

PIER SIXTY-SIX SOUTH TEMPORARY OUTDOOR EVENTS AGREEMENT

THIS IS AN AGREEMENT, entered into on this _____, 2019, between:

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

And

SAILS VENTURES, LLC, a Florida Limited Liability Company,
hereinafter referred to as "Applicant."

WHEREAS, subject to the terms hereof, Applicant has requested approval from the City to conduct Pier Sixty-Six South Temporary Outdoor Events/Superyacht Village at Pier South, which includes a waterfront indoor-outdoor recreational and entertainment venue with an evolving weekly program, hereinafter referred to as the "Event." In accordance with the terms hereof, Applicant shall provide the required certificates of insurance and agrees to indemnify and hold harmless the City of Fort Lauderdale for any damage to persons or property that occurs as a sole and direct result of the actions or inactions of Applicant in connection with and/or as a result of the operation of said Event; and

WHEREAS, pursuant to the City's Code of Ordinances and the Development Agreement, dated August 31, 2018, in order to conduct such Events, Applicant and City wish to enter into this Agreement; and

WHEREAS, on January 8, 2019, the City Commission by motion approved a sequential series of special events for the Pier Sixty-Six South Temporary Outdoor Events;

WHEREAS, on July 9, 2019, the City Commission by motion authorized the City Manager to execute this Pier Sixty-Six South Temporary Outdoor Events Agreement with Sails Ventures, LLC for the Pier Sixty-Six South Temporary Outdoor Events/Superyacht Village;

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

1. RECITALS AND EXHIBITS INCORPORATED. The foregoing recitals are true and correct as are the Exhibits attached hereto and incorporated herein by this reference.
2. DEFINITIONS. For the purposes of this Agreement and the various covenants, conditions, terms and provisions that follow, the Definitions set forth below are assumed to be true and correct and are therefore agreed upon by the parties:

- a. “Agreement” means this Agreement between the City and Applicant, including all of the attached and referenced Exhibits, as the same may be amended in writing from time to time, with an original on file with the City Clerk.
- b. “Applicant” means Sails Ventures, LLC authorized to do business in the State of Florida.
- c. “City” means the City of Fort Lauderdale, Florida, a municipal corporation of the State of Florida, of which the City Commission is its governing body.
- d. “Contract Administrators” means the City of Fort Lauderdale’s City Manager for the City or his/her 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 Administrators. The Contract Administrators may not make any change to this Agreement without the approval and formal amendment to this Agreement in writing by City and Applicant.
- e. “City Manager” means the City of Fort Lauderdale’s City Manager or his or her designee.
- f. “Event Impact Areas” means the areas outside the Event Site that are directly impacted by the Event and because of the impact to these areas, mitigating services are provided at the sole cost of the Applicant including, without limitation, police services, emergency medical services, traffic control, crowd control and trash removal. The Event Impact Areas shall be determined by the City in consultation with Applicant. In the event of a disagreement between Applicant and the City regarding the Event Impact Areas, the City Manager’s decision shall be final as to the determined Event Impact Areas.
- g. “Event Period” means the time periods as follows:

Set Up: Upon the City’s issuance of the building permit.

Event(s): Sunday September 1, 2019 through Monday August 5, 2024

Breakdown of Event(s): The Breakdown of Event will commence at the conclusion of the permit period granted herein, and is anticipated to take approximately forty-five (45) days, unless an extension is granted by the City Commission.

The term “Breakdown” shall mean the use of heavy equipment, machinery or vehicles which use backup alarms in the deconstruction of the event structures in a manner that may produce noise or otherwise disturb area residents. No work shall be performed between 9:00 p.m. and 7:00 a.m. The term Breakdown shall not include the cleanup or wind-down of event operations in a manner that does not involve heavy equipment and machinery. The Event Period may be revised

upon approval of the City Commission.

- h. “Event Site” means collectively the area used to hold the Event as more specifically described in Exhibit “A.”
- i. “Hours of Operation” means the time in which the Events may be held:

Monday through Sunday each week from September 1, 2019 until August 5, 2024 from 10:00 am to 12:00 am.
- j. “Maintenance of Traffic Plan” shall have the meaning given to such term in Section 5 of the Agreement and more specifically described in Exhibit “C” upon timely submission in accordance with this Agreement.
- k. “Public Safety Plan” shall have the meaning given to such term in Section 5.
- l. “Site Plan” shall have the meaning given to such term in Section 7.
- m. “Term” shall have the meaning given to such term in Section 4.

