

AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS RESPECTING THE SEBASTIAN SITE

THIS AMENDMENT TO DECLARATION OF RESTRICTIVE COVENANTS RESPECTING THE SEBASTIAN SITE (“Amendment”), dated _____, 2018, is made by and between **KT SEABREEZE ATLANTIC, LP, a Florida limited partnership** (the “**Developer**”) as successor in interest to Barefoot Contessa LLC, a Delaware limited liability company (the “**Predecessor**”), and the **CITY OF FORT LAUDERDALE, FLORIDA**, a Florida municipal corporation, (the “**City**”).

Background:

WHEREAS, a Land Swap and Development Agreement (“Land Swap Agreement”) was entered into on the 20th day of December, 2016, between City and the Predecessor, which resulted in Developer acquiring ownership of the property located at 3000 Alhambra Street, Fort Lauderdale, Florida 33304 (hereinafter, the “Sebastian Site”); and

WHEREAS, concurrent with entering into the Land Swap Agreement, the Predecessor and City entered into a Declaration of Restrictive Covenant Regarding the Sebastian Site (the “Declaration”), as recorded on September 6, 2017 under Instrument #114601921 of the Public Records of Broward County, Florida in which the Developer agreed to permit the continued use of the Property by the City for public parking purposes, with the City retaining all revenues associated with the public parking operations and the Developer furthermore committed, at its own cost, to replace and build the existing seventy-seven (77) public parking spaces, plus associated handicapped spaces, within Developer’s Development Project on the Sebastian Site; and

WHEREAS, the City Commission finds there is a need for public parking in this zoning district and public parking at the Sebastian Site is an ideal location; and

WHEREAS, the City Commission finds that the additional public parking spaces provided by the Developer serves a valid public purpose and provides a public benefit; and

WHEREAS, subsequent to closing on the Sebastian Site, Developer acquired additional property which is located within the same block of the Lauder Del Mar Plat (Plat Book 7, Page 30) as the Sebastian Site and commonly known as the Maynard Condominium with a legal description as set forth on Exhibit “A” (hereinafter, the “Maynard Property”); and

WHEREAS, Developer and City agree to amend the Declaration of Restrictive Covenants on the Sebastian Site to add the Maynard Property to further effectuate the terms and conditions of the Declaration, and together with the development of the Sebastian Site which is hereafter referred to as the “Development Project”; and

WHEREAS, Developer submitted to the City’s Development Review Committee a site plan application on March 23, 2018, Case Number R18025, for the Development Project in furtherance of the development provided for in the Declaration; and

WHEREAS, Developer is desirous of working with the City to address neighborhood compatibility issues; and

WHEREAS, City and Developer are desirous of amending the Declaration to further effectuate its terms and public purpose.

NOW THEREFORE, in consideration of the mutual terms, covenants and conditions contained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, it is mutually agreed as follows:

1. Recitals. The foregoing Background information is true, correct and incorporated herein by reference. All Exhibits to this Amendment are deemed a part hereof.

2. Maynard Property and Development Project. Both parties agree the terms and conditions of the Declaration, as amended by this Amendment, are binding upon the Maynard Property and shall constitute a covenant running with the land. The Maynard Property and Sebastian Site shall be deemed one parcel for purposes of development of the Development Project.

3. Purpose. The purpose of this Amendment is to establish respective rights and obligations of the Developer and the City in furtherance of the objectives of the Land Swap Agreement and Declaration.

4. Development. In order to protect the public purpose established within the Land Swap Agreement and the Declaration and in consideration of the Developer extending the terms of the Declaration to the Maynard Property, City agrees to preserve the trips as required under the City's Unified Land Development Regulations ("ULDR") to the Development Project, or any subsequently approved development project, pursuant to the Declaration as amended. This reservation of trips shall remain in full force and effect for five (5) years from the Effective Date of this Agreement, which may be extended by the City Commission in its sole discretion. This amendment shall not constitute any warranty or guarantee by the City that Developer, or its successors and/or assigns, is authorized or approved to design or construct the Development Project or any subsequently redesigned project or a waiver of the City's regulatory requirements under the City's ULDR or other laws, ordinances, rules or regulations.

5. Reservation of Trips. By virtue of Developer's subsequent ownership in interest of the City's prior property that was the subject of the Land Swap Agreement and Declaration, the submittal to the Development Review Committee, Case Number R18025, on March 23, 2018 and commitment to provide public parking on the Sebastian Site, the City hereby reserves trips in an amount not to exceed 141 trips for the Development Project or any subsequently approved development project authorized under the Broward County Land Use Plan and pursuant to the City's Unified Land Development Regulations.

6. Effective Date. This Amendment shall take effect immediately upon approval by the City Commission ("Effective Date")

7. Reaffirmation. Except as specifically modified herein, all other the terms and provisions of the Declaration are ratified and reaffirmed by each of the parties hereto and are incorporated herein by reference.

IN WITNESS WHEREOF, the parties hereto, through their duly authorized representatives, have executed this Amendment to be effective as of the day and year first set forth above.

Witnesses:

CITY OF FORT LAUDERDALE, a
municipal corporation of Florida

Print Name:_____

By:_____

Name: Dean J. Trantalis , Mayor

Print Name:_____

Print Name:_____

By:_____

Lee R. Feldman, City Manager

Print Name:_____

Attest:

Jeffrey A. Modarelli, City Clerk

Approved as to form:

Alain E. Boileau, City Attorney

By:_____

Lynn Solomon , Assistant City Attorney

Address: 100 North Andrews Avenue
Fort Lauderdale, FL 33301
Attn: City Manager

with copy to:

Same Address

Attn: City Attorney

State of Florida:
County of Broward:

The foregoing instrument was acknowledged before me on _____, by Dean J. Trantalis, Mayor of the City of Fort Lauderdale, a municipal corporation of Florida. He is [] personally known to me, or [] provided _____ as identification, and [] did or [] did not take an oath.

(SEAL)

Notary Public, State of Florida
Print Name:_____
My Commission Expires:_____
Commission Number:_____

State of Florida:
County of Broward:

The foregoing instrument was acknowledged before me on _____, by Lee R. Feldman, City Manager of the City of Fort Lauderdale, a municipal corporation of Florida. He is [] personally known to me, or [] provided _____ as identification, and [] did or [] did not take an oath.

(SEAL)

Notary Public, State of Florida
Print Name:_____
My Commission Expires:_____
Commission Number:_____

[Signature page to Amendment continue on next page]

Developer:

KT SEABREEZE ATLANTIC, LP, a
Florida limited partnership

Print Name: _____

By: _____

Print Name: _____

Title: _____

Print Name: _____

Address: _____

State of Florida:

County of Broward:

The foregoing instrument was acknowledged before me on _____, by
_____, the _____ of KT SEABREEZE ATLANTIC, LP, a
Florida limited partnership. He or she is [] personally known to me, or [] provided
_____ as identification, and [] did or [] did not take an oath.

(SEAL)

Notary Public, State of Florida

Print Name: _____

My Commission Expires: _____

Commission Number: _____

EXHIBIT “A”

**“MAYNARD PROPERTY”
LEGAL DESCRIPTION**

**Lots 6, 7 and 10, Block 5, LAUDER DEL MAR, according to the Plat thereof,
as recorded in Plat Book 7, Page 30, of the Public Records of Broward County, Florida**