

**FIRST AMENDMENT
TO
SUBLEASE AGREEMENT**

THIS IS THE FIRST AMENDMENT TO SUBLEASE AGREEMENT (hereinafter "SubLease"), made and entered into this ____ day of June, 2016, by and between effecting a binding agreement:

RIVERWALK FORT LAUDERDALE, INC., a Florida not-for-profit corporation, FEI/EIN No. 650112666, whose principal address is 305 South Andrews Avenue, Fort Lauderdale, FL 33301 (hereinafter "LESSOR").

and

RIVERWALK ACTIVITIES, LLC, a Florida corporation, FEI/EIN No. 38-3945453, whose principal address is 305 South Andrews Avenue, Suite 127, Fort Lauderdale, FL 33301 (hereinafter "LESSEE").

WITNESSETH:

WHEREAS, LESSEE is desirous of subleasing the Leased Premises, consisting of the property, described below, from the LESSOR upon the Property for a term of **five (5) years**, with **two (2) five (5) year renewal terms** for the purpose operating the structure of the Shippey House as a facility to provide services that will activate the CITY'S Riverwalk Linear Park and Riverwalk District; and

NOW THEREFORE, in consideration of the mutual covenants exchanged herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the LESSOR and LESSEE agree as follows:

1. Article 3, Rent and Additional Payments is amended as follows:

ARTICLE 3.

RENT AND ADDITIONAL PAYMENTS

3.1. Amount and Payment of Rent Initial Term. As rent for the Leased Premises, LESSEE shall pay to LESSOR the annual rent of \$3,000 and (\$1.00) zero/100 cents commencing with the Effective Date of this Lease and continuing each and every successive anniversary date thereafter through the balance of the original Lease Term. Rent shall be payable to **Riverwalk Fort Lauderdale Inc.**

At the conclusion of the ~~five (5)~~ six (6) year Lease Term of the Sublease and Lease, the rental rate to be paid by Sublessee shall be at a comparable market rate, as approved by the LESSOR. The comparable market rate set at the conclusion of term shall escalate by 2.0% on the anniversary dates for years numbered ~~six (6)~~ seven (7) through (9).

3.2. Sales Tax. To the extent required by law, LESSEE shall pay to LESSOR the equivalent of six percent (6%) of all amounts paid as Rent hereunder, which sum is to be paid to the State of Florida by the LESSOR in respect of sales or use taxes. Should such tax rate change under the Florida Sales Tax Statute or other applicable statutes, LESSEE shall pay LESSOR the amounts reflective of such changes. To the extent applicable, LESSEE shall pay LESSOR in conjunction with all sums due hereunder, any and all applicable sales, use or other similar tax and any interest or penalties assessed therein ("Sales Tax") simultaneously with such payment.

3.3. Taxes, Fees, Special Assessments, etc. Except as otherwise provided in this Lease, beginning on the Effective Date, all costs, expenses, sales or use taxes, or taxes of any nature or kind, special assessments, connection fees, and any other charges, fees or like impositions incurred or imposed against the Subleased Premises, to the extent applicable, or any use thereof, including revenue derived therefrom, and any costs, expenses, fees, taxes or assessments in or upon the real property or improvements constructed thereon shall be made and paid by LESSEE in accordance with the provisions of this Lease, it being the intent of the parties that, except as may be specifically provided for herein, LESSEE is responsible for paying all the expenses and obligations that relate to the Subleased Premises or any improvements thereon and that arise or become due during the Term of this Lease.

3.4 Additional Rent Payments. In addition to the annual rent due under Section 3.1 and sums due under Sections 3.2 and 3.3 hereof, all other payments that LESSEE is obligated to make under this lease shall be considered "**Additional Rent**" regardless of whether the payments are so designated. Except as provided in Paragraph 3.8 hereof, "Lessee's Challenge of Tax". All additional payments are due and payable within thirty (30) days after rendition of a statement therefor, with the exception of ad valorem taxes which must be paid within thirty (30) days when due.

3.5. Utility or service charges. LESSEE agrees to pay all charges for rent, utility service charges including, but not limited to gas, electricity, telephone, telecommunications or other illumination, heating, air conditioning, water & sewer, storm water utility fees, and other similar service charges attributed to the Subleased and/or Leased Premises. If any of these charges remain unpaid after they become due, LESSOR may exercise its remedies as set forth in Article 11 of this Lease. LESSOR shall not be liable to LESSEE for damage or otherwise because of LESSEE's failure to arrange for or to obtain any utilities or services referenced above for the Leased Premises that are supplied by parties other than the CITY. No such failure, interruption or curtailment may constitute a constructive or partial eviction.