3. **PERMISSION TO USE.** Subject to the terms hereof, Applicant is hereby authorized and entitled to use the Event Site during the Event Period in order to conduct the Events. The right to use the Event Site does not imply that the Applicant is automatically allowed to close the streets and transportation corridors that are defined as part of the Event Site. All alcohol sales during the Event shall be governed in accordance with all applicable Florida Statutes and sections of the City of Fort Lauderdale Code of Ordinances.

4. **TERM.** The Term of this Agreement shall commence on July 9, 2019 and will expire on August 5, 2024.

5. **PUBLIC SAFETY PLAN FOR THE EVENT.** Because of the physical size of the Event and the number of people that may attend, City may arrange for all necessary personnel to provide public safety at the Event Site and Event Impact Areas. The parties will consult with each other in regard to the levels of security including the scaling down of such services for the set up and tear down of the Event. City reserves the right to require, in good faith, that additional services be provided, at the sole cost to Applicant, to ensure the appropriate level of public safety. These services shall include, without limitation, crowd control, traffic management, fire rescue, ocean rescue, emergency medical services, and police services. Applicant is required to provide signage, traffic barricades, and cones to facilitate public safety and will set up and remove at no cost to the City.

- a. The Applicant anticipates a maximum attendance of approximately two hundred ninety five (295) persons at peak times and a sustained attendance of seventy-five (75) persons. Any event at the Event Site which would exceed the maximum attendance of two hundred ninety five (295) persons at any one-time will require a separate event application, communication and coordination with the

community, and City Commission approval.

- b. All outdoor music will end at 9:00 PM on Sunday to Thursday and 10:00 PM on Friday to Saturday. The Event Site will utilize a central audio system with zoned volume control and soundproofing equipment. Indoor and outdoor rooms where beer, wine, or liquor are sold or offered for sale will be adequately soundproofed to ensure noise from instrumental music, singing, and other forms of entertainment is mitigated pursuant to Sec. 5-34, Code of Ordinances.
- c. The Applicant shall provide a Public Safety Plan to City no later than twenty-five (25) days prior to the date of the Event, and the Public Safety Plan shall be incorporated into this Agreement and marked as Exhibit "B". This plan shall include, but not be limited to, the Applicant's planned actions to respond to and mitigate various potential criminal and emergency incidents which may occur during the Event. After receiving the final private security and Event Public Safety Plan from the Applicant, the City shall work with the Applicant in order to properly determine the number of personnel necessary to effectively and efficiently carry out the Public Safety Plan. City shall develop an anticipated budget for the Public Safety Plan and other City services, and provide the anticipated budget to the Applicant not more than ten (10) days following receipt of the Public Safety Plan. In the event of a disagreement between Applicant and the City regarding the number of personnel required for the Public Safety Plan and the anticipated budget of the Public Safety Plan, the City Manager shall seek to resolve such disagreement by taking into account the best interest of the public's safety and the reasonable cost for implementing the Public Safety Plan. The City Manager's decision shall be final as to the appropriate level of staffing for the Public Safety Plan and the anticipated budget for the Public Safety Plan. City agrees to include in its anticipated budget to the Applicant the number of proposed on-site City personnel that will be assigned during the Event as allowed by Florida Statute.

The parties will act in good faith to keep the other party notified of the latest information and any new developments or incidents that might cause additional public safety personnel to be deployed to the Event. Both parties agree that an essential element of the Event Public Safety Plan includes a procedure, mutually agreed upon in advance; that the Applicant must follow during the Event to record the number of participants within the Event Site at any given time. Participant numbers must be real time and verifiable by City public safety personnel. In the event the primary participant count process fails during the Event, the Applicant must have a contingency process in place and readily available for activation to assure accurate continuation of participant counts. This contingency procedure along with the initial participant verification procedure shall be included and approved by the City in advance and as part of the Public Safety Plan. The Contract Administrator or City police/fire personnel shall have the right to request participant numbers from the Applicant at any time throughout the course of the Event.

