

CITY HALL GARAGE PARKING & AIRSPACE LEASE AGREEMENT

THIS IS A CITY HALL GARAGE PARKING & AIRSPACE LEASE AGREEMENT, by and among:

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida, hereinafter "City" or "Lessor,"

and

GS EXCHANGE, LLC, a Delaware Limited Liability Company authorized to do business in the State of Florida, hereinafter "Lessee."

WHEREAS, City and Lessee desire to enter into a Parking & Airspace Lease Agreement for the multi-level parking garage commonly known as the City of Fort Lauderdale City Hall Municipal Parking Garage, located on the north side of NE 1<sup>st</sup> Street, immediately East of the City of Fort Lauderdale City Hall located at 100 N. Andrews Avenue, Fort Lauderdale, Florida 33301, hereinafter "City Garage"; and

WHEREAS, Lessee owns a residential apartment building commonly known as the Exchange Lofts, located at 115 NE 3<sup>rd</sup> Avenue, Fort Lauderdale, Florida 33301; and

WHEREAS, Lessee is desirous of leasing one hundred twenty-eight (128) parking spaces from City to provide parking for its residents; and

WHEREAS, City has available one hundred twenty-eight (128) parking spaces located on the Fourth Level of the City Garage; and

WHEREAS, Lessee is also desirous of constructing a Pedestrian Bridge Structure that would attach to the City Garage to allow its residents a more convenient accessible covered pedestrian path to access the City Garage on the Fourth Level; and

WHEREAS, Lessor owns certain airspace, more particularly described below and the City Commission has determined that it would be in the City's best interest to allow Lessee to construct such improvements and lease its airspace to Lessee; and

WHEREAS, it is the desire of Lessee and the City to enter into this Lease Agreement, subject to the terms and conditions hereinafter set forth; and

WHEREAS, pursuant to a resolution, passed by the City Commission at its meeting of February 19, 2013, the proper City officials were authorized to execute this City Hall Garage Parking & Airspace Lease Agreement, hereinafter "Lease Agreement" or "Lease";

#12-2582  
EXHIBIT 1

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth below, the receipt and adequacy of which are hereby acknowledged, the parties agree as follows:

1. The foregoing recitals are true and correct and are hereby incorporated into this Lease Agreement.

2. City hereby leases to Lessee the Premises, consisting of one hundred twenty-eight (128) non-designated parking spaces located on the Fourth Level of the City Garage. The Premises also includes the airspace located above City owned land on the eastern portion of City Garage, as more particularly depicted in Exhibit "A," attached to this Lease Agreement and made a part hereof (the "Premises"). The lease of City owned airspace to Lessee shall be solely for the purpose of allowing Lessee to construct an elevated pedestrian walkway to provide its residents a covered pedestrian path to access the City Garage on the Fourth Level and for no other purpose. The Premises shall also include any property within the City Garage necessary to provide vehicular access to and from the Fourth Level of the City Garage to the public streets adjacent to the City Garage and Exchange Lofts Building.

3. The term of this Lease Agreement is for a period of thirty (30) years (the "Lease Term") commencing on 12:01 A.M. on the day after a Notice of Commencement is recorded by the Lessee in the Public Records of Broward County, Florida, pertaining to the Pedestrian Bridge Structure to be constructed by Lessee in and through the Premises as provided herein (the "Commencement Date"). Such Notice shall promptly be delivered to Lessor after it is recorded. If the Notice of Commencement is not so recorded within one (1) year from the execution of this Lease Agreement, then and in that event, this Lease Agreement shall be null and void and the parties shall be released from all obligations under this Lease Agreement. Notwithstanding the foregoing, Lessee shall have the right to terminate this Lease Agreement at any time in its sole discretion upon no less than one hundred twenty (120) days advance notice to City of the intended date of early termination. Further and notwithstanding the foregoing, City shall have the right to terminate this Lease Agreement in the event that termination of this Lease Agreement is determined by the management of the City, using good faith and reasonable discretion, to be absolutely necessary for the municipal purpose of parking for City employees and/or the good of the general public, upon no less than one hundred and eighty (180) days advance notice to Lessee of the intended date of early termination. In the event Lessee or City elects to terminate this Lease Agreement as aforesaid, any additional rent shall be apportioned as of such date, any prepaid rents returned, and the parties shall be released of all further duties and obligation, except those that are expressly provided for in this Lease Agreement. However, if Lessee fails to timely pay in accordance with Section 4 below, it shall constitute a breach of this Lease Agreement for which the City may immediately terminate the Lease Agreement and deny access to the residents, guests and employees of Lessee. Lessee acknowledges that the City is under no obligation to renew this Lease Agreement at the end of its Lease Term; however, upon the early termination of this Lease Agreement by City, in the event City wishes to lease parking spaces in the City Garage on the Fourth Level to any non-City related entities, City shall

provide Lessee with a right-of-first refusal to lease the Premises under the same or similar terms as this Lease Agreement.

