

This instrument prepared by:  
Robert B. Dunkel  
Assistant City Attorney  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, FL 33301

### **REVOCABLE LICENSE**

THIS IS A REVOCABLE LICENSE granted this 21<sup>st</sup> day of June, 2016 by and between:

**CITY OF FORT LAUDERDALE**, a Florida municipal corporation, P.O. Drawer 14250, Fort Lauderdale, FL 33302-4250, hereinafter "CITY"

and

**FAIRFIELD FLAGLER LP**, a Delaware limited partnership whose principal address is 5510 MOREHOUSE DR, STE. 200, SAN DIEGO, CA 92121, its successors and assigns ("LICENSEE")

WHEREAS, LICENSEE is the fee simple owner of real property generally located on Southeast corner of NE 2<sup>nd</sup> Avenue and NE 7<sup>th</sup> Street having a street address of 673 NE 3<sup>rd</sup> Avenue, Fort Lauderdale, Broward County, Florida more particularly described in **Exhibit "A"** attached hereto and made a part hereof (hereinafter "Property"); and

WHEREAS, the Property is the real property upon which the proposed Development Project, as defined herein, will be constructed and associated staging will take place; and

WHEREAS, in order to construct the Development Project, LICENSEE indicates it is necessary to close a portion of the right-of-way to facilitate construction of the Development Project and to make certain improvements within the rights-of-way of NE 2<sup>nd</sup> Avenue and NE 7<sup>th</sup> Street adjacent to the Property; and

WHEREAS, LICENSEE indicates that to best ensure the public safety during construction of the road improvements, it is necessary to temporarily close a portion of NE 2<sup>nd</sup> Avenue and NE 7<sup>th</sup> Street (more particularly described herein) with appropriate

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traffic control plans, emergency access, pavement markings, signage, warning lights, temporary barrier fences, completion of construction of underground utilities, restoration of pavement, subject to certain terms and conditions; and

WHEREAS, the CITY's Property and Right of Way Committee considered LICENSEE's application for a Revocable License and Maintenance of Traffic Plan involving temporary road closure of the street lying within the License Area and recommended approval of the Revocable License at its March 22, 2016 meeting; and

WHEREAS, the City Commission of the City of Fort Lauderdale, by Motion, adopted on June 21, 2016, has authorized execution of this Revocable License by the proper CITY officials;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Revocable License, and other good and valuable considerations, the adequacy and receipt of which are hereby acknowledged, the parties agree as follows:

**1. Recitals.** The foregoing recitals are true and correct and are hereby ratified and confirmed and incorporated herein.

**2. Defined Terms.** The following terms, as used and referred to herein, shall have the meanings set forth below, unless the context indicates otherwise.

*City Manager* means CITY's Chief Executive Officer, its City Manager, or his or her designee.

*Contract Administrator* means the City Engineer (Urban Design Engineer) for the CITY, or his designee. In the administration of this agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator. For the purposes hereof, the CITY Engineer's designee shall be the Urban Design Engineer.

*Day(s)* means in computing any period of time expressed in day(s) in this Revocable License, 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.

*Development Project* means the construction of a multifamily project consisting of 292 units in a 6-story structure located on the Property, approved under DRC Case No. R14060..

*Effective Date* means the effective date of this Revocable License, which shall be the date upon which the Revocable License has been executed by LICENSEE and the proper CITY officials on behalf of the CITY.

*Florida Building Code* means The Florida Building Code adopted pursuant to Chapter 553, Florida Statutes and includes the Broward County Amendments thereto.

*License Area* means that area or portion thereof within the rights-of-way as depicted on that Sketch and Description of such License Area being attached hereto as **Exhibit "B"**.

*LICENSEE* means FAIRFIELD FLAGLER LP, a Delaware limited partnership, its successors and assigns.

*Permit* means either a Building Permit issued by the Building Official pursuant to The Florida Building Code and Broward County Administrative Amendments thereto or an Engineering Permit issued by the Office of the City Engineer, or both, whichever the case may be.

*M.O.T.* means the Maintenance of Traffic Plan approved by the Office of the City Engineer under Permit No. **GMOT 16032559**.

*Person* means any individual, firm, partnership (general or limited), corporation, company, association, joint venture, joint stock association, estate, trust, business trust, cooperative, limited liability corporation, limited liability partnership, limited liability company or association, or body politic, including any heir, executor, administrator, trustee, receiver, successor or assignee or other person acting in a similar representative capacity for or on behalf of such Person.

*Plans and Specifications* means the plans, specifications, drawings, details, and survey for the Project Improvements to be installed, constructed, operated, maintained, repaired and removed within the License Area during the term of the Revocable License, which such plans, specifications, drawings, details, etc. are on file in the Office of the City Engineer.

*Project* means the temporary closure of the public right-of-way within the License Area and the construction, installation, operation, maintenance, repair and reconstruction, from time to time, of the Project Improvements within the License Area in conjunction with the construction activities for the Development Project. The term *Project* also includes the ongoing obligation of maintenance and repair of the License Area, including reconstruction of Project Improvements, from time to time and when necessary, during the term of the Revocable License. The term *Project* shall **not** include the possession, use or occupancy of the License Area for any other purpose, except as expressly authorized in this Revocable License. The term *Project* includes any portion thereof.

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*Project Improvements* means the improvements to be constructed, installed, operated, maintained, repaired and reconstructed from time to time within the License Area, including construction and installation of underground utility facilities, street resurfacing, signage and pavement markings, temporary mounted signs, temporary barrier fences and gates and dust screen and construction and installation of utility facilities within License Area. The term *Project Improvements* includes, without limitation, the installation of streetscape improvements, landscaping, installation of utilities/infrastructure and resurfacing of the License Area.

*Project Site* means the area within the Property and License Area.

*Property* means the real property owned by the LICENSEE and as described in Exhibit "A" attached hereto.

*Staging of Materials or Equipment* means the placement of materials or equipment or parking of vehicles within the License Area in any manner other than (a) temporarily and (b) for the purpose of and while actually engaged in the act of loading or off-loading materials or equipment from a vehicle. Staging of Materials or Equipment shall include equipment or materials off-loaded from a vehicle and placed within the License Area when not being removed from the License Area to Licensee's Property as soon as practicable.

*Storage* is synonymous with *Staging of Materials or Equipment* during the assembling or construction of the Project Improvements and shall mean the placement of materials or equipment within the License Area or any public right of way within two blocks of the Property in such a manner as would constitute *Staging of Materials or Equipment* if the materials or equipment were within the License Area.

*ULDR* means the City of Fort Lauderdale's Unified Land Development Regulations.

**3. Revocable License.** From the Effective Date hereof, the CITY grants unto the LICENSEE a Revocable License for the nonexclusive possession, use, construction, installation, occupancy of the Project within the License Area during the term of the License at LICENSEE'S sole cost and expense, subject to the terms and conditions contained in this Revocable License. The Revocable License does not permit the Staging of Materials or Equipment within the License Area; provided however, materials and equipment used for the sole purpose of installing and constructing utilities within the License Area shall be permitted. The granting of this Revocable License is intended to ensure the public safety and to enable the Project Improvements to take place in an area inaccessible to the public.