- d. The cost for any additional services or expansion of services requested by Applicant, in writing, shall be an expense to Applicant and City shall be paid for all costs and expenses in association with any such additional or expansion of services provided to Applicant. Expansion of services means enhancements of activities, any changes in the type of activities provided or changes in parameters of Event or the Event Site, caused by or requested by Applicant, including physical location and boundaries that result in an increase in the City's cost to provide all necessary services.
- e. Should Applicant request non-critical public safety services, such as a police escort, or if such services are beyond the City's ability to provide, Applicant may make such arrangements and coordinate these services with the City. The cost for these additional services shall be an expense to Applicant, and all such costs and expenses shall be paid to City within the time frame as set forth in Section 19, Costs and Expenses.
- f. In the event of an emergency or disaster during the Event, at the Event site or as a direct result from the Event activities, that requires public safety resources beyond the original Public Safety Plan, it shall be the responsibility of the Applicant to reimburse the City's reasonable additional cost to respond to such emergency or disaster that the City would not have otherwise incurred had such Event not been taking place. This section shall not apply to any natural disaster, act of terrorism, or act of God that may occur at the Event Site during the Event including, without limitation, a hurricane, lightning strike, tornado or any other such causes whatsoever beyond the control of the parties and unrelated to the Event.
- g. Applicant acknowledges that traffic control plans shall accommodate the ingress and egress to residences during the course of the Event.
- h. If the Event includes use of fireworks, in advance of the Event the Applicant shall obtain a fireworks permit from the City's Fire Department. The Applicant shall comply with all applicable state laws regarding the use of fireworks.

6. **STREET CLOSINGS.** Although no street closings are anticipated, the City reserves the right to approve all street closings, including those streets and transportation corridors that are defined as part of the Event Site, in association with the Event. If a street closure is requested, any such request should be included within an MOT Plan submitted by Applicant. Applicant agrees to coordinate and make the appropriate arrangements with any merchants or residents affected by any street closures to ensure they are provided sufficient and reasonable access to their businesses and residences.

7. **SITE PLAN.** Not less than twenty-five (25) days prior to the date of the Event, Applicant shall provide to the City.

8. MAINTENANCE OF EVENT SITE AND EVENT IMPACT AREAS:

- a. Applicant shall be responsible for and shall provide sufficient temporary public sanitary facilities which shall be of the type and in sufficient number as to meet the requirements established by the building and zoning department. Applicant shall provide daily service of the facilities at all times during the Event Period. The cost of such temporary public sanitary facilities shall be an expense to Applicant.
- b. Applicant shall be responsible for all cleanup costs and expenses associated with the removal of trash and debris that accumulates on any portion of the designated Event Impact Areas. The requirement to remove trash and debris includes street sweeping. Applicant will cover and reimburse City for all costs associated with trash and debris removal within the Event Site and Event Impact Areas.
- c. Recycling and sustainability will be encouraged throughout the duration of the Events by providing a waste receptacle and the appropriate number of bins where they are needed. Storage and trash will be adequately screened from view.
- d. In the event the Applicant wishes to utilize temporary mobile cellular communication (service boosting) towers, which can also benefit public safety by increasing the E-911 capabilities of the specific service provider, the Applicant must notify the City Police and Fire Departments and agrees that the contracted equipment provider with whom they procure such equipment, services etc. will work closely with the City Radio Engineers to confirm the temporary towers will not interfere with the City or County public safety radio frequencies.

9. PARKING, TRANSIT SERVICES, AND ACCESS. It will be the responsibility of Applicant to arrange and coordinate all parking and any transit services from or to the Event Site.

- a. The Event Site's existing pedestrian and vehicular ingress and egress along SE 17th Street Causeway will remain unchanged and will at no time be blocked or amended. The existing driveway entrance on the northeast area of the site along SE 17th Street Causeway will accommodate vehicular access and the northwest area will accommodate the food truck, marina, and employee entrance. A new pedestrian walkway will be added along Harbour Inlet Drive to accommodate nearby residents who might choose to walk or bike to the Event Site. The Event Site will accommodate one-hundred sixty-one (161) parking spaces, including six (6) ADA accessible parking spaces.

10. CONSTRUCTION OF FACILITIES, STRUCTURES, CANOPIES, TENTS AND CONCESSION STANDS:

- a. Applicant shall be allowed to construct and maintain on the Event Site, such facilities and structures that are necessary for the Event including, but not limited to, fences, barriers, grandstands and signs as approved by the City and at such

locations as approved by the City. Any setup or tear down of such structures at the Event Site shall be in accordance with the terms contained in the City's Noise Ordinance No. C-08-37.

