

FIFTH AMENDMENT TO GROUND LEASE AGREEMENT

THIS FIFTH AMENDMENT TO GROUND LEASE AGREEMENT (this “**Fifth Amendment**”) is made to be effective as of the 1 day of Oct, 2021 (the “**Effective Date**” of this Fifth Amendment), by and between the City of Fort Lauderdale, a Florida municipal corporation (“**Lessor**”), and Las Olas SMI, LLC, a Delaware limited liability company (“**Lessee**”).

WITNESSETH:

WHEREAS, the Lessor is the owner in fee simple of certain uplands located at 201 South Birch Road in the City of Fort Lauderdale, Broward County, Florida and the leasehold owner of certain submerged sovereign land located at 240 E. Las Olas Circle in the City of Fort Lauderdale, Broward County, Florida (collectively, the “**Existing Marina Premises**”).

WHEREAS, Lessor and Lessee executed that certain Ground Lease Agreement dated April 30, 2018, (Resolution No. 17-154) which was amended on or around April 2, 2019 by that certain First Amendment to Ground Lease Agreement (Resolution No. 19-69), and as further amended on August 2, 2019, by that certain Second Amendment to Ground Lease Agreement (Resolution No. 19-141), and as further amended on December 23, 2019, by that certain Third Amendment to Ground Lease Agreement (Resolution No. 19-246), and as further amended on June 7, 2021 by that Fourth Amendment to Ground Lease Agreement (Resolution No. 21-74) (collectively referred to herein as the “**Lease**”) whereby Lessor leased to Lessee a portion of the Existing Marina Premises defined in the Lease as the Demised Premises.

WHEREAS, by approval of the City Commission, proper City officials were authorized, empowered and directed to execute this Fifth Amendment by adoption of Resolution No. 21-206 during its Regular Meeting held on September 21, 2021.

WHEREAS, Lessor and Lessee desire to modify the Lease to confirm the date of Possession, Commencement Date and other critical dates under the Lease.

NOW, THEREFORE, in consideration of the foregoing, and for good and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Lessor and Lessee (collectively, the “**Parties**”), intending to be legally bound, hereby agree as follows:

1. Recitals: Defined Terms. The above Recitals are true and correct and are incorporated into this Fifth Amendment. Capitalized terms used in this Fifth Amendment and not defined herein shall have the meanings ascribed to them in the Lease. All references in the Lease to "the Lease" or "this Lease" or similar references shall be references to the Lease as amended from time to time, including by this Fifth Amendment.
2. Amendments to the Lease.

Possession and Commencement Date: The date of Possession and the Commencement Date are hereby stipulated to be October 1, 2021. All conditions (i.e. Title Documents and ALTA

Survey) which have not been satisfied shall be completed on or before , October 31 2021 but no later than July 1, 2022.

Anticipated Expiration Date, Initial Base Rent Period and Subsequent Base Rent Period: Lessor and Lessee stipulate that the anticipated Expiration Date shall be a date not to exceed more than five (5) years after September 30, 2071, subject to establishment of the Initial Improvement completion date, but in no event later than September 30, 2076, it being agreed that a failure to complete the Lessee Improvements on or before September 30, 2026 by Lessee shall result in a day for day reduction in the Lease Term but shall not otherwise be considered an Event of Default or permit the Lessor the right to terminate the Lease for each day of delay caused by Force Majeure. The Initial Base Rent Period shall commence on October 1, 2021, and the Subsequent Base Rent Period shall commence on or before October 1, 2026, subject to completion of the Initial Improvements. The Letter of Possession attached hereto as Exhibit "A" reflects additional critical dates as mutually agreed to by the parties.


3. **Ratification.** Other than with respect to the amendments to the Lease contained or referred to in this Fifth Amendment, which shall supersede any contrary or inconsistent terms of the Lease, this Fifth Amendment does not modify, change or amend the Lease, and such Lease shall, as so amended, reinstated, and ratified, remain in full force and effect as amended hereby and the Lease shall be interpreted and construed accordingly.


4. **Counterpart Execution.** This Fifth Amendment may be executed in a number of identical counterparts. If so executed, each of such counterparts is to be deemed an original for all purposes, and all such counterparts shall, collectively, constitute one instrument, but in making proof of this instrument, it shall not be necessary to produce or account for more than one such counterpart, but proof that both parties signed the instrument in question must be provided.

(Signature pages to follow)

EXECUTED as of the day, month and year first written above.