4. Lessee recognizes that the City Garage constitutes an integral part of the City's overall parking system and accordingly, the parking rates for the parking spaces in the City Garage are subject in all respects to adjustment by the City for any reason required by the needs of the City's overall parking system. The City may further adjust such parking rates at any time in its sole discretion pursuant to Chapter 26, Traffic and Parking, of the City Code of Ordinances. In the event the City elects to increase the parking rate, City will provide Lessee with thirty (30) days notice of its intent to adjust its parking rates. Accordingly, the City and Lessee agree that the initial rate for the one hundred and twenty-eight (128) parking spaces located on the Fourth Level of the City Garage shall be the flat set amount of \$50.00 per month, per parking space, subject to adjustment in accordance with the provisions of this paragraph. Leasing of the one hundred and twenty-eight (128) parking spaces by Lessor to Lessee, along with Lessee's obligation to pay rent for such spaces, shall begin upon Lessee being issued a Certificate of Occupancy for construction of the Pedestrian Bridge Structure on the Premises. Such rate shall be payable monthly on the first day of each month, in advance, during the Lease Term. If the Certificate of Occupancy is issued other than on the first day of the month, Lessee shall pay proportionate rent for the parking spaces at the same monthly rate as stated above (also in advance) for such partial month and all other terms of this Lease shall be in force and effect during such partial month. If the Lessee determines that the rate has become economically unreasonable, the Lessee has the right to terminate this Agreement, provided that the Lessee is current under and has performed all of its duties as set forth in this Agreement.

5. The Premises shall be used solely by Lessee, its agents, employees, residents, permittees, invitees, visitors, guests and/or licensees, for the parking of vehicles of the residents of Exchange Lofts and for the construction of an elevated Pedestrian Bridge Walkway (the "Structure") which will connect to the Fourth Floor City Garage. Lessee is granted access to the Premises twenty-four (24) hours a day, seven (7) days a week, and the Premises shall be used for no other purpose whatsoever, unless otherwise approved by the City Commission. Lessee shall construct the Structure in accordance with the following conditions:

A. Lessee shall prepare plans and specifications, to include a site plan, for the construction by it of the Structure. The plans and specifications shall be approved by the City's Development Review Committee prior to the issuance of a building permit for construction of the Structure. Once approved, such plans and specifications shall be attached as Exhibit "B" to this Lease Agreement.

B. Lessee shall commence construction of the Structure not later than twelve (12) months from the date of the execution of this Lease Agreement, unless the time for commencement is delayed by the City during the City's permitting approval process or it is extended by the City Manager of Lessor. Further, Lessee agrees to complete construction of the structure within twenty-four (24) months from the date of execution of this Lease Agreement, unless the time for completion is other extended by Lessor's City Manager. Failure to

complete the construction within the aforementioned periods may be treated as a default by Lessor and shall constitute cause for Lessor to terminate this Lease Agreement.

C. Lessee grants to Lessor, utility easements, if necessary, for the purpose of servicing the use by the Lessor of airspace above Lessor's property. However, the easements may not interfere with the use of the Structure by Lessee.

D. Until the expiration or sooner termination of this Lease Agreement, title to any structures or improvement situated or erected on the Premises by Lessee and the Structure, equipment and other items installed by Lessee thereon and any alterations, changes or additions thereto, shall remain with Lessee. Upon expiration of the Lease Term, Lessee shall restore the Premises to that condition existing prior to obtaining a building permit, unless other arrangements are provided for and agreed to by both the Lessor and Lessee.

E. Lessee may, at its own sole cost and expense, at any time and from time to time make such changes, alterations, replacements, improvement and/or additions in and to the Premises and Structure, provided, however, that the plans and specifications for any such change, alteration, replacement, improvement or addition, shall be approved in the same manner as the initial plans for construction were approved and as required by this Lease Agreement.

F. Before the commencement of the construction of the Structure required to be constructed by this Article, Lessee shall obtain and provide to Lessor, a Payment and Performance Bond pertaining to such construction in the amount of ONE MILLION DOLLARS (\$1,000,000.00) and such Bond shall name Lessor as a Third Party Beneficiary. Such bond shall remain in effect until construction is completed and the Certificate of Occupancy has been issued. The form of the bond shall be approved by the Risk Manager and the Office of the City Attorney.

6. All vehicles parking in the one hundred and twenty-eight (128) spaces on the Fourth Floor must properly display the current and appropriate City-honored vehicle decal and/or hangtag in such form and design and of such type as the City shall determine to issue. Vehicle decals and/or hangtags honored under this Agreement shall not be valid anywhere other than the Fourth Floor of the City Garage. Lessee is responsible for conveying the rules of this Agreement to those individuals utilizing parking spaces provided for in accordance with this Agreement.