**4. Term.**



4.1 Due to the need to keep the public safe and to make certain improvements within the License Area, LICENSEE indicates a need to close a portion of the right-of-ways of NE 2<sup>nd</sup> Avenue and NE 7<sup>th</sup> Street as follows:

4.1.1 The eastern one-half of NE 2<sup>nd</sup> Avenue and the southern one-half of NE 7<sup>th</sup> Street lying adjacent to the Property and more particularly described on Exhibit "B" (License Area) shall be closed for a period of **twenty-four (24) months** unless terminated sooner pursuant to provisions 4.3, 4.4, 23 or 34 hereof. The closure period shall commence upon issuance of the engineering permit which authorizes the commencement of construction within the right-of-way. The City Manager shall have the authority, upon written request by LICENSEE, to extend the term of the Phase 1 Closure by not more than two (2) ninety (90) day periods beyond the period set forth in this subsection.

4.2 In the event that the license granted herein or the actions of the LICENSEE or any of its agents, servants, employees, guests or invitees or the agents, servants, employees, guests or invitees of any of the LICENSEE's contractors, subcontractors or independent contractors shall (a) ever conflict with a superior municipal interest of the CITY or public, or (b) at any time the CITY requires the use of the above-mentioned License Area or publicly dedicated thoroughfare for a superior conflicting municipal purpose or (c) determines that continuation of the License granted herein is no longer in the best public interest, all as determined by the City Commission, then, in that event, the License granted herein shall be terminable at the will of the City Commission upon fifteen (15) days advance written notice to the LICENSEE.

4.3 In the event LICENSEE is (a) in violation of any of the material terms or conditions of this Revocable License, as determined by the City Manager, or (b) the license granted herein or the actions of LICENSEE or any of its agents, servants, employees, guests or invitees or the agents servants, employees, guests or invitees of any of LICENSEE's contractors, subcontractors or independent contractors conflict with a superior municipal interest of the CITY or the public, or (c) at any time the CITY requires the use of the above mentioned License Area or adjacent publicly dedicated thoroughfare(s) for a superior conflicting municipal purpose, or (d) continuation of the License granted herein is no longer in the best public interests, all as determined by the City Manager, then, upon advance written notice to LICENSEE of not less than twenty-four (24) hours where LICENSEE is given an opportunity to be heard on the matters, the authority granted by this License may be temporarily revoked or suspended by the City Manager for a period not exceeding fourteen (14) days, at the end of which period the City Commission shall consider termination of the License granted herein.

4.4 In the event that emergent conditions arise within the License Area that present an imminent threat to the health, safety or welfare of Persons or property,

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the City Manager may temporarily suspend this Revocable License, in whole or in part, for a period not to exceed fourteen (14) days. In such a circumstance notice shall be provided to LICENSEE pursuant to the provisions of Section 13, Emergencies, of this Revocable License. In the event the condition persists for a period of seven (7) days, then this Revocable License may be temporarily suspended for a period in excess of fourteen (14) days by action of the City Commission.

**4.5** This Revocable License may also be revoked or terminated pursuant to the terms of Section 23 and 34.

**5. Conditions.** The Revocable License granted herein is subject to compliance with the following conditions:

**5.1** LICENSEE shall submit Plans and Specifications for the Project Improvements, to the Office of the City Engineer, where required, and to the Building Official, where required, for review and approval prior to commencing construction of the Project Improvements.

**5.2** No construction of the Project Improvements shall be commenced prior to issuance of the required Permits.

**5.3** To the extent required by law, no placement, installation or construction of the Project Improvements within the License Area shall be commenced prior to issuance of a Building Permit, where applicable, by the Building Official or issuance of an Engineering Permit, where applicable, by the City Engineer or designee.

**5.4** For the License Area where the Project Improvements are to be placed, installed or constructed, prior to construction and installation of Project Improvements within the License Area, CITY, at the discretion of the City Engineer or designee shall perform, at its sole cost and expense, a sub-surface utility investigation.

**5.4.1** In the event defects to any of the subterranean utilities are detected as a result of the sub-surface utility investigation, CITY shall cause to be repaired such defects prior to construction and installation of the Project Improvements.

**5.4.2** In the event no defects to any of the subterranean utilities are detected as a result of the sub-surface utility investigation, LICENSEE shall bear the cost of any repairs required after construction of the Project Improvements for a period of one (1) year after receiving a Certificate of Completion from the CITY Engineer.

**5.5** Any damage to existing pavement or to any publicly owned property or rights-of-way, including sidewalk easement, caused by the installation,

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movement or removal of temporary barrier fencing shall be repaired to the satisfaction of the City Engineer and the cost of such repairs shall be borne by LICENSEE.

**5.6** LICENSEE shall provide to the Office of the City Engineer as-built plans, specifications, details and surveys after construction of the Project Improvements.

**5.7** LICENSEE shall be responsible for making all utility notifications and obtaining all locations and clearances prior to performing any excavation work, including for the installation of signs and fence posts.

**5.8** Any damage to existing pavement or to any publicly owned ~~property or rights-of-way caused by the installation, movement or removal of Project~~ Improvements shall be repaired to the satisfaction of the Office of City Engineer or designee and the cost of such repairs shall be borne by LICENSEE.

**5.9** At the conclusion of the construction and installation phase of the Project, all damage to any elements such as pavement, curbs, sidewalks, signs, markings, landscaping, trees, irrigation, parking meters, light poles, etc. located within the public rights of way outside the License Area shall be repaired or restored to a condition equal to or better than that existing prior to commencement of construction of the Project. Damage to any of the above referenced elements within the License Area shall be repaired to the extent required to return the License Area to the original condition at the time of completion of the Project Improvements.

**6.** Additional Conditions. The effectiveness of this Revocable License is subject to compliance with the following conditions:

**6.1.** Signing and pavement markings are to be placed in accordance with the Manual on Uniform Traffic Control Devices, the Plans and Specifications, the Florida Department of Transportation's Standard Specifications for Road and Bridge Construction and the Design Standards, dated 2010, or latest edition. In the event of conflict, the Contract Administrator shall proscribe which standard, specification or detail shall supersede or prevail.

**6.2** For sign details, use the Manual on "Standard Highway Signs", published by the U.S. Department of Transportation, Federal Highway Administration, 1979.

**6.3** LICENSEE shall exercise caution in the construction access and staging and installation of post mounted signs in order to prevent possible damage to underground utilities.

**6.4** For nighttime closures, LICENSEE shall use Type "A" Flashing Warning Lights on barricades supporting signs and closing sidewalks and Type "C"

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steady-burn lights on channelizing devices separating the work area from vehicular traffic shall be used, as required by the Office of the City Engineer.

**6.5** Post mounted signs located near or adjacent to a sidewalk shall have a seven foot (7') minimum clearance from the bottom of the sign to the sidewalk, if required by the Office of the City Engineer.

**6.6** Traffic control shall be in accordance with all relevant indices for traffic control through work zones Index 600 through 670.

**6.7** LICENSEE shall be responsible for making all utility notifications and obtaining all utility locations and clearances prior to performing any excavation, such as for the installation of signs and fence posts.