3.6. Lessee's Responsibilities regarding Governmental Charges or services giving rise to liens. Subject to the provisions of Section 3.8 respecting LESSEE's right to challenge the validity of any tax, tax claim, assessment, fee or other governmental charge against the Subleased Premises and/or Leased Premises, the use thereof, improvements thereto or personalty located thereon, the LESSEE must pay all taxes and other governmental fees, charges or assessments that are related to the Leased Premises or personalty situated thereon or operations conducted thereon and that arise during the Lease Term. LESSEE shall

pay all such taxes and other charges when due and before any fine, penalty, interest or other cost is added, becomes due, or is imposed by operation of law for nonpayment. These taxes and other charges include, but are not necessarily limited to the following:

- (a) All taxes, assessments, water, sewer, connection fees, garbage rates and charges, public utility charges, excise levies, licenses and permit fees;
- (b) All such charges whether they are general or special, ordinary or extraordinary, foreseen or unforeseen, imposed upon the Subleased Premises or the Leased Premises or use thereof or improvements thereto or personalty situated thereon;
- (c) All such charges that are assessed, levied, confirmed or imposed upon the Subleased Premises or the Leased Premises or use thereof or improvements thereto or personalty situated thereon;
- (d) All such charges that arise from, become payable from or with respect to, or become a lien on any of the following:
 - 1. All or any part of the Subleased Premises or the Leased Premises or use thereof or improvements thereto or personalty situated thereon;
 - 2. All or part of the improvements on the Subleased Premises or the Leased Premises or personalty situated thereon;
 - 3. Any appurtenance to the Subleased Premises or the Leased Premises;
 - 5. Any use or occupation of the Subleased Premises or the Leased Premises;
 - 6. Any document to which the LESSEE is a party and that creates or transfers an interest or estate in the Subleased Premises or the Leased Premises;
 - 7. Sales or use tax arising from LESSEE's operations; or
 - 8. Any taxes or charges applicable to the rents paid under this Lease.

3.7. Payments and Receipts. LESSEE must deliver to LESSOR official receipts that show payment of all charges required under this Article. These receipts must be delivered to the place where the rental payments are to be made. Subject to the provisions of Paragraph 3.8 hereof, "Lessee's Challenge of Tax, LESSEE shall pay every tax or other charge required to be made under this Article and shall deliver the receipts to LESSOR at least thirty (30) days before the charge or tax becomes delinquent under the law then governing payment of the tax or other charge, unless the tax or charge is challenged by LESSEE in accordance with Section 3.8 of this Lease.

3.8. Lessee's Challenge of Tax. LESSEE may contest the validity of any tax, tax claim, or charge or assessment, described herein without being in default for nonpayment of taxes under this Lease, provided LESSEE complies with terms and conditions of this Section. The LESSEE must give LESSOR written notice of LESSEE's intention to contest. LESSEE must also furnish LESSOR with a bond, acceptable to the LESSOR'S City Manager, with surety

by a surety company qualified to do business in the State of Florida or cash paid into escrow and held by LESSOR. The bond or cash must be in an amount that is 1.5 times the amount of the taxes, claim, charge or assessment being contested and must be conditions upon payment of the taxes, claim, charge or assessment once the validity has been determined. LESSEE must give the written notice accompanied by evidence of the bond or escrow to LESSOR not later than sixty (60) days before the contested taxes would otherwise become delinquent.

3.9. LESSOR'S Remedy for LESSEE'S Nonpayment. If LESSEE fails, refuses, or neglects to pay any taxes, fees, assessments or other governmental charges under this Article, unless challenged as provided in Section 3.8 of this Lease, the LESSOR may pay them. On the LESSOR's demand, the LESSEE must pay the LESSOR all amounts LESSOR has paid, plus expenses and attorney's fees reasonably incurred in connection with such payments, together with interest at the rate of twelve (12.0%) per cent per annum from the date LESSOR paid such outstanding taxes, fees, assessments or other governmental charges, up to but not exceeding the maximum rate of interest allowable under Florida law. On the day the LESSOR demands repayment or reimbursement from LESSEE, the LESSOR is entitled to collect or enforce these payments in the same manner as a payment of rent. The LESSOR's election to pay the taxes, fees, assessments or other governmental charges does not waive the LESSEE's default.

2. In the event and to the extent that there is any conflict between the terms and conditions of the underlying Lease, and the terms and conditions of this First Amendment to the Lease Agreement, then, and to the extent of such conflict, the terms and conditions of the First Amendment shall supersede and prevail over any other such conflicting terms in the underlying Lease.

3. In all other respects, the parties ratify and confirm the underlying Lease, and as amended in this First Amendment.

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IN WITNESS OF THE FOREGOING, THE PARTIES HAVE SET THEIR HANDS AND SEALS

AS TO LESSOR:

WITNESSES

RIVERWALK FORT LAUDERDALE, INC.

Signature

BY: _____
Eugenia Duncan Ellis, President

Print Name

Signature

Print Name

STATE OF FLORIDA)

) SS

COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this ___ day of _____, 2016 by **Eugenia Duncan Ellis**, President of Riverwalk of Fort Lauderdale, Inc., a Florida not for profit corporation. She is personally known to me or produced _____ as identification.

(Seal)

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

Name of Notary Typed, Printed or Stamped

My Commission Expires:

Commission Number

AS TO LESSEE:

WITNESSES

RIVERWALK ACTIVITIES, LLC

Signature

BY:_____
Michael Haerting, President

Print Name

Signature

Print Name

STATE OF FLORIDA)

) SS

COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this _____ day of _____, 2016 by **Michael Haeting**, President of Riverwalk of Activities, LLC, a Florida limited liability company. He is personally known to me or produced _____ as identification.

(Seal)

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

Name of Notary Typed, Printed or Stamped

My Commission Expires:

Commission Number