7. Lessee's residents, agents, employees, permittees, invitees, visitors, guests, and/or licensees shall be allowed on the Fourth Floor to park on a first-come, first-serve basis. There are no exclusive designated parking spaces on the Fourth Floor. Lessee acknowledges that City may enter into similar parking lease agreements with other entities for lease of parking spaces within the City Garage including the Fourth Floor. City agrees not to oversell parking permits for the Fourth Floor in excess of that which is commercially reasonable for like parking garages, and that there will be

a minimum of one hundred and twenty-eight (128) parking spaces available to Lessee on the Fourth Floor at all times during this Lease Agreement. As this is a non-exclusive Lease Agreement, and other vehicles otherwise paying the City to park in the City Garage may park on the Fourth Floor, should such garage activity on the Fourth Floor have adverse consequences on Lessee during the term of this Lease Agreement, the parties agree to negotiate alternative locations within the City Garage in which Lessee's residents, agents, employees, permittees, invitees, visitors, guests and/or licensees can park.

8. Due to repair and rehabilitation activities to the City Garage, the City reserves the right, at its discretion, to move and/or relocate Lessee's parking spaces within the City Garage. During any such move or relocation, the City may require Lessee to use City-issued parking permits, although City agrees to attempt to maintain the permit/decal/hangtag structure provided herein unless operational issues require otherwise. City shall provide Lessee with at least sixty (60) days written notice prior to any move or relocation being implemented and prior to any change in operations by City materially affecting operation of this Lease Agreement. The City reserves the right, at its discretion, to move or relocate parking spaces under this Lease Agreement to alternative locations within the City Garage or in the vicinity of the City Garage due to repair and rehabilitation activities to the City Garage.

9. The City shall not 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 the City, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure").

10. Lessee represents and warrants to Lessor that it is an entity authorized to do business in the State of Florida. Lessee further represents that it has obtained, or will use its best effort to obtain adequate financial resources to perform all obligations imposed by this Agreement. Additionally, Lessee represents and warrants that it has the requisite business skill and ability to perform the obligations imposed upon it by this Agreement, including but not limited to, the obligation to operate the Premises for the purpose intended.

11. City, at its own cost and expense, shall maintain the City Garage, in full and complete compliance with all applicable local, state and federal laws, ordinances, rules and regulations. City, at its own cost and expense, shall provide any and all maintenance, cleaning and other necessary services and shall make any and all necessary repairs or replacements to the City Garage that are not caused by or due to the fault of Lessee and/ or its agents, employees, residents, invitees, permittees, visitors, guests, and/or licensees. City shall provide reasonable notice, but in any event no less than ten (10) days advance notice, to Lessee prior to commencing any such maintenance, cleaning, other services, repairs and/or replacements and shall provide to Lessee, if necessary, comparable parking accommodations located in the City Garage or in the vicinity of the City Garage.

12. If, during the term hereof, the Structure erected by Lessee upon the Premises shall become destroyed or damaged by any means whatsoever (except condemnation or intentionally by the Lessee), then the Lessee shall notify the Lessor of such fact and either (i) repair, replace, rebuild and reconstruct the Structure at its sole cost or (ii) in the event such destruction or damage shall occur within the last ten (10) years of the Lease Term, Lessee has the option to elect not to repair or replace the damaged Structure. If Lessee elects the latter alternative, this Lease Agreement shall terminate at Lessor's option, and Lessee shall restore the Premises, at its sole cost, to the condition of the Premises prior to obtaining a building permit.

13. If during the Lease Term the structure or improvements constituting the City Garage, including the Common Areas, shall be destroyed or damaged in whole or in part by fire or any other cause, except condemnation, Lessee shall only be responsible for the payment of rent for the parking spaces included within the Premises that Lessee can reasonably access and use for their intended purpose as determined by City. If the repair, replacement and/or rebuilding of the City Garage in connection with any such destruction or damage, whether in whole or in part, is anticipated to take more than twelve (12) months to complete, then Lessee, may at its option, elect to terminate this Lease by written notice to City. In the event Lessee elects to terminate this Lease as aforesaid, the rental monies and any additional rental shall be apportioned as of such date, any prepaid rents shall be returned, and the parties shall be released of all further duties and obligations hereunder, except those that expressly survive the termination of this Lease.

14. At all times during the term of this Lease Agreement, Lessee at its expense shall keep or cause to be kept in effect the following:

A. Fire and extended coverage on any structural improvements, fixtures or equipment and items of personal property contained in the Premises in an amount equal to at least eighty percent (80%) of full insurable value.

B. Worker's compensation insurance in accordance with the requirements and standards provided under Florida law.

C. A comprehensive general liability insurance policy, in standard form, insuring Lessee and City as an additional insured, against any and all liability in the amount of not less than ONE MILLION DOLLARS (\$1,000,000.00) in respect to any one person, and in the amount of not less than THREE MILLION DOLLARS (\$3,000,000.00) in respect to injuries or death attributable to any one occurrence, and in the amount of not less than FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) in respect to destruction or damage to property of others. Such comprehensive general liability insurance policy shall not be affected by any other insurance carried by Lessor. All such policies shall cover the entire Premises and all structures and improvements thereon.