**6.8** Any damage to existing pavement or to any publicly owned property or rights-of-way caused by the installation, movement or removal of temporary barrier fencing shall be repaired to the satisfaction of the Office of City Engineer and the cost of such repairs shall be borne by LICENSEE.

**6.9** At the conclusion of the Development Project, LICENSEE shall mill and surface the roadway as provided in Section 13.1.3 (c) hereof.

**6.10** At the conclusion of the Development Project, all damage to any elements such as pavement, curbs, sidewalks, signs, markings, landscaping, trees, irrigation, parking meters, light poles, etc. located within the public right of way shall be repaired or restored to a condition equal to or better than that existing prior to commencement of construction of the Development Project.

**6.11** LICENSEE shall utilize off-duty City of Fort Lauderdale police officers for traffic control as required by the City Manager, if circumstances warrant, as determined in the City Manager's discretion.

**6.12** Except as to the Staging of Materials and Equipment in conjunction with the construction and installation of utility facilities within NE 7<sup>th</sup> Street and NE 2<sup>nd</sup> Avenue right-of-way, storage of construction materials or equipment shall not be permitted within the License Area or any of the public rights-of-way within a two-block radius of the Property. Staging of Materials and Equipment and the use of cranes in the License Area is strictly prohibited.

**6.13** Storage of dumpsters and debris shall be limited to the LICENSEE'S property and shall not be stored, placed or collected within the License Area or any of the public rights-of-way within a two-block radius of the Property.

**6.14** When vehicles in a parking zone block the line of sight to TCZ (Traffic Control Through Work Zone) signs or when TCZ signs encroach on a normal

pedestrian walkway, the signs shall be barricade mounted and located in accordance with Index No. 17302.

**6.15** The M.O.T. Plan for the Project shall be on file in the Office of the City Engineer and LICENSEE shall proceed with the Project in accordance with the M.O.T. Plan for the Project. The terms and conditions of this Revocable License are hereby incorporated into the M.O.T. Plan and the Master Permit.

**6.15.1** LICENSEE shall provide CITY with twenty-four hour access to Property. Access shall be provided via Knox box(es) located at both the Northern portion of the NE 7<sup>th</sup> Street Closure and the Western portion of the NE 2<sup>nd</sup> Avenue Closure or by other means as approved by the Contract Administrator.

**6.16** LICENSEE shall use its best efforts to ensure that structural concrete pours do not interfere with rush hour traffic during the hours of 8:00AM to 9:30 AM and 4:00PM to 6:30 PM, Monday through Friday, except legal holidays recognized by the CITY.

**6.17** It shall be the responsibility of LICENSEE to employ flagmen on high activity days to direct traffic in and out of the Project Site to avoid disruption of traffic and to promote public safety. Flagmen may also be required to be employed by LICENSEE as determined by Contract Administrator.

**6.18** A full time site clerk will be in the Project Site office to receive and direct inquiries to the correct party for a response.

**6.19** A truck wash/street cleaner will be employed when needed, as determined by the Contract Administrator, to maintain the streets utilized by construction vehicles.

**6.20** If needed, as determined by the Contract Administrator, LICENSEE shall provide labor to clean surrounding streets of dirt and debris.

**6.21** All material or equipment deliveries shall be placed within the boundaries of the Property, inside the perimeter fencing for the Property, for off-loading to avoid conflicts with pedestrian or vehicular traffic.

**6.22** All signage will be set up in accordance with TA20 (Typical Application 20) of the MUTCD (Manual of Uniform Traffic Control Devices) and continuously monitored through the day to ensure compliance.

**6.23** Violation of any of the conditions of this Revocable License, Staging/Dust Control Plan or M.O.T. Plan shall result in a suspension of engineering inspections under the Engineering Permits issued in conjunction with this Development



Project and the development of the Property until such violations have been brought into compliance. LICENSEE waives all right, title and interest in continuation of engineering inspections while such violations continue to exist.

**6.23.1** A fine of \$1,000.00 per day may be imposed for violations of any of the terms or conditions hereof in accordance with Section 23.1.1, et seq. hereof.

**6.23.2** LICENSEE shall provide on-site parking for all personnel working on the Project Site. However, in the event LICENSEE is unable to supply on-site parking facilities sufficient to park all the vehicles of all personnel working the Project Site during the construction of the Development Project, then ~~LICENSEE shall establish remote off-site parking facilities sufficient to park the vehicles of all personnel working the Project Site during the construction of the Development Project, which such off-site parking facilities shall be approved by the City's Department of Sustainable Development, who shall consult with the Director of Transportation and Mobility in the event the off-site parking facility is a public parking facility owned or operated by the City of Fort Lauderdale.~~ All personnel working the job-site shall park their vehicles in either the on-site or off-site parking facilities supplied pursuant to this License.

**6.23.3** In the event it is necessary for LICENSEE to establish remote off-site parking facilities, then LICENSEE shall supply a tram, jitney or other transportation service to transport the personnel working the job-site from the remote off-site parking facility or facilities to the Property, if the off-site parking facility is outside a three (3) block radius from the Property.

**6.24** LICENSEE shall mail written notice of the closures at least two weeks in advance of the closures to the following:

- Relevant business associations and residential neighborhood associations recognized by the City within which the Property lies;
- All property owners<sup>1</sup> and multi-family structures within the area described in Section 6.24.1 below; and

**6.24.1.** The area for notice referenced in Section 6.24 above shall be an area within a five hundred (500) foot radius of the License Areas.

## **7. Cost Recovery and Fees.**

<sup>1</sup> As such "property owners" are found on the most recent Broward County Property Appraiser's records.

**7.1 Annual Inspection Fees.** LICENSEE agrees to pay to CITY for each year of the License Term, commencing with the Effective Date hereof and continuing annually on the first day of January of each year thereafter, an annual inspection fee to be determined by the Contract Administrator which such fee shall be based on the CITY's reasonable projected cost of periodically inspecting the License Area for compliance with the terms and conditions set forth in this License over the then current fiscal year (October 1<sup>st</sup> through September 30<sup>th</sup>).

**7.2 Recovery of Additional Costs of Administration.** In addition to the annual inspection fees set forth above, LICENSEE shall also be obligated to pay additional fees to the CITY amounting to the recovery of reasonable costs incurred by CITY in the administration, monitoring and enforcement of the License, including, but not limited to, staff time incurred in the examination of the Plans and Specifications for the Project, inspections to determine if the construction is proceeding in accordance with the Plans and Specifications approved by the Office of the City Engineer, and reasonable cost of CITY attorneys' services associated with the preparation and administration of the Revocable License and any amendments thereto and including enforcement of the terms thereof.

**7.3 Rendition of Statement.** Upon the CITY providing a statement of fees and/or costs to LICENSEE, LICENSEE shall pay CITY within thirty (30) days the amounts owed in accordance with the Statement. The Statement shall provide sufficient detail as to the nature of the cost, services rendered, inclusive dates services rendered, time consumed and cost relating thereto. For each month beyond thirty (30) days from rendition of the Statement to LICENSEE for which the fee remains unpaid, simple interest of one percent (1%) per month shall be due the CITY, provided, however that interest shall never exceed the highest lawful amount allowed by law. If a dispute arises as to the fees owed CITY under the Statement, and such dispute is not resolved within ninety (90) days after the date of rendition of the Statement, LICENSEE shall pay the undisputed amount and shall provide CITY with a bond or other security acceptable to the City Manager for the disputed amount pending a resolution of the dispute by negotiation or litigation. In addition to any other remedies available to CITY, CITY shall be entitled to recover from LICENSEE all costs of collection, including reasonable attorneys' fees and court costs incurred at all tribunal and appellate levels, provided CITY ultimately prevails.

