

## PARKING ENFORCEMENT AGREEMENT

THIS IS AN AGREEMENT, entered into on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, between:

CITY OF FORT LAUDERDALE, a municipal corporation of the state of Florida, hereinafter referred to as "City",

and

LAS OLAS PLACE II, LLC (Owner), a Limited Liability Company authorized to conduct business in the State of Florida, hereinafter referred to as "Company"

WHEREAS, pursuant to the motion adopted at its meeting of March 17, 2015, the City Commission of the City of Fort Lauderdale, Florida authorized the proper City officials to enter into this Agreement; and

WHEREAS, Company is the owner of certain parking garage located at 1200 East Las Olas Boulevard, hereinafter referred to as "Properties" and more particularly described in the attached Exhibit "A"; and

WHEREAS, Properties above defined are deemed public access lots and permit thoroughfare and parking for the general public; and

WHEREAS, the City finds that providing parking enforcement services for the Association serves a legitimate municipal purpose; and

WHEREAS, Company shall be billed monthly for the costs payable under this Agreement and the City agrees to provide a monthly itemized invoice to Company outlining all such costs; and

WHEREAS, the City agrees to monitor above referenced parking lots in accordance with the terms and conditions set forth in this agreement to ensure that patrons pay the parking fees due, and as necessary enforce payment of the parking fees at a minimum by issuing citations to violators. Such monitoring shall include, but may not be limited to, the physical patrol of the Property by a City's parking enforcement officer; and

WHEREAS, in lieu of the City charging the Company the monthly fees to monitor and enforce parking requirements on the Property, the Company agrees to allow City to retain all citation revenue derived by City from said parking lots; and

WHEREAS, this arrangement shall be mutually beneficial to both parties; and

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and adequacy of which are acknowledged, the parties agree as follows:

1. Recitals. The recitals set forth above are true and correct and are incorporated into this Agreement by this reference as if fully set forth herein.

2. Unless otherwise terminated as provided herein the term of this Agreement shall be for a period of one (1) year commencing on the date of approval by both parties.

3. The City Manager or designee may extend this parking agreement for a period not exceeding five (5) years and/or modify agreement to increase or decrease the scope of parking enforcement activity.

4. This Agreement may be terminated with or without cause at any time by either party upon thirty (30) days written notice.

5. The Company warrants and represents to the City that it is the owner of the Properties and further represents and warrants that the Properties are presently used as parking areas.

6. The Company agrees that the City shall have the right of ingress and egress to the Properties aforementioned for any and all purposes required by the City pertaining to the use of the Properties as parking lots. The enforcement of ordinances applicable to such parking enforcement shall be accomplished by the City at the costs stated herein.

7. The City shall provide parking enforcement services for the lot located at 1200 East Las Olas Boulevard for up to twenty-four (24) hours per day, seven (7) days a week.

8. In exchange for providing parking lot enforcement services, the City shall retain all revenues derived from parking citations issued on said properties noted herein or as may be amended from time to time.

9. City shall provide, on a quarterly basis, an invoice for all costs not recovered from citation collections as a means of cost recovery.

10. The City is a self-insured entity, and therefore, any and all claims arising as a result of the City's use of the Property shall be processed through City's Risk Management Office. Each party agrees to be fully responsible for its acts of negligence or its agents' acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence. However, nothing contained herein shall constitute a waiver by the City of its sovereign immunity

protection or of its rights and limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

11. The Company shall protect, defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges and other expenses including attorney's fees or liabilities of every kind, nature or degree arising out of or in connection with the rights, responsibilities and obligations of Company under this Agreement, conditions contained herein.