D. With the exception of worker's compensation and comprehensive general liability coverage, all such insurance to be provided by Lessee under this Section shall name Lessee and City as insured as their respective interests may

appear and provide for payment of loss to Lessee. All such policies of insurance shall also provide for the adjustment of claims under such policies by Lessee.

E. Any and all net insurance proceeds received by or on account of Lessee for the Premises only shall be held in trust by the recipient thereof, who shall administer and apply such proceeds in accordance with the provisions of this Agreement.

F. Certificates of Insurance pertaining to all policies of insurance provided for in this Lease shall be delivered to City prior to the commencement of the term of this Lease. All policies of insurance provided for in this Lease (i) shall be in the form and substance approved by the Insurance Department of the State of Florida, (ii) shall be issued only by companies licensed by the Insurance Department of the State of Florida, (iii) shall bear endorsements showing the receipt by the respective companies of the premiums thereon or shall be accompanied by other evidence of payment of such premiums to the insurance companies, including evidence of current annual payment, if on any installment payment basis, and (iv) shall provide that they may not be cancelled by the insurer for non-payment of premiums or otherwise until at least thirty (30) days after service of notice of the proposed cancellation upon City named in such policy, and shall not be invalidated, as to the interest of City, by any act, omission or neglect by Lessee. All insurance policies shall be renewed by Lessee, and certificates evidencing such renewals, bearing endorsements or accompanied by other evidence of the receipt of the respective insurance companies of the premiums thereon, shall be delivered to City, at least twenty (20) days prior to their respective expiration dates.

G. If Lessee fails to obtain and maintain insurance as required by this Lease and such failure shall continue for a period of fifteen (15) days after notice by City, City may, but shall not be obligated to, effect and maintain any such insurance coverage and pay premiums therefore. All premiums so paid by City, together with interest thereon at the rate of nine percent (9%) per annum from the date of such payment by City, shall be deemed additional rental hereunder, and be payable by Lessee to City in accordance with the provisions of this Lease but not later than the first day of the month following the month in which notice of payment thereof is given to Lessee by City.

H. The obligation of collection upon the insurance policies furnished and provided for by Lessee, or obtained by City by reason of the failure of Lessee to obtain them, shall be upon Lessee but City shall cooperate in such collection (but without expense to City) in such reasonable degree as may be requested by Lessee.

15. Lessee shall not commit or suffer waste or injury to the Premises or any appurtenant realty. Lessee further covenants, at its own cost and expense, to make or cause to be made any and all repairs or replacements, ordinary or extraordinary, structural or otherwise, necessary to keep in good physical order, appearance and condition, the structures inside and outside, including but not limited to, repairs to and

replacement of foundation, walls, roofs, floors, ceilings, water and sewer connection, if any, wires or conduits for electricity, and fixtures and landscaping in connection with the Structure and its surroundings.

16. Lessee shall pay or cause to be paid all real estate taxes, assessments, and other similar payments, usual or unusual, extraordinary as well as ordinary, which shall during the Lease term be imposed upon, become due and payable, or become a lien upon the Premises or any part of them, but specifically limited to such taxes or assessments which accrue after the commencement of the term, by virtue of any present or any future law of the United States of America or of the State of Florida or any county or municipal authority. Lessee shall, upon request, exhibit receipt for such payments to Lessor annually. Further, commencing from the date Lessee receives possession of the Premises, Lessee shall pay or cause to be paid all operating expenses, such as those for heat, light, electricity, and charges for water and sewer attributable to maintenance and operation of all improvements to be erected in the Premises. In addition, Lessee shall also pay the tax on rents, paid hereunder, as now

17. Lessee may not sell, transfer or assign this Lease Agreement or any interest herein, nor sublease any interest or portion thereof, without the prior written consent and approval of the City Commission of Lessor, which shall not be unreasonably withheld. Any assignment permitted herein shall provide that the assignee or transferee shall assume all the Lessee's obligations thereunder in a writing in recordable form. Lessee shall not assign or attempt to assign any portion of this Lease Agreement prior to completion of the construction.

18. In the event any one or more of the following events shall occur:

A. Lessee shall default in making payment to City of any monthly rents payable to under this Lease Agreement , as and when the same shall become due and payable, and such default in payment shall continue for a period of thirty (30) days after written notice of such default to Lessee by Lessor; or

B. Lessee shall file a petition to be declared bankrupt or insolvent or be adjudicated or declared bankrupt or insolvent by any court or Lessee files for reorganization under the Federal Bankruptcy Act, or for the appointment of a receiver or trustee for all of Lessee's property; or Lessee's creditors institute bankruptcy proceedings or receivership proceedings; or

C. Lessee shall sell, or assign this Lease or any interest in this Lease without the consent and approval of City Commission as provided herein; or

D. Lessee shall fail to comply with, breach or violate any of the statutes, laws, ordinances, rules, regulations, orders and/or requirements of federal, state and local governments, and any of their respective agencies, departments and/or bureaus and such default shall continue for a period of thirty (30) days after written notice to Lessee by City specifying the claimed default, and Lessee shall not, in good faith, have commenced within said thirty (30) day



period, to remedy such default and diligently and continuously proceed therewith; or