**8. ADA.** LICENSEE shall have the continuing obligation of compliance with the Americans With Disabilities Act, as same may be amended from time to time, with respect to the Project.

**9. Condition of License Area.** LICENSEE accepts the License Area in an "AS IS" condition as of the Effective Date of this Revocable License. If LICENSEE finds any conditions altered after an initial inspection of License Area, which have a material adverse effect on the Project, CITY should be notified immediately.



**10. Compliance with Regulations of Public Bodies.** LICENSEE shall, at its sole cost and expense, possess, use, construct, operate, maintain and repair the License Area and the Project and perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the License Area and the Project in order to comply with health and sanitary requirements, fire hazard requirements, zoning requirements, building code requirements, City of Fort Lauderdale Engineering Standards, Americans With Disabilities Act requirements, environmental requirements and other similar regulatory requirements.

**11. No Property or Contract Right.** LICENSEE expressly acknowledges that pursuant to the terms hereof, it gains no property or contract right through this Revocable License to the continued possession, use, operation and maintenance of the Project within the License Area.

**12. Repairs and Maintenance.** LICENSEE shall not commit or suffer waste or injury to the License Area or the use, operation and maintenance of the Project or Project Improvements maintained therein. LICENSEE shall, at its own cost and expense, at all times during the term of this License cause the License Area and Project Improvements to be safely and securely maintained, kept in good condition, repair, clean, and free of rubbish and other hazards. LICENSEE further covenants and agrees, to make or cause to be made any and all repairs or replacements, ordinary or extraordinary, structural or otherwise, necessary to maintain the License Area in its original condition at the time of the commencement of the License Term and to similarly maintain the Project Improvements as originally installed or constructed during the term of the License. The City Engineer shall approve all repairs and replacements within the License Area. When making such repairs, replacements and maintenance LICENSEE shall comply with all laws, ordinances, codes, regulations and State and CITY Engineering standards then in effect; provided, however, that LICENSEE shall only be responsible to make such repairs and replacements necessary to return the License Area to the original condition at the time of commencement of the License Term. The License Area shall be maintained in a neat and orderly appearance at all times (except during the period of construction and installation of any utility facilities within such License Area).

**13. Restoration of Road Rights-Of-Way.**

**13.1.1** LICENSEE shall submit evidence to the City Engineer, which such evidence shall be reasonably satisfactory to the City Engineer, to document conditions that existed prior to construction of the Development Project within the public rights-of-ways adjacent to the Development Project. Such evidence may include pictures, video, signed and sealed topographic surveys, other methods acceptable to the City Engineer or any combination thereof. Topographic features such as roadway surface, striping, signs, sidewalks, swale areas, driveways, curbing, parking meters, drainage inlets, valve covers, water meters, fire hydrants, utility access

manholes/covers, landscaping, etc. shall be shown in sufficient detail such that the existing location and condition of each feature is clearly discernable.

**13.1.2.** LICENSEE shall schedule a site visit with the City's Engineering Inspector to verify that said documentation adequately reflects the site conditions. Said documentation will remain on file with the Office of the City Engineer.

**13.1.3.** Upon completion of the Development Project, LICENSEE shall:

(a) Conduct a site review with the City's Engineering Inspector to determine if any disruption or damage has occurred to features within the public right-of-way surrounding the Development Project;

(b) Immediately restore any damage in those areas that is identified by the Engineering Inspector.

(c) Mill and resurface the asphalt roadway surface of and adjust any at-grade utilities within the License Area. The resurfacing shall be done regardless of whether any other repair work is required.

**13.1.4.** Pursuant to Chapter 25, Streets and Rights of Way, Article III, Rights of Way Administration, City Code of Ordinances, including, but not limited to the following:

§ 25-108	Rights of Way Restoration
§ 25-109	Protection of Facilities
§ 25-110	General obligations of permittees
§ 25-111	Enforcement of permit obligations
§ 25-112	Construction bond

LICENSEE shall obtain a separate permit from the City's Engineering Division prior to starting construction of any improvements or any repairs in the public rights-of-way. A bond in the amount of 100% of the construction value will be required for a period of one year after completion of the Project Improvements.

**13.1.5.** An as-built survey signed and sealed by a professional surveyor and mapper shall be provided to the City Engineer at the completion of the Project to document all existing and new features within the public right-of-way.

**14. Emergencies.** If an emergency situation arises with respect to the License Area or any condition thereof presents an imminent threat to the health or safety of Persons or property, the CITY shall make reasonable efforts to provide telephone notice to the LICENSEE's Contact Person. If, following that notice, LICENSEE fails to take timely action to correct the emergency situation, and allowing



the emergency situation to continue would pose an imminent threat to health or safety to Persons or property, CITY may undertake such limited actions as are necessary to eliminate the emergency; and CITY shall be entitled to recover its reasonable costs of cure from LICENSEE in accordance with provisions hereof. For the purposes of this Section, LICENSEE's Contact Person shall be **Bryan Condie**, E-mail: **bcondie@ffres.com** Cell: **703.402.4133**; In the event the LICENSEE's Contact Person or any other information pertaining to the LICENSEE's Contact Person shall change, such change shall be provided to the CITY Engineer.

**15. Damage to Public Property.** In the event the use, operation, construction, demolition or reconstruction of the Project Improvements or License Area cause(s) any damage whatsoever to any other public property, then LICENSEE shall be responsible ~~for the cost of repair and shall, at CITY'S option, make said repairs or reimburse CITY~~ for the cost of same.

**16. Liens Against the License Area.** LICENSEE shall have no power or authority to incur any indebtedness giving a right to a lien of any kind or character upon the right, title or interest of CITY in and to the License Area, and no Person shall ever be entitled to any lien, directly or indirectly derived through or under the LICENSEE, or its agents, servants, employees, contractors or officers or on account of any act or omission of said LICENSEE as to the License Area. All Persons contracting with the LICENSEE, or furnishing materials, labor or services to said LICENSEE, or to its agents or servants, as well as all Persons shall be bound by this provision of the Revocable License. Should any such lien be filed, LICENSEE shall discharge the same within thirty (30) days thereafter, by paying the same or by filing a bond, or otherwise, as permitted by law. LICENSEE shall not be deemed to be the agent of CITY, so as to confer upon a laborer bestowing labor upon or within the License Area, or upon material men who furnish material incorporated in the construction and improvements upon the foregoing, a construction lien pursuant to Chapter 713, Florida Statutes or an equitable lien upon the CITY's right, title or interest in and to the Property or License Area. These provisions shall be deemed a notice under Section 713.10(1), Florida Statutes (2016) as same may be amended from time to time as to the "non-liability" of the CITY.