WITNESSES:

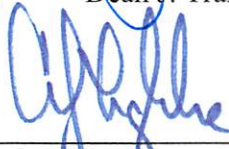

Signature
Scott Wyman
Print Name


Signature
Ames Lawton
Print Name

(SEAL)

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

By 
Dean J. Trantalis, Mayor

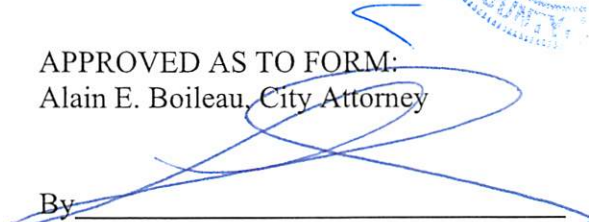
By 
Christopher J. Lagerbloom, ICMA-CM,
City Manager

ATTEST: 

Jeffrey A. Modarelli, City Clerk



APPROVED AS TO FORM:
Alain E. Boileau, City Attorney

By 
Lynn Solomon, Assistant City Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 01 day of October, 2021, by Dean J. Trantalis, Mayor of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida who is personally known to me or has produced _____ (type of identification) as identification.

(SEAL)



David R. Soloman
NOTARY PUBLIC
STATE OF FLORIDA
Comm# GG933295
Expires 3/14/2024

David R. Soloman
Signature: Notary Public, State of Florida

David R. Soloman
Name of Notary Typed, Printed or Stamped

Personally Known

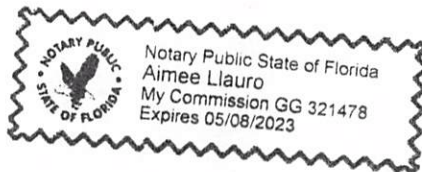
STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 30 day of September, 2021, by Christopher J. Lagerbloom, ICMA-CM City Manager of the CITY OF FORT LAUDERDALE, a municipal corporation of Florida who is personally known to me or has produced _____ (type of identification) as identification. (SEAL)

Aimee Liauro
Signature: Notary Public, State of Florida

Aimee Liauro
Name of Notary Typed, Printed or Stamped

Personally Known



WITNESSES:

LAS OLAS SMI, LLC,
a Delaware limited liability company

[Signature]
Signature
KAREN CHU METZ
Print Name

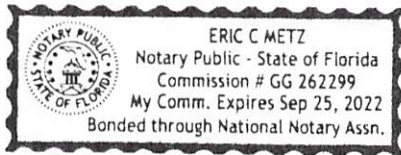
By [Signature]
Name: DAVID FILLER
Title MANAGER

[Signature]
Signature
JUDITH STERN
Print Name

STATE OF FLORIDA :
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 25th day of SEPTEMBER, 2021, by DAVID FILLER, in his capacity as MANAGER of Las Olas SMI, a Delaware limited liability company who is personally known to me or has produced _____ (type of identification) as identification.

(SEAL)



[Signature]
Signature: Notary Public, State of ~~Texas~~ FLORIDA
ERIC METZ
Name of Notary Typed, Printed or Stamped

Handwritten text, possibly a signature or date, located in the upper left quadrant.

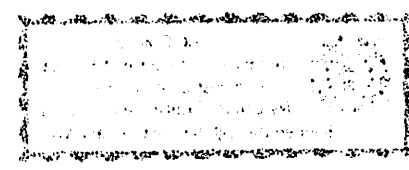
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COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM

Today's Date: 9/27/21

2L
10/4/2021

DOCUMENT TITLE: Suntex - Las Olas SMI, LLC, Las Olas Marina- 5th Amendment to Ground Lease

COMM. MTG. DATE: 9/21/2021 CAM #: 21-0905 ITEM #: R-3 CAM attached: YES NO

Routing Origin: CAO Router Name/Ext: Sonia/ x-5598 Action Summary attached: YES NO

CIP FUNDED: YES NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

1) Dept: TAM Router Name/Ext: Gina Rizzuti-Smith # of originals routed: 2 Date to CAO: 9/27/2021

2) City Attorney's Office: Documents to be signed/routed? YES NO # of originals attached: 2

Is attached Granicus document Final? YES NO Approved as to Form: YES NO

Date to CCO: 9/29/2021 Lynn Solomon [Signature]
Attorney's Name Initials

3) City Clerk's Office: # of originals: 2 Routed to: Donna V./Aimee L./CMO Date: 9/29/2021

4) City Manager's Office: CMO LOG #: Sep 13 Document received from: _____

Assigned to: CHRIS LAGERBLOOM TARLESHA SMITH GREG CHAVARRIA
CHRIS LAGERBLOOM as CRA Executive Director

APPROVED FOR C. LAGERBLOOM'S SIGNATURE N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: T. Smith (Initial/Date) PER ACM: G. Chavarria (Initial/Date)

PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward 2 originals to Mayor CCO Date: 9-30-21

5) Mayor/CRA Chairman: Please sign as indicated. Forward ___ originals to CCO for attestation/City seal (as applicable) Date: _____

6) City Clerk: Forward ___ originals to CAO for FINAL APPROVAL Date: _____

7) CAO forwards ___ originals to CCO Date: _____

8) City Clerk: Scan original and forwards 2 originals to: Gina Rizzuti-Smith/ Tam / Ext.3764
***** Please email a scan of executed final version to ssierra@fortlauderdale.gov

Attach ___ certified Reso # _____ YES NO

Original Route form to Sonia ext. 5598