E. Lessee shall default in complying with any other agreement, term, covenant or condition of this Lease Agreement and such default in compliance shall continue for a period of thirty (30) days after written notice to Lessee by City specifying the claimed default, and Lessee shall not, in good faith, have commenced within said thirty (30) day period, to remedy such default and diligently and continuously proceed therewith; or

F. Lessee shall fail to pay any tax, assessment, water rent, rate or charge, sewer rent or other governmental imposition or any other charge or lien against the Premises which Lessee is required to pay, at least ten (10) days prior to the expiration of any grace period allowed by law or by the governmental authority imposing the same and such default shall continue for a period of thirty (30) days after notice by Lessor.

Then, in any event, City may serve written fifteen (15) day notice of cancellation and termination of this Lease, and upon the expiration of such fifteen (15) days, this Lease and the term hereunder shall end, and Lessee shall then quit and surrender to City the Premises and each and every part thereof, and City may enter into or repossess the Premises, such structures and improvements and each and every part thereof, in accordance with Florida law. In the event of termination of this Lease Agreement by City in accordance with this section, all of the right, estate and interest of Lessee in the Premises, the improvements therein and thereon, the equipment and fixtures owned by Lessee therein as to the Premises only, and all rents thereof, whether then accrued or to accrue, all insurance policies and all insurance monies paid or payable under any insurance policies insuring the Premises shall vest in and belong to City.

19. The City desires to enter into this Lease Agreement only if in so doing the City can place a limit on the City's liability for any cause of action arising out of this Lease Agreement, so that the City's liability for any breach never exceeds the sum of \$100.00. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Lessee expresses its willingness to enter into this Lease Agreement with the knowledge that the Lessee's recovery from the City to any action or claim arising from the Lease Agreement is limited to a maximum amount of \$100.00. Accordingly, and notwithstanding any other term or condition of this Lease Agreement that may suggest otherwise, the Lessee agrees that the City shall not be liable to the Lessee for damages in an amount in excess of \$100.00. Nothing contained in this paragraph or elsewhere in this Lease Agreement is in any manner intended either to be a waiver of the limitation placed upon the City's liability as set forth in Section 768.28, Florida Statutes, or to extend the City's liability beyond the limits established in said Section 768.28; and no claim or award against the City shall include attorney's fees, investigative costs, extended damages, expert fees, suit costs or pre-judgment interest.

20. 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 the Premises, 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 or served as follows:

- 1) If given or served by City, by personal delivery or by mailing the same to Lessee by registered or certified mail, postage prepaid, return-receipt requested, addressed to Lessee at the address as Lessee may from time to time designate by notice given to City; or
- 2) If given or served by Lessee, by personal delivery to City or by mailing the same to City by registered or certified mail, postage prepaid, return receipt requested, addressed to City at the address set forth in Section 18 below, or at such other address or addresses and to such other person or firm as City may from time to time designate by notice given to Lessee as herein provided.
- 3) All notices, demands, requests or other communications hereunder shall be deemed to have been given or served for all purposes hereunder forty-eight (48) hours after the time that the same shall be deposited in the United States mails, postage prepaid, in the manner aforesaid, provided, however, that for any distance in excess of five hundred (500) miles, air mail service shall be utilized, if available.

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

Lessee: GS Exchange, LLC  
c/o Greystar Investment Group  
18 Broad Street, 3rd Floor  
Charleston, SC 29401

Copy To: Tripp Scott, P.A.  
c/o Stephanie Toothaker, Esq.  
110 SE 6<sup>th</sup> Street, 15<sup>th</sup> Floor  
Fort Lauderdale, FL 33301

21. Subject to the provisions of Section 725.06(2), Florida Statutes, and for other and additional good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessee agrees as follows: The Lessee shall, at its sole cost and expense, indemnify and hold harmless the City, including, but not limited to, its officers, agents, representatives, employees, volunteers and elected and appointed officials, successors and assigns from or on account of all claims, damages, losses,

liabilities and expenses, direct or indirect including, but not limited to, fees and charges of engineers, architects, attorneys, experts, consultants and other professionals and court costs in connection with the Premises and City Garage arising out of or from (a) any negligence, recklessness or intentional, wrongful misconduct of the Lessee, including, but not limited to, its agents, officers, servants, representatives and employees as well as its contractor and subcontractors who are employed by Lessee to construct the Pedestrian Bridge Structure and their agents, officers, servants representatives and employees (hereafter the "Lessee"); (b) any and all bodily injury, sickness, disease or death caused by any negligent recklessness or intentional wrongful conduct on the part of the Lessee or as a result of Lessee's failure to act; (c) injury to or destruction of property, including any resulting loss of use; (d) other such damages, liabilities, or losses received or sustained by any person or persons during or on account of any of Lessee's negligent actions connected with the construction of the Pedestrian Bridge Structure and all other the obligations under this Lease Agreement; (e) the violation of any federal, state, county or other laws, ordinances or regulations by Lessee, its contractor, subcontractors, agents, servants, independent contractors or employees; (f) any construction defect including both patent and latent defects; ; (g) the breach or alleged breach by Lessee of any term of the Lease Agreement, including the breach or alleged breach of any warranty or guarantee; (h) the use of any improper materials.