**17. Removal.** Except as may otherwise be expressly provided herein, LICENSEE shall remove all Project Improvements constructed within the License Area and any components thereof, exclusive of utilities facilities constructed and installed, upon revocation or termination of this License and upon demand of CITY for removal of such Project Improvements, and LICENSEE shall restore the License Area to the condition(s) that existed prior to LICENSEE's installation of any such Project Improvements within the License Area. Such removal shall be at LICENSEE's sole cost and expense. In the event LICENSEE fails to remove all or any part of the Project Improvements within the License Area, exclusive of utilities facilities constructed and installed, contemplated herein within fifteen (15) days after written demand by the CITY to do so, the CITY is hereby authorized to remove such Project Improvements and restore License Area to the condition that existed prior to the LICENSEE's construction



or installation of the Project Improvements in the License Area, and all reasonable costs associated with the removal and restoration thereof shall be fully reimbursed by LICENSEE. Notwithstanding the foregoing, LICENSEE shall have the obligation of immediately removing any equipment or materials or temporary fencing within the License Area upon termination of this License. In the event LICENSEE fails to do so, CITY shall have the right to remove same, recouping the reasonable cost thereof from LICENSEE in the manner set forth herein.

**18. Damage and Destruction.** LICENSEE shall not by its possession, use, occupancy, operation, maintenance or repair of the License Area, suffer or permit any damage to the License Area or to the adjacent real property. If during the term of this Revocable License the structures, improvements, fixtures or personality within the License Area shall be damaged, destroyed or deteriorated in whole or in part by fire, casualty, obsolescence, failure to maintain or any other cause, and whether or not such destruction or damage is covered by any insurance policy on the Project, LICENSEE shall give to CITY immediate notice thereof, and LICENSEE shall:

(a) seek the necessary permits and approvals from CITY and any other regulatory agency with jurisdiction over the License Area or adjacent real property to repair, replace and rebuild the same or cause the same to be repaired, replaced or rebuilt as nearly as possible to their original condition; or

(b) to the extent that such destruction or damage affected the structures and improvements within the License Area or real property adjacent thereto, or any part thereof, if LICENSEE elects to remove such structures and Project Improvements (exclusive of utilities facilities constructed and installed), or any part thereof, LICENSEE shall seek the necessary permits and approvals from CITY and any other regulatory agency with jurisdiction over the subject matter to promptly remove or demolish said structures and improvements and restore the License Area as nearly as possible to its original condition.

All such repair, restructure and replacement shall be hereafter referred to as "Restoration". The cost of Restoration shall be paid solely by LICENSEE.

**19. License, not Lease.** It is acknowledged and stipulated by and between the parties hereto that this Revocable License shall not be deemed a lease of the License Area by CITY but rather a License granted to LICENSEE by CITY for the nonexclusive possession, use, occupancy, operation, maintenance and repair of the License Area for the conduct of the Project under the terms and conditions stated herein, such terms and conditions including termination of the License in the manner set forth herein. LICENSEE acknowledges and understands the provisions of § 8.05 and 8.09 of the CITY Charter with respect to Leases.

**20. Indemnity.** LICENSEE 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 attorneys' fees or liabilities of every kind, nature or degree arising out of or in connection with the rights, responsibilities and obligations of LICENSEE under this Revocable License (collectively "Claims"), conditions contained therein, the location, construction, repair, removal, demolition, maintenance, use or occupancy of the License Area, or the breach or default by LICENSEE of any covenant or provision of this Revocable License except for any occurrence arising out of or resulting from the intentional torts or gross negligence of the CITY, its officers, agents and employees. Without limiting the foregoing, any and all such Claims, suits, causes of action relating to personal injury, death, damage to property, defects in construction, rehabilitation, operation, maintenance, repair or restoration of the License Area or Property, alleged infringement of any patents, trademarks, copyrights or of any other tangible or intangible personal or real property right, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court, is included in the indemnity. LICENSEE further agrees to investigate, handle, respond to, provide defense for, and defend any such Claims at its sole expense and agrees to bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the CITY, LICENSEE shall assume and defend not only itself but also the CITY in connection with any Claims, suits or causes of action, and any such defense shall be at no cost or expense whatsoever to CITY, provided that the CITY (exercisable by the CITY's Risk Manager) shall retain the right to select counsel of its own choosing. The indemnification obligations set forth herein shall survive termination of this Revocable License for a period coincident with the statute of limitations period applicable to the offending act, omission or default.

**21. Insurance.** At all times during the term of this Revocable License Agreement, LICENSEE, at its expense, shall keep or cause to be kept in effect the following insurance coverages:

- (a) A general liability insurance policy, in standard form, insuring LICENSEE 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 Revocable License 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 Project activities and the possession, use, occupancy and maintenance of the License Area. This policy shall not be affected by any other insurance carried by CITY.
- (c) Workers' Compensation Insurance to apply to all LICENSEE's employees and employees of contractors retained by LICENSEE for the Project, said coverage to be in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the

policy(ies) shall include Employers' Liability with a limit of One Hundred Thousand Dollars (\$100,000.00) for each accident.

- (d) Business Automobile Liability for all vehicles owned by LICENSEE and LICENSEE's contractors that are involved in the operation of the Project with limits of Three Hundred Thousand Dollars (\$300,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability.
- (e) All of the policies of insurance provided for in this Revocable License:
  - (i) shall be in the form and substance approved by the Florida Office of Insurance Regulation ("FIOIR"),
  - (ii) shall be issued only by companies licensed by FIOIR,
  - (iii) Certificates of Insurance pertaining to same shall be delivered to CITY, at least fourteen (14) days prior to the commencement of the License Term,
  - (iv) shall be with a carrier having an A Best's Rating of not less than A, Class VII,
  - (v) 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
  - (vi) shall provide that they may not be canceled by the insurer for thirty (30) days after service of notice of the proposed cancellation upon CITY and shall not be invalidated as to the interest of CITY by any act, omission or neglect of LICENSEE.
  - (vii) The insurance coverage under subparagraphs (a) and (c) above shall be for a period coincident with the applicable indemnification obligations set forth above.
- (f) In any case where the original policy of any such insurance shall be delivered to LICENSEE, a duplicated original of such policy shall thereupon be delivered to CITY. All insurance policies shall be renewed by LICENSEE, and certificates evidencing such renewals, bearing endorsements or accompanied by other evidence of the receipt by 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) CITY does not in any way represent that the types and amounts of insurance required hereunder are sufficient or adequate to protect LICENSEE's or Contractor's interests or liabilities but are merely minimum requirements established by CITY's Risk Management Division. CITY reserves the right to require any other insurance coverages that CITY deems necessary depending upon the risk of loss and exposure to liability.

**22. Special Exception.** It is agreed that this Revocable License is granted to LICENSEE for LICENSEE'S benefit, is a special exception to the City's general policy and it is stipulated between the parties that this Revocable License shall be construed most strictly in favor of the CITY and against LICENSEE.

**23. Remedies of CITY.**

**23.1** In the event the LICENSEE fails to perform or violates any of the terms or conditions of this Revocable License or is in breach or default in any term or condition hereof, CITY shall provide notice thereof to LICENSEE and LICENSEE shall cure such violation within the time provided in such Notice, which such time for cure shall be reasonable in light of all the circumstances.