- b. Current flameproof certificates must be provided for all canvas tents, awnings or canopies and shall be submitted for approval to the city fire departments. Applicant shall obtain approval by the City Fire Department and file with its application evidence that such canopies, tents, awnings and/or concession stands which are to be used during the period of time encompassed by this Agreement are of fireproof material and will not constitute a fire hazard. City's Sustainable Development Department must review and approve the proposed use of any temporary structure used in association with the Event in accordance with the standard criteria as outlined in the City's Code of Ordinances and Florida building code.
- c. All work performed shall meet the standards of the Florida Building Code, as may be updated from time to time.
- d. This Agreement is subject to the Applicant obtaining all the necessary approvals and permits from the City of Fort Lauderdale's Building Department. In the event that the Applicant fails to obtain the necessary permits and approvals from the City of Fort Lauderdale's Building Department, then this agreement shall be null and void.
- e. All construction, installations and services, including electrical hook-ups, shall be made at Applicant's expense and approved in advance by the City's Sustainable Development Department. The department of Sustainable Development shall conduct electrical inspections of all electrical facilities whether power is supplied by local utilities or is self-provided by generator systems. The Applicant shall permit the City staff to conduct electrical inspections of all electrical facilities.

11. **SECURITY OF APPLICANT'S PROPERTY.** All construction materials, equipment, goods, signs and any other personal property of Applicant shall be protected solely by Applicant. Applicant acknowledges and agrees that City assumes no responsibility, whatsoever, for any such item and that the security and protection of any such item from theft, vandalism, the elements, acts of God, or any other cause, are strictly the responsibility of Applicant.

12. **APPLICANT'S CONTRACTS.** Applicant agrees to be solely responsible for all contracts or agreements of any nature including, without limitation, those for entertainment and vendors for the Event. All contracts for the Event shall be negotiated by Applicant and secured at the sole expense of Applicant. City shall not be named as a party in any contract for the Event and City shall have no obligation to ensure payment to any individual or entity for goods and/or services provided in conjunction with such Event.

13. SUBLEASES, ASSIGNMENTS, OR TRANSFERS. Applicant or any of the principals of the corporation shall not assign, sublease or transfer any of its obligations and/or rights under this Agreement, in whole or in part, to any person, business or entity, without the prior written approval of City, such approval not to be unreasonably withheld or denied. Any such action by Applicant will result in immediate cancellation and termination of this Agreement by City.

14. LICENSES AND PERMITS; COPYRIGHTS, PATENTS AND TRADEMARKS. Applicant agrees to secure and pay for all licenses and permits required by any governmental agency having jurisdiction over the Event Site. City acknowledges and agrees that Applicant will contract with third party vendor(s) for any dispensing, serving, sale and/or distribution of alcohol at/during the event, and shall cause any such third party to obtain any applicable permits and licenses as may be required for the service, sale and/or distribution of alcohol at/during the event. Additionally, if Applicant intends to use any item which is or may be protected from infringement, such as but without limitation, copyrights, patents and trademarks, if requested by City, Applicant shall provide City ten (10) days in advance of the first date of property use, evidence showing that the applicable licenses, permits and/or permission have been secured and, if applicable, all fees have been paid in full by Applicant. The provisions of this paragraph specifically apply to the American Society of Composers, Authors and Publishers ("ASCAP"), Broadcast Music Incorporated ("BMI") and any other similar organization that may require written permission and payment of a fee for use of protected material. Applicant shall ensure that all performance payments required to be made under such licenses are made promptly and directly to the licensing organizations. Copies of all said licenses or reports shall be submitted to City upon request. In the event Applicant fails to submit the licenses or reports as required herein or the documentation is not satisfactory to City, Applicant shall be responsible for payment to City for all license fees incurred by the City in connection with the Event. City shall have no responsibilities to any performing rights licensing organizations for any performance during the Event.