22. If any substantial part of the Premises should be taken for any public or quasi-public use under governmental law, ordinance, or regulation or by right of eminent domain and the taking would prevent or materially interfere with the use of the Premises for the purpose for which they are then being used, this Lease Agreement shall terminate effective when the physical taking shall occur in the same manner as if the date of such taking were the date originally fixed in this Lease Agreement for the expiration of the Lease Term hereof. Lessee shall not share in any condemnation award or payment in lieu thereof or in any award for damages resulting from any condemnation or eminent domain proceedings, the same being hereby assigned to Lessor to Lessee, provided however, that Lessee may separately claim and receive from the condemning authority, if legally payable, compensation from Lessor's removal and relocation costs and for Lessee's loss of business an/interruption.

23. This Agreement shall be governed by the laws of the State of Florida, with venue lying in Broward County, Florida.

24. This Agreement may be amended only by written document executed by City and Lessee with the same formality and of equal dignity herewith.

25. Except as provided in Section 17 of this Lease Agreement, this Lease Agreement or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by Lessee without the prior written consent of City.

26. This Lease Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to matters contained herein and the parties agree that there are no commitments, agreements, or

understandings concerning the subject matter of this Lease Agreement that are not contained in this document. Accordingly, it is agreed that no deviation of the terms hereof shall be predicated upon any prior representations of agreements, whether oral or written.

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

WITNESSES:

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida:

\_\_\_\_\_

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

\_\_\_\_\_  
Witness Print Name

By \_\_\_\_\_  
LEE R. FELDMAN, City Manager

\_\_\_\_\_  
Witness Print Name

(CORPORATE SEAL)

ATTEST:

\_\_\_\_\_  
JONDA K. JOSEPH, City Clerk

Approved as to form:

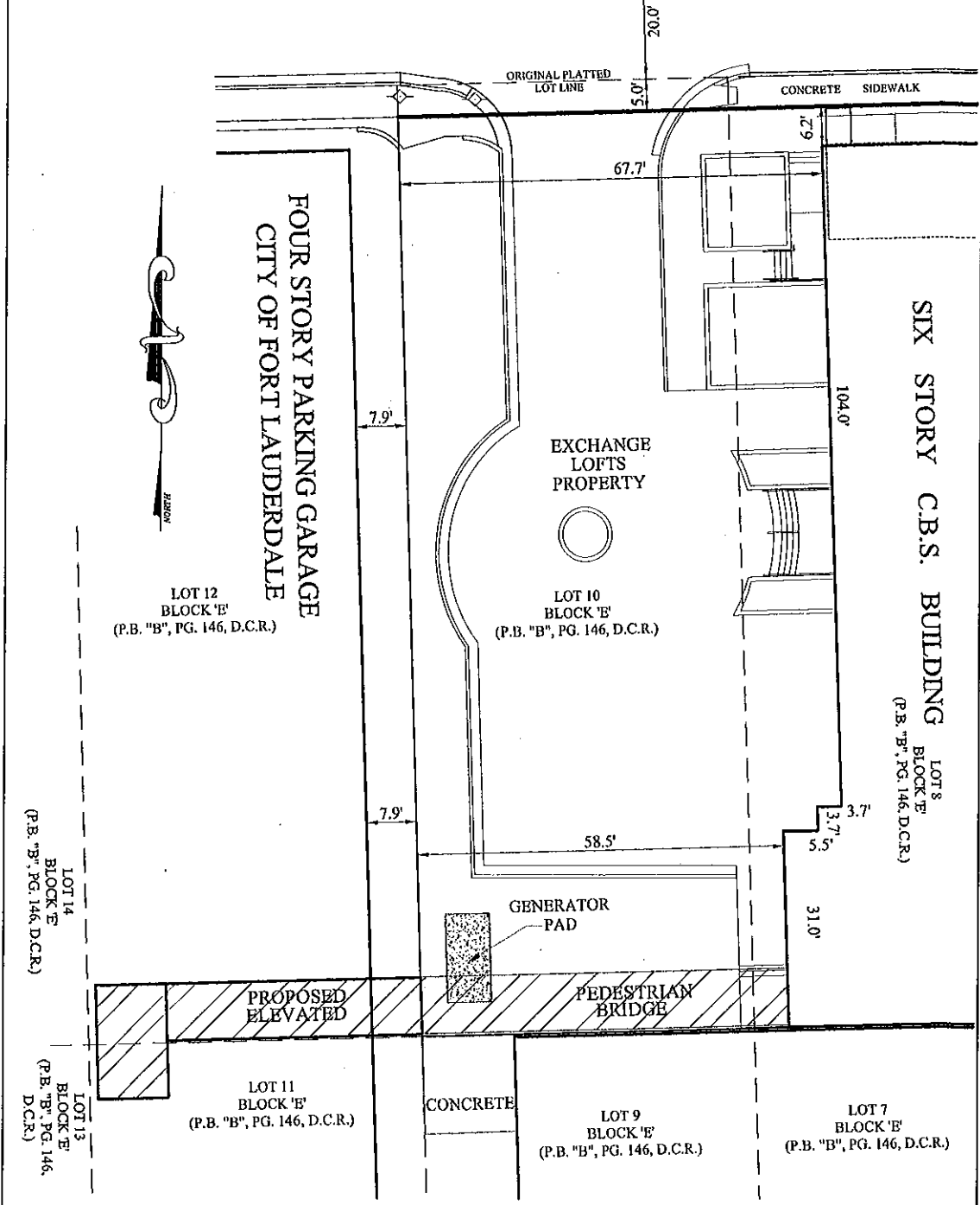
\_\_\_\_\_  
CARRIE L. SARVER  
Assistant City Attorney