**23.1.1** In the event the Contract Administrator finds that the LICENSEE has failed to timely cure such violation, the Contract Administrator shall provide Notice thereof to LICENSEE and impose or assess a fine of \$1,000.00 per day for each and every day the violation continues beyond the date set in the Notice under Section 23.1.

**23.1.2** LICENSEE shall provide written Notice to CITY when the violation has been cured. In the event the Contract Administrator finds the violation was not cured on the date alleged by LICENSEE, Contract Administrator shall provide LICENSEE with Notice thereof. Contract Administrator shall provide Notice to LICENSEE when Contract Administrator finds that the violation has been cured.

**23.1.3** In the event LICENSEE disagrees with the Contract Administrator's (a) finding that a violation exists or continues to exist, or (b) imposition or assessment of a per diem fine, or (c) determination of the date of compliance or noncompliance, LICENSEE shall file a written Notice of Appeal to the City Manager within five (5) days of receiving notice of (a), (b) or (c) above.

**23.1.4** Within ten (10) days of receiving a Notice of Appeal under Section 23.1.3, the City Manager shall hear presentations thereon and

render a written Final Order thereon, serving a copy thereof upon LICENSEE. In deciding an Appeal filed under, Section 23.1.4 the City Manager may affirm, reverse or modify, in whole or in part, the findings of the Contract Administrator. The City Manager may equitably adjust any fines in the interests of justice.

**23.1.5** In the event LICENSEE contests the Final Order of the City Manager under Section 23.1.4 above, LICENSEE may file a Notice of Appeal with the City Clerk including all written arguments in support of contesting the Final Order. The City Commission shall review the Notice of Appeal and the written arguments in support of contesting the Final Order as soon as a hearing thereon may be reasonably scheduled. At the hearing on the Appeal, the City Commission shall hear presentations by the LICENSEE and City Manager and shall render an Order ("Order on Appeal") thereon affirming, reversing or modifying the Final Order in whole or in part.

**23.1.6** Any fines resulting from the process set forth in Sections 23.1.1 through 23.1.5 shall be paid to CITY within sixty (60) days from the final adjudication resulting from that process.

**23.1.7** LICENSEE hereby waives all right, title and interest to the issuance of any temporary, partial or final Certificate of Occupancy for the Development Project during the period that any violations of the terms or conditions of this License still exist.

**23.1.8** LICENSEE hereby waives all right, title and interest in issuance of any temporary, partial or final Certificate of Occupancy for the Development Project during the period that any fines imposed have not been paid.

**23.1.9** LICENSEE hereby waives all right, title and interest in and to any further building or engineering inspections during the period that any violations of the terms or conditions of this License still exist.

**23.2** In the event the LICENSEE fails to timely cure the violation within the time specified in Section 23.1, et seq. the CITY, as an alternative to the procedures set forth in Sections 23.1.1 through 23.1.9, may

**23.2.1** revoke or terminate this License; or

**23.2.2** take any equitable action to enforce the terms and conditions of this Revocable License, it being stipulated by the parties that since this Revocable License deals with the right to use a public right-of-way, a violation or breach of any term or condition of the Revocable



License constitutes an irreparable injury to the public and CITY for which there is no adequate remedy at law; or

**23.2.3** take such curative action that was required to be taken by the LICENSEE under the Revocable License and the cost and expense incurred in CITY's curative actions shall be passed on to and owed by LICENSEE, in which case LICENSEE shall be liable for payment to CITY for all reasonable and necessary costs and expenses incurred by CITY in connection with the performance of the action or actions. LICENSEE shall reimburse CITY within sixty (60) days following written demand for payment thereof. Interest shall accrue on the unpaid amount at the rate of twelve percent (12%) per annum, compounded monthly, but in no event shall interest exceed the highest amount allowed by Florida law. The demand shall include reasonable documentation supporting the expenses incurred by CITY. If a dispute arises as to the need for, or amount due to the CITY for repairs or maintenance undertaken by CITY in accordance with this License, and such dispute is not resolved within forty-five (45) days after the date that CITY makes the original written demand for payment, the LICENSEE shall pay to CITY the undisputed amount and shall provide CITY with a bond or other security acceptable to CITY for the disputed amount pending a resolution of the dispute by negotiation or litigation. In addition to any other remedies available to CITY, in the event of litigation between the parties, CITY shall be entitled to recover from LICENSEE all costs of collection, including reasonable attorneys' fees and court costs incurred at all tribunal and appellate levels, provided CITY ultimately prevails in such proceedings.

**23.3** If LICENSEE does not make the payments required under this Section 23.1.6 within the sixty (60) day period set forth herein, then CITY shall have a right to record a Claim of Lien upon the Property, which Lien may be either (a) for the total amount of the fines resulting from the procedures set forth in Sections 23.1.1 through 23.1.6 and 23.2.3 or (b) for all reasonable and necessary costs and expenses of any cure undertaken by CITY in accordance with this Section, the cost of any interim insurance policy as provided herein, and reasonable attorneys' fees and costs associated therewith. The Lien shall be effective upon the recording of a Claim of Lien in the Public Records of Broward County, Florida, which Claim of Lien shall state all amounts due and owing to CITY. The Lien may be foreclosed by CITY in the same manner as provided by law for foreclosure of mortgage liens. The Lien shall continue until payment to CITY of the amounts set forth in the Lien (at which time CITY shall record a satisfaction of such lien). In addition to the Lien, CITY shall have all other rights and remedies granted to it at law or in equity for LICENSEE's failure to pay the fines owed or reimburse CITY for curative actions taken by CITY. LICENSEE shall be entitled to pursue all legal and equitable remedies to contest the amount or existence of any such lien.

**23.4** The remedies found within this Section 23, including all subsections thereof, are cumulative. The exercise of one does not preclude the exercise of any other remedy.

**24. Requirement for Notice.** LICENSEE shall give CITY prompt written notice of any accidents on, in, over, within, under and above the License Area in which damage to property or injury to a person occurs.

**25. Notices.**

(a) Except as provided in subparagraph (c) below, 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 any matter set forth in this Revocable License, 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 by either mailing the same (i) by registered or certified mail, postage prepaid, return receipt requested, or (ii) an overnight air mail service such as Federal Express or similar carrier addressed to the party at the address set forth 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 as herein provided.

(b) 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 with (i) the United States mail, postage prepaid, in the manner aforesaid, provided, or (ii) an overnight air mail service such as Federal Express or similar carrier.

**AS TO CITY:**

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

**With copy to:**

City Attorney  
City of Fort Lauderdale  
P.O. Drawer 14250  
Fort Lauderdale, FL 33301

**AS TO LICENSEE:**

Fairfield Flagler LP  
ATTN: Bryan Condie  
1110 N Glebe Rd – Suite 650

Revocable License – Temporary Street Closure  
Licensee: Fairfield Flagler LP

Arlington, VA 22201

With Copy to:

Senior Vice President & General Counsel  
Fairfield Residential Company, LLC  
5510 Morehouse Dr. Suite 200  
San Diego, CA 92121

David M. Tatum  
Geary, Porter & Donovan, P.C.  
16475 Dallas Parkway, Suite 400  
Addison, Texas 75001  
(972) 349-2207  
Email: dtatum@gpd.com

Nectaria M. Chakas, Esq.  
Lochrie & Chakas, P.A.  
1401 E. Broward Boulevard, Suite 303  
Ft. Lauderdale, FL 33301

(c) As to activities under Paragraph 14, Emergencies, notice need not be given in accordance with subparagraph (a) above, but notice shall be sufficient if given to the Contact Person pursuant to Paragraph 14, Emergencies.