12. At all times during the term of this Agreement, Association, at its expense, shall keep or cause to be kept in effect the following insurance coverage:

(a) general liability insurance policy, in standard form, insuring Association and City as an additional insured, against any and all liability for bodily injury or property damage arising out of or in connection with this Agreement and the license granted herein with a policy limit of not less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) general aggregate and shall name the City as an additional insured. All such policies shall cover the activities under the Agreement, including, but not limited to the possession, use, occupancy, maintenance, repair, and construction of additions, modifications, renovations or demolition of the Leased premises or portions thereof. This policy shall not be affected by any other insurance carried by City.

(b) The minimum limits of coverage under subsection (a) may be adjusted by City, in City's sole discretion, every five (5) years, on the anniversary date of the Effective Date of this Lease, in accordance with the increase or decrease in the Consumer Price Index for "All Urban Consumers, U.S. All Items (1982 – 1984 = 100)" (hereinafter, CPI) published by the Bureau of Labor Statistics of the United States Department of Labor, or any comparable successor or substitute index designated by City. For the purposes of this subparagraph, the beginning CPI figures shall be the most recently published index figures in effect as of the Effective Date hereof. On the date(s) of adjustment, the adjusting figures shall be the most recently published figures in effect on the subject adjustment date(s).

13. All personal property placed or moved onto the Properties is at the sole risk of the Company or other owner of such property. City shall not be liable for any damage to such personal property or for personal injuries to the Company or any of Company's subtenants, agents, servants, employees, contractors, guests, or invitees or to trespassers on the Properties.

14. This Agreement shall be governed by the laws of the State of Florida. The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place in Broward County, Florida, and that all litigation between them in the federal courts shall take place in the United States District Court for the Southern District of Florida.

15. All notices required by law and by this Agreement to be given by one party to the other shall be in writing, and the same shall only be deemed given if as follows:

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

CITY:

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

LAS OLAS PLACE II, LLC:

Edward J. Smoker, President  
Las Olas Place II, Inc., Manager  
912 E. Broward Blvd., Suite A  
Fort Lauderdale, Florida 33301

(b) or to such other addresses as the parties may by writing designate to the other party.

16. All modifications or amendments to this agreement shall only be effective upon written and executed instrument by both parties.

17. Equal Opportunity Provision; The parties agree that no person shall be subjected to discrimination because of age, race, color, disability, gender identity, gender expression marital status, national origin, religion, sex or sexual orientation in the performance of the parties' respective duties, responsibilities and obligations under this Agreement.

18. Public Records: Pursuant to Section 119.0701, Florida statutes, any party contracting with the City of Fort Lauderdale is required to:

(a) keep and maintain available for public inspection any records that pertain to services rendered under this Agreement;

(b) provide the public with access to public records on the same terms and conditions that SBBC would provide such records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law;

(c) ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and

(d) meet all requirements for retaining public records and transfer, at no cost, to LAS OLAS PLACE II, LLC: all public records in that party's possession upon termination of its contract with and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All of such party's records stored electronically must be provided to SBBC in a format that is compatible with The LAS OLAS PLACE II, LLC's information technology systems. 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 Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law. Each party acknowledges that this Agreement and all attachments thereto are public records and do not constitute trade secrets.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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

WITNESSES:

\_\_\_\_\_

Print Name

\_\_\_\_\_

Print Name

(Corporate Seal)

CITY

**CITY OF FORT LAUDERDALE**

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

JOHN P. "JACK" SEILER, Mayor

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

LEE R. FELDMAN, City Manager

ATTEST:

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

Approved as to form:

\_\_\_\_\_  
COLE J. COPERTINO  
Assistant City Attorney

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LAS OLAS PLACE II, LLC

ATTEST:

By:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Edward J. Smoker, President  
Las Olas Place II, Inc., Manager

(Corporate Seal)

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_day of\_\_\_\_\_, 2015  
by\_\_\_\_\_ and \_\_\_\_\_, as \_\_\_\_\_  
and \_\_\_\_\_, respectively, of the LAS OLAS PLACE II, LLC  They are  
personally known to me or  have produced \_\_\_\_\_as  
identification and  did  did not take an oath.

(SEAL)

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

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

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

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