EXHIBIT "A"

N.E. 2nd STREET  
NORTH FIFTH STREET (PLAT)

39' ASPHALT PAVEMENT



SHEET 1 OF 3

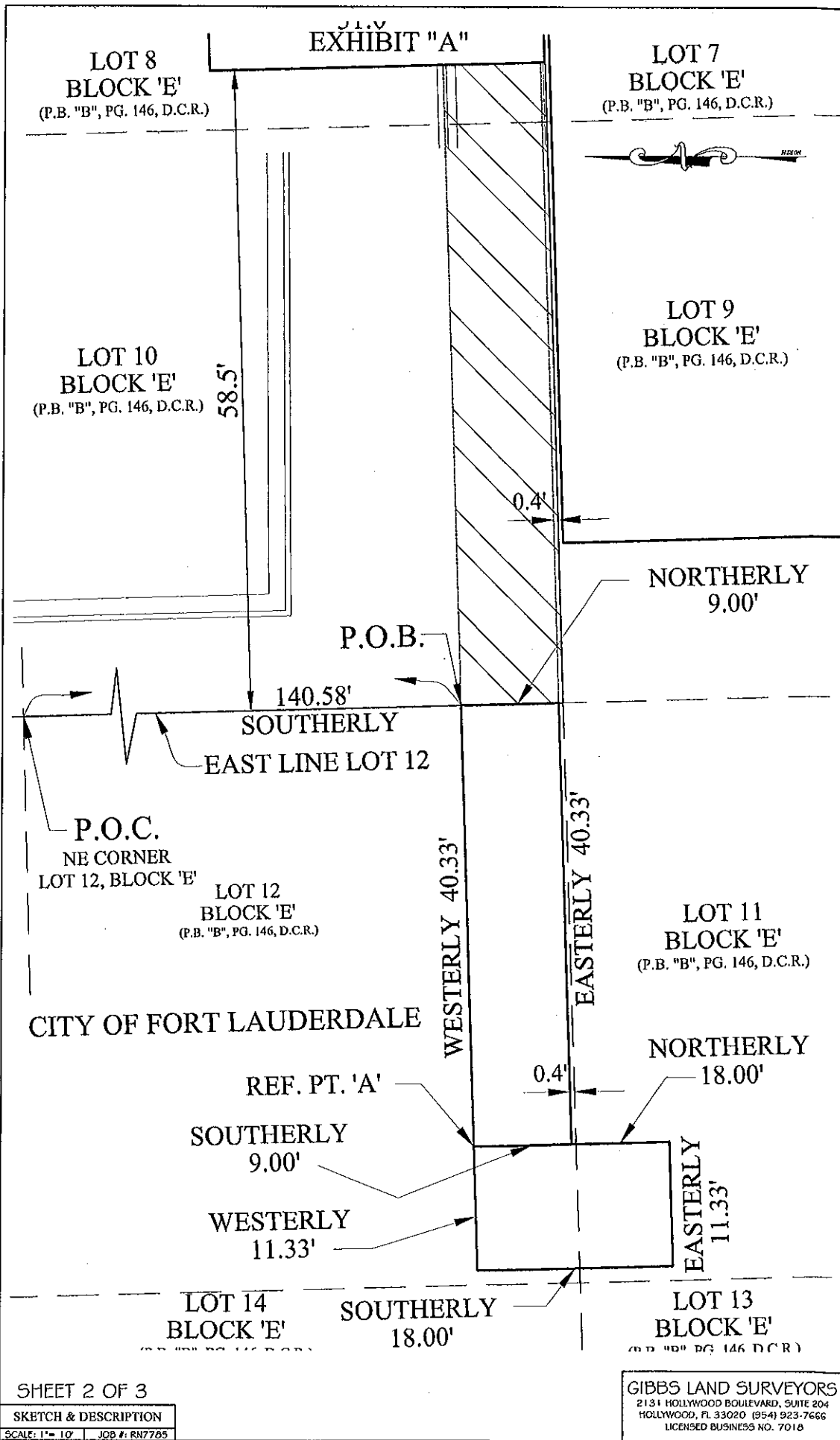
- NOTES**
- 1) THE NORTH ARROW RELATIVE TO ASSUMED EAST ALONG THE CENTERLINE OF NE 2nd STREET.
  - 2) SKETCH ONLY, NOT SURVEYED.
  - 3) LANDS SHOWN HERE ON WERE NOT ABSTRACTED FOR RIGHT-OF-WAY AND/OR EASEMENTS OF RECORD.