**26. Assignment, Pledge, Security Interest.** LICENSEE shall not voluntarily, involuntarily or by operation of law, assign, sell, pledge, grant a security interest, or in any manner transfer the License or any interest therein or grant any right to the License Area without the prior written consent of CITY, which such consent may be granted or without in its sole discretion. Notwithstanding the foregoing, CITY hereby consents to LICENSEE's assignment of all of its rights and interests under this Revocable License to any lender(s) or financier(s) providing it with financing for all or any portion of the Development Project.

**27. Compliance with Laws and Regulations.** LICENSEE shall comply with all applicable statutes, laws, ordinances, rules, regulations and lawful orders of the United States of America, State of Florida, City of Fort Lauderdale, and of any other public authority that may be applicable to this Revocable License and the possession, use, occupancy and maintenance of the License Area and the conduct of the Project permitted herein.

**28. Entire Revocable License.** This Revocable License, together with any other agreements entered into contemporaneously herewith, constitutes and represents the entire Revocable License and any other agreements between the parties hereto and

Revocable License – Temporary Street Closure  
Licensee: Fairfield Flagler LP

supersedes any prior understandings or Revocable Licenses or agreements, written or verbal, between the parties hereto respecting the subject matter herein. This Revocable License may be amended, supplemented, modified or discharged only upon an amendment in writing executed by all of the parties hereto. This Revocable License shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns, subject, however, to the limitations contained herein.

**29. Interpretation of Revocable License; Severability.** This Revocable License shall be construed in accordance with the laws of the State of Florida. If any provision hereof, or its application to any person or situation, is deemed invalid or unenforceable for any reason and to any extent, the remainder of this Revocable License, or the application of the remainder of the provisions, shall not be affected. Rather, this Revocable License is to be enforced to the extent permitted by law. The captions, headings and title of this Revocable License are solely for convenience of reference and are not to affect its interpretation. Each covenant, term, condition, obligation or other provision of the Revocable License is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this License, unless otherwise expressly provided. All terms and words used in this Revocable License, regardless of the number or gender in which they are used, are deemed to include any other number and other gender as the context requires.

**30. Successors.** This Revocable License shall be binding on and inure to the benefit of the parties, their successors and assigns.

**31. No Waiver of Sovereign Immunity.** Nothing contained in this Revocable License is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

**32. No Third Party Beneficiaries.** The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Revocable License. None of the parties intend to directly or substantially benefit a third party by this Revocable License. The parties agree that there are no third party beneficiaries to this Revocable License and that no third party shall be entitled to assert a claim against any of the parties based on this Revocable License. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

**33. Non-Discrimination.** LICENSEE shall not discriminate against any Person in the performance of duties, responsibilities and obligations under this Revocable License because of race, age, religion, color, gender, national origin, marital status, disability or sexual orientation.



**34. Termination.** In the event of emergency, either party may cancel this Revocable License during the term hereof upon twenty-four (24) hours written notice to the other party of its desire to terminate this Revocable License.

**35. Records.** Each party shall maintain its own respective records and documents associated with this Revocable License 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 of non-compliance with that law.

**36. Entire Agreement.** This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Revocable License that are not contained in this document. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

**37. Preparation of Agreement.** The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation of this License Agreement has been their joint effort.

**38. Waiver.** The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this License and, therefore, is a material term hereof. Any party's failure to enforce any provision of this License shall not be deemed a waiver of such provision or modification of this License. A waiver of any breach of a provision of this License shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this License.

**39. Governing Law.** This Revocable License shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Revocable License and any action involving the enforcement or interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida. To that end, LICENSEE expressly waives whatever other privilege to venue it may otherwise have.

**40. Force Majeure.** Neither party shall be obligated to perform any duty, requirement or obligation under this Revocable License 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 either party, and which cannot be





overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds alone on the part of LICENSEE be deemed Force Majeure.

**41. Recording.** This Revocable License shall be conditioned upon recordation of the Revocable License in the Public Records of Broward County, Florida. CITY shall record the Revocable License, subject to LICENSEE reimbursing CITY for the cost thereof. A copy of the recorded Revocable License shall be provided to LICENSEE and filed with the City Clerk's Office of the City of Fort Lauderdale.

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

WITNESSES:

**CITY OF FORT LAUDERDALE**

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

\_\_\_\_\_  
John P. "Jack" Seiler Mayor

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

\_\_\_\_\_  
Lee R. Feldman, City Manager

ATTEST:

\_\_\_\_\_  
Jeff Modarelli, City Clerk

APPROVED AS TO FORM  
Cynthia R. Everett, City Attorney:

By \_\_\_\_\_  
Robert B. Dunckel,  
Assistant City Attorney

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2016, by **John P. "Jack" Seiler**, Mayor of the City of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and 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

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this \_\_\_\_\_, 2016, by **Lee R. Feldman**, City Manager of the City of Fort Lauderdale, a municipal corporation of Florida. He is personally known to me and 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

Revocable License – Temporary Street Closure  
Licensee: Fairfield Flagler LP



**WITNESSES:**

  
[Witness Signature]

  
[Witness print/type name]

R. K. Barmeyer  
[Witness Signature]

R. K. Barmeyer  
[Witness print/type name]

STATE OF Georgia )  
COUNTY OF Cobb ) SS

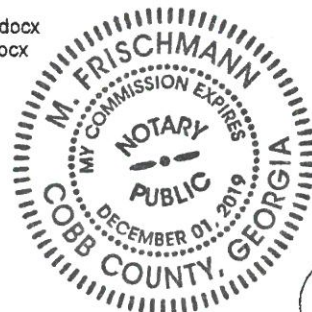
The foregoing instrument was acknowledged before me this 14 day of June, 2016, by Thomas Brunson, as Vice President of BF VAMF II GP LLC, a Delaware limited liability company, as General Partner of FAIRFIELD FLAGLER LP, a Delaware limited partnership, freely and voluntarily on behalf of said limited partnership. He is personally known to me or has produced \_\_\_\_\_ as identification or is known to me personally.

Notary Public

Notary Public  
M. Schuman  
Typed, printed or stamped name of Notary Public

My Commission Expires: 12/1/19

E:\Recovered\rbd\_office\2016\Revocable License\Fairfield Flagler, LP\201.06.10.16.rbd.1.redline.docx  
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Revocable License – Temporary Street Closure  
Licensee: Fairfield Flagler LP

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## EXHIBIT LIST:

Exhibit "A" – The Property

Exhibit "B" – License Area



**EXHIBIT A**  
**The Property**

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14 and 15 LESS right-of-way TOGETHER WITH Lots 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 and 48, ALL being in Block 317, PROGRESSO, according to the plat thereof, as recorded in Plat Book 2, Page 18, of the public records of Dade County, Florida.