15. STANDARDS OF CONDUCT; COMPLIANCE WITH RULES, REGULATIONS, ORDINANCES. Applicant agrees that at all times it will conduct its activities with full regard for public safety and will observe and abide by all federal, state and local laws, the federal and state constitutions, and all rules, regulations and ordinances of City and any other governmental agency having jurisdiction including, without limitation, those relating to noise, building, zoning, gambling, fire protection, liquor regulation, sanitation and food facilities and hours of operation. Applicant shall further take all precautions and use due care to conduct its operations in a safe and prudent manner with respect to its agents, employees and visitors to the Event.

16. INSURANCE. As a condition precedent to the effectiveness of this Agreement, during the term of this Agreement and during any renewal or extension term of this Agreement, the Applicant, at the Applicant's sole expense, shall provide insurance of such types and with such terms and limits as noted below. Providing proof of and maintaining adequate insurance coverage are material obligations of the Applicant. The Applicant shall provide the City a certificate of insurance evidencing such coverage. The Applicant's insurance coverage shall be primary insurance for all applicable policies. The limits of coverage under each policy maintained by the Applicant shall not be interpreted as limiting the Applicant's liability and obligations under this Agreement. All insurance policies shall be from insurers authorized to

write insurance policies in the State of Florida and that possess an A.M. Best rating of A-, VII or better. All insurance policies are subject to approval by the City's Risk Manager.

The coverages, limits, and endorsements required herein protect the interests of the City, and these coverages, limits, and endorsements may not be relied upon by the Applicant for assessing the extent or determining appropriate types and limits of coverage to protect the Applicant against any loss exposure, whether as a result of this Agreement or otherwise. The requirements contained herein, as well as the City's review or acknowledgement, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the Applicant under this Agreement.

The following insurance policies and coverages are required:

Commercial General Liability

Coverage must be afforded under a Commercial General Liability policy with limits not less than:

- \$2,000,000 each occurrence and \$2,000,000 aggregate for Bodily Injury, Property Damage, and Personal and Advertising Injury
- \$2,000,000 each occurrence and \$2,000,000 aggregate for Products and Completed Operations

Policy must include coverage for Contractual Liability and Independent Contractors.

The City and the City's officers, employees, and volunteers are to be covered as additional insureds with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage with respect to liability arising out of activities performed by or on behalf of the Applicant. The coverage shall contain no special limitation on the scope of protection afforded to the City or the City's officers, employees, and volunteers.

Liquor Liability

Applicant shall provide evidence of coverage for liquor liability in an amount not less than \$1,000,000 per occurrence. If the Commercial General Liability policy covers liquor liability (e.g. host or other coverage), the Applicant shall provide written documentation to confirm that coverage already applies to this Agreement.

Business Automobile Liability

Coverage must be afforded for all Owned, Hired, Scheduled, and Non-Owned vehicles for Bodily Injury and Property Damage in an amount not less than \$1,000,000 combined single limit each accident.

If the Applicant does not own vehicles, the Applicant shall maintain coverage for Hired and Non-Owned Auto Liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.

Workers' Compensation and Employer's Liability

Coverage must be afforded per Chapter 440, Florida Statutes. Any person or entity performing work for or on behalf of the City must provide Workers' Compensation insurance. Exceptions and exemptions will be allowed by the City's Risk Manager, if they are in accordance with Florida Statute.

The Applicant waives, and the Applicant shall ensure that the Applicant's insurance carrier waives, all subrogation rights against the City and the City's officers, employees, and volunteers for all losses or damages. The City requires the policy to be endorsed with WC 00 03 13 Waiver of our Right to Recover from Others or equivalent.

The Applicant must be in compliance with all applicable State and federal workers' compensation laws, including the U.S. Longshore Harbor Workers' Act and the Jones Act, if applicable.

Insurance Certificate Requirements

- a. The Applicant shall provide the City with valid Certificates of Insurance (binders are unacceptable) no later than thirty (30) days prior to the start of work contemplated in this Agreement.
- b. The Applicant shall provide to the City a Certificate of Insurance having a thirty (30) day notice of cancellation; ten (10) days' notice if cancellation is for nonpayment of premium.
- c. In the event that the insurer is unable to accommodate the cancellation notice requirement, it shall be the responsibility of the Applicant to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested, and addressed to the certificate holder.
- d. In the event the Agreement term goes beyond the expiration date of the insurance policy, the Applicant shall provide the City with an updated Certificate of Insurance no later than ten (10) days prior to the expiration of the insurance currently in effect. The City reserves the right to suspend the Agreement until this requirement is met.
- e. The Certificate of Insurance shall indicate whether coverage is provided under a claims-made or occurrence form. If any coverage is provided on a claims-made form, the Certificate of Insurance must show a retroactive date, which shall be the effective date of the initial contract or prior.
- f. The City shall be named as an Additional Insured on all liability policies, with the exception of Workers' Compensation.
- g. The City shall be granted a Waiver of Subrogation on the Applicant's Workers' Compensation insurance policy.