**LEGEND**

D.C.R.	-DADE COUNTY RECORDS
P.O.B.	-POINT OF BEGINNING
P.O.C.	-POINT OF COMMENCEMENT
REF. PT.	-REFERENCE POINT
P.B.	-PLAT BOOK
PG.	-PAGE

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR AND MAPPER

REVISION	DATE	BY	SKETCH & DESCRIPTION	GIBBS LAND SURVEYORS 2131 HOLLYWOOD BOULEVARD, SUITE 204 HOLLYWOOD, FL 33020 (954) 923-7666 LICENSED BUSINESS NO. 7016
ADD SQUARE FOOTAGE	02/09/13	MRK.		
			JOB #: RN7785	DATE: 01/03/12
			SCALE: N.T.S.	FILE No.:
			DRAWN BY: MRK	CHECKED BY: SKS
			STEPHEN K. SEELEY, FOR THE FIRM PROFESSIONAL SURVEYOR & MAPPER FLORIDA REGISTRATION NO. 4574	



SHEET 2 OF 3

SKETCH & DESCRIPTION  
SCALE: 1" = 10' JOB #: RN7785

GIBBS LAND SURVEYORS  
2131 HOLLYWOOD BOULEVARD, SUITE 204  
HOLLYWOOD, FL 33020 (954) 923-7666  
LICENSED BUSINESS NO. 7016



## EXHIBIT "A"

DESCRIPTION OF ELEVATED PEDESTRIAN BRIDGE, STAIRS AND MECHANICAL LIFT IN THE AIR SPACE OF CITY OF FORT LAUDERDALE PROPERTY:

A PORTION OF LOTS 11 AND 12, BLOCK 'E', "GEORGE M. PHIPPEN'S SUBDIVISION OF LOTS 3, 4, 5, 6, BLOCK 1, AND LOTS 3, 4, 5, 6, 7, 8, 9, 10, BLOCK 14, OF THE TOWN OF FORT LAUDERDALE", ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 'B', PAGE 146 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE VERTICALLY ENCLOSED AREA, BEGINNING AT ELEVATION 50.87 (NATIONAL GEODETIC VERTICAL DATUM OF 1929 - (NGVD29)) AND EXTENDING TO AN ELEVATION OF 62.06 FEET, DESCRIBED IN THE FOLLOWING COURSES:

COMMENCE AT THE NORTHEAST CORNER OF SAID LOT 12, BLOCK 'E';  
THENCE SOUTHERLY ALONG THE EAST LINE OF SAID LOT 12, A DISTANCE OF 140.58 FEET;  
THENCE VERTICALLY, TO AN ELEVATION OF 50.87, AND THE POINT OF BEGINNING OF SAID VERTICALLY ENCLOSED AREA;  
THENCE WESTERLY AND HORIZONTALLY, SLOPING TO AN ELEVATION OF 50.15, A DISTANCE OF 40.33 FEET TO REFERENCE POINT 'A';  
THENCE SOUTHERLY, A DISTANCE OF 9.00 FEET;  
THENCE EASTERLY, SLOPING TO AN ELEVATION OF 50.87, A DISTANCE OF 40.33 FEET;  
THENCE NORTHERLY, A DISTANCE OF 9.00 FEET AND THE POINT OF BEGINNING.

TOGETHER WITH:

THE VERTICALLY ENCLOSED AREA, BEGINNING AT ELEVATION 43.31 (NATIONAL GEODETIC VERTICAL DATUM OF 1929 - (NGVD29)) AND EXTENDING TO AN ELEVATION OF 62.06 FEET, DESCRIBED IN THE FOLLOWING COURSES:  
COMMENCE AT REFERENCE POINT 'A';  
THENCE VERTICALLY TO AN ELEVATION OF 43.31 AND THE POINT OF BEGINNING;  
THENCE WESTERLY, A DISTANCE OF 11.33 FEET; THENCE SOUTHERLY, A DISTANCE OF 18.00 FEET;  
THENCE EASTERLY, A DISTANCE OF 11.33 FEET; THENCE NORTHERLY, A DISTANCE OF 18.00 FEET AND THE POINT OF BEGINNING.

SAID LAND SITUATED IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA AND CONTAINING 567 SQUARE FEET, MORE OR LESS, ON A PLANE SURFACE.