Said land situate, lying and being in the City of Fort Lauderdale, Broward County, Florida and containing 104,250 square feet or 2.3932 acres, more or less.



# **EXHIBIT B** **LICENSE AREA**



**McLAUGHLIN ENGINEERING COMPANY**  
**LB#285**

ENGINEERING \* SURVEYING \* PLATTING \* LAND-PLANNING  
400 N.E. 3rd AVENUE FORT LAUDERDALE, FLORIDA 33301  
PHONE (954) 763-7611 \* FAX (954) 763-7615

## **SKETCH AND DESCRIPTION** **AREA OF ROAD CLOSURE** **FAIRFIELD AT FLAGLER VILLAGE** **SHEET 1 OF 2 SHEETS**

### **LEGAL DESCRIPTION:**

A portion of the Right-of-Way for N.E. 2nd Avenue and N.E. 7th Street, adjacent to Lot 1 AND adjacent to Lots 32 through 48 inclusive, Block 317 PROGRESSO, according to the plat thereof, as recorded in Plat Book 2, Page 18, of the public records of Dade County, Florida, more full described as follows:

**THIS  
SKETCH**



**BLOCK PLAN**  
**NOT TO SCALE**

Beginning at the Northwest corner of said Lot 48; thence South 00°00'00" East, on the West line of said Lots 48 to 32, a distance of 425.00 feet; thence North 89°59'00" West, on the Westerly extension of the South line of said Lot 32, a distance of 30.00 feet; thence North 00°00'00" East, on the centerline of said N.E. 2nd Avenue (60 foot right-of-way), a distance of 445.00 feet; thence South 89°59'00" East, on the centerline of said N.E. 7th Street, a distance of 290.00 feet; thence South 00°00'00" East, a distance of 20.00 feet, on a line 10.00 feet West of and parallel with the Northerly extension of the East line of said Lot 1, also being the West right-of-way line of N.E. 3rd Avenue; thence North 89°59'00" West, on the North line of said Lots 1 and 48, a distance of 260.00 feet to the Point of Beginning.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida and containing 18,550 square feet or 0.4258 acres more or less.

### **CERTIFICATION**

Certified Correct. Dated at Fort Lauderdale, Florida this 29th day of March, 2015.

### **NOTES:**

- 1) This sketch reflects all easements and rights-of-way, as shown on above referenced record plat(s). The subject property was not abstracted for other easements, road reservations or rights-of-way of record by McLaughlin Engineering Company.
- 2) Legal description prepared by McLaughlin Engineering Co.
- 3) This drawing is not valid unless sealed with an embossed surveyor's seal.
- 4) THIS IS NOT A BOUNDARY SURVEY.
- 5) Bearings shown assume the West line of Lots 48 to 32, as South 00°00'00" East.

McLAUGHLIN ENGINEERING COMPANY

*[Signature]*  
**JERALD A. McLAUGHLIN**  
Registered Land Surveyor No. 5269  
State of Florida

FIELD BOOK NO. \_\_\_\_\_

DRAWN BY: JMM

JOB ORDER NO. V-1295

REF. DWG: 04-3-180

CHECKED BY: \_\_\_\_\_

C: \JMM\2015\W1295(ROAD.CLOSE)

Revocable License – Temporary Street Closure  
Licensee: Fairfield Flagler LP

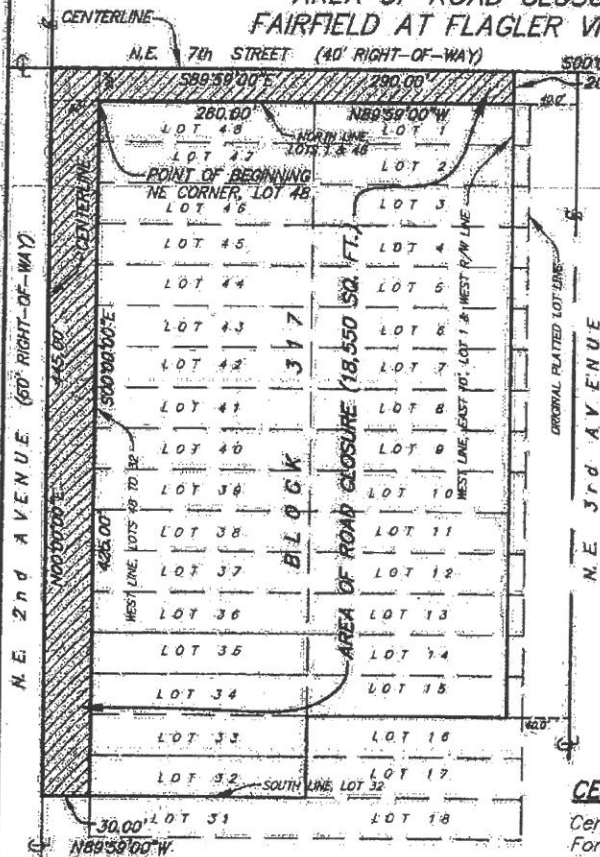


**McLAUGHLIN ENGINEERING COMPANY**  
**LB#285**

ENGINEERING \* SURVEYING \* PLATTING \* LAND PLANNING  
 400 N.E. 3rd AVENUE FORT LAUDERDALE, FLORIDA 33301  
 PHONE (954) 763-7611 \* FAX (954) 763-7615

SCALE 1" = 80'

**SKETCH AND DESCRIPTION**  
**AREA OF ROAD CLOSURE**  
**FAIRFIELD AT FLAGLER VILLAGE**



**SHEET 2 OF**  
**2 SHEETS**

**LEGAL DESCRIPTION:**

A portion of the Right-of-Way for N.E. 2nd Avenue; N.E. 7th Street and N.E. 3rd Avenue, adjacent to Lot 1 and adjacent to Lots 32 through 48 inclusive, Block 317 PROGRESSO, according to the plat thereof, as recorded in Plat Book 2, Page 18, of the public records of Dade County, Florida, more full described on Sheet 1 of 2 Sheets.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida and containing 15,038 square feet or 0.3452 acres more or less.

**CERTIFICATION**

Certified Correct. Dated at Fort Lauderdale, Florida this 29th day of March, 2015.

McLAUGHLIN ENGINEERING COMPANY

JERALD A. McLAUGHLIN  
 Registered Land Surveyor No. 5269  
 State of Florida

**NOTES:**

- 1) This sketch reflects all easements and rights-of-way as shown on above referenced record plat(s). The subject property was not abstracted for other easements road reservations or rights-of-way of record by McLaughlin Engineering Company.
- 2) Legal description prepared by McLaughlin Engineering Co.
- 3) This drawing is not valid unless sealed with an embossed surveyor's seal.
- 4) THIS IS NOT A BOUNDARY SURVEY.
- 5) Easements shown assume the West line of Lots 48 to 32, as South 09°00'00" East.

FIELD BOOK NO. \_\_\_\_\_

DRAWN BY: JMM

JOB ORDER NO. V-1295

CHECKED BY: \_\_\_\_\_

REF. DWG.: 04-3-180

C: JMM/2016/VV1295(ROAD CLOSE)

Revocable License - Temporary Street Closure  
 Licensee: Fairfield Flagler LP