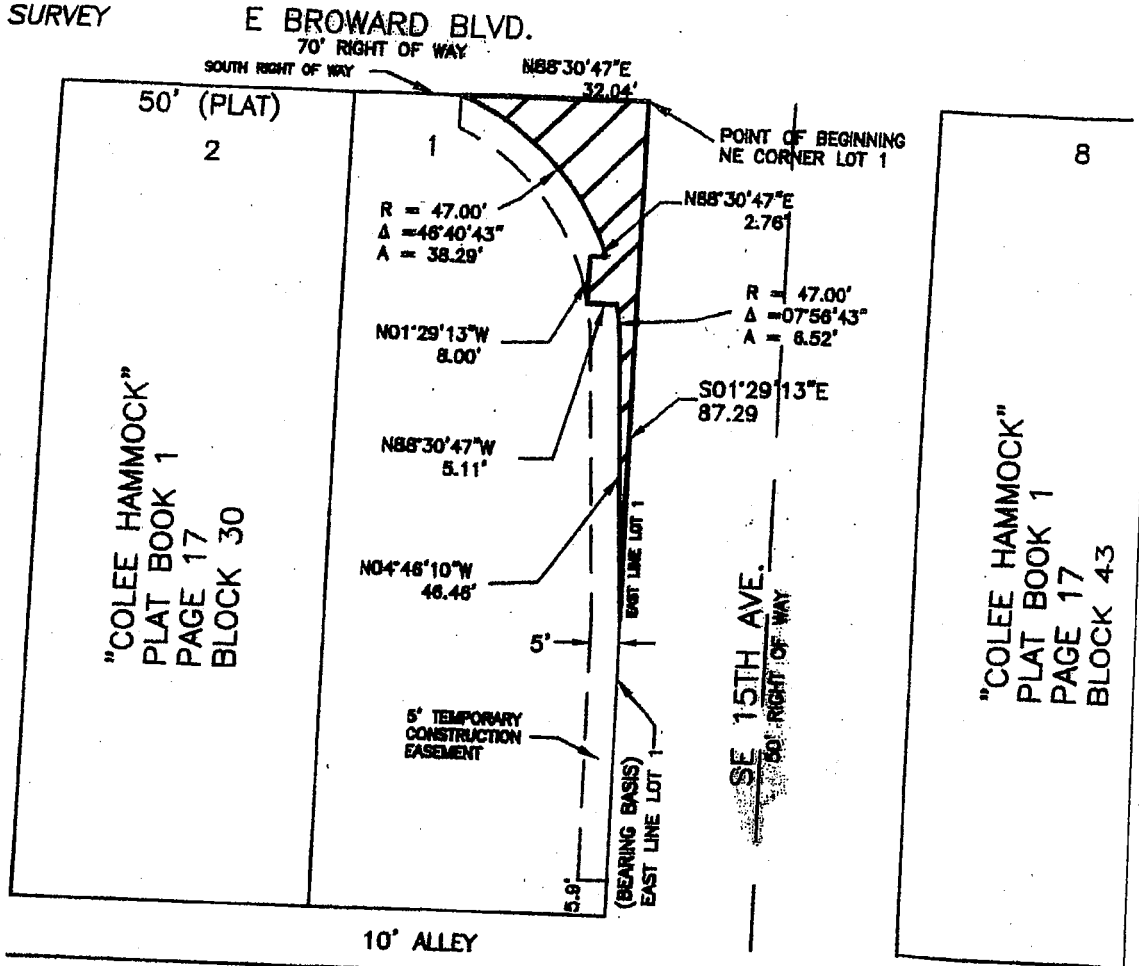
Stamped

Personally Known

# SKETCH AND DESCRIPTION

## RIGHT OF WAY EASEMENT

THIS IS NOT A SURVEY



**DESCRIPTION:**

A PORTION OF LOT 1, BLOCK 30, "COLEE HAMMOCK", ACCORDING TO THE PLAT THEREOF, RECORDED IN PLAT BOOK 1, PAGE 17, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

BEGIN AT THE NORTHEAST CORNER OF SAID LOT 1. THENCE SOUTH 01°29'13" EAST, ALONG SAID EAST PROPERTY LINE ALSO BEING THE WEST RIGHT OF WAY OF SE 15TH AVENUE, A DISTANCE OF 87.29 FEET; THENCE DEPARTING SAID EAST LINE NORTH 04°46'10" WEST, A DISTANCE OF 46.46 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE SOUTHWEST; THENCE NORTHERLY AND NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 47.00 FEET, A CENTRAL ANGLE OF 07° 56' 43" AND AN ARC DISTANCE OF 6.52 FEET TO A POINT; THENCE NORTH 88°30'47" WEST, A DISTANCE OF 5.11 FEET; THENCE NORTH 01°29'13" WEST, A DISTANCE OF 8.00 FEET; THENCE NORTH 88°30'47" EAST, A DISTANCE OF 2.76 FEET TO THE POINT OF CURVATURE OF A CIRCULAR CURVE, CONCAVE TO THE SOUTHWEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, HAVING A RADIUS OF 47.00 FEET, A CENTRAL ANGLE OF 48° 40' 43" AND AN ARC DISTANCE OF 38.29 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 1 AND ALSO BEING THE SOUTH RIGHT OF WAY OF E. BROWARD BLVD.; THENCE NORTH 88°30'47" EAST ALONG SAID SOUTH RIGHT OF WAY, A DISTANCE OF 32.04 FEET TO THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA. CONTAINING 554 SQUARE FEET MORE OR LESS.

**NOTES:**

- 1) BEARINGS ARE BASED UPON A GRID BEARING OF S 01°29'13" E, ALONG THE EAST LINE OF LOT 1.
- 2) THIS IS NOT A SKETCH OF SURVEY AND DOES NOT REPRESENT A FIELD SURVEY.
- 3) SUBJECT TO EXISTING EASEMENTS, RIGHT-OF WAYS, COVENANTS, RESERVATIONS AND RESRTICTIONS OF RECORD, IF
- 4) THIS SKETCH IS NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

CERTIFIED TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

DATED: NOVEMBER 22, 2016

MICHAEL W. DONALDSON  
PROFESSIONAL SURVEYOR AND MAPPER NO. 6490  
STATE OF FLORIDA

CITY OF FORT LAUDERDALE		
RIGHT OF WAY EASEMENT		
S.E. 15TH AVE. AND E. BROWARD BLVD.		
EXHIBIT 1		
BY: M.D.	ENGINEERING DIVISION	DATE: 11/22/16
CHK'D M.D.		SCALE: 1"=30'

**EXHIBIT "E"**

**PENDING LITIGATION**

Addendum / Contract to Purchase  
Seller: 1492 East Broward Blvd LLC  
Buyer: City of Fort Lauderdale