- h. The title of the Agreement, Bid/Contract number, event dates, or other identifying reference must be listed on the Certificate of Insurance.

The Certificate Holder should read as follows:

City of Fort Lauderdale
100 N. Andrews Avenue
Fort Lauderdale, FL 33301

The Applicant has the sole responsibility for the payment of all insurance premiums and shall be fully and solely responsible for any costs or expenses as a result of a coverage deductible, co-insurance penalty, or self-insured retention; including any loss not covered because of the operation of such deductible, co-insurance penalty, self-insured retention, or coverage exclusion or limitation. Any costs for adding the City as an Additional Insured shall be at the Applicant's expense.

If the Applicant's primary insurance policy/policies do not meet the minimum requirements, as set forth in this Agreement, the Applicant may provide evidence of an Umbrella/Excess insurance policy to comply with this requirement.

The Applicant's insurance coverage shall be primary insurance as applied to the City and the City's officers, employees, and volunteers. Any insurance or self-insurance maintained by the City covering the City, the City's officers, employees, or volunteers shall be non-contributory.

Any exclusion or provision in the insurance maintained by the Applicant that excludes coverage for work contemplated in this Agreement shall be unacceptable and shall be considered breach of contract.

All required insurance policies must be maintained until the contract work has been accepted by the City, or until this Agreement is terminated, whichever is later. Any lapse in coverage shall be considered breach of contract. In addition, Applicant must provide to the City confirmation of coverage renewal via an updated certificate should any policies expire prior to the expiration of this Agreement. The City reserves the right to review, at any time, coverage forms and limits of Applicant's insurance policies.

The Applicant shall provide notice of any and all claims, accidents, and any other occurrences associated with this Agreement to the Applicant's insurance company or companies and the City's Risk Management office, as soon as practical.

It is the Applicant's responsibility to ensure that any and all of the Applicant's independent contractors and subcontractors comply with these insurance requirements. All coverages for independent contractors and subcontractors shall be subject to all of the applicable requirements stated herein. Any and all deficiencies are the responsibility of the Applicant.

17. **INDEMNIFICATION AND HOLD HARMLESS.** Applicant agrees to indemnify, defend and hold harmless City, its officers, agents and/or employees, against any and all damages, claims, losses, liabilities and expenses (including, without limitation, reasonable legal fees and disbursements) caused by, in connection with, arising out of, or results from the use of the Event Site or caused by, in connection with, arising out of, or resulting from any act by Applicant, its partners, employees, officers and/or agents done in the performance of this Agreement. If called upon by City, Applicant shall defend not only itself, but also City in connection with any such claim at Applicant's expense, and at no expense whatsoever to City. Applicant further agrees to defend, indemnify, save and hold harmless the City and the City officers, agents, and employees from any claim, suit, loss, cost, or expense or any damages arising out of or relating to Applicant's failure to obtain all necessary performing rights and licenses for the event (BMI, ASCAP, etc.).

18. **LIMITATION OF LIABILITY:**

- a. The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action for money damages due to an alleged breach by the City of this Agreement, so that its liability for any such breach never exceeds the sum of \$25,000.00. Applicant hereby expresses its willingness to enter into this Agreement with Applicant's recovery from the City for any damage action for breach of contract or for any action or claim arising from this Agreement to be limited to a maximum amount of \$25,000.00.
- b. Accordingly, and notwithstanding any other term or condition of this Agreement, Applicant hereby agrees that the City shall not be liable to Applicant for damages in an amount in excess of \$25,000.00, for any action for breach of contract or for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended to be a waiver of the limitation placed upon City's liability as set forth in Article 768.28, Florida Statutes.
- c. Applicant shall further provide evidence of Worker's Compensation Insurance in force for the benefit of Applicant's employees with a Certificate of Insurance no later than ten (10) days prior to use of the Event Site.

19. **COSTS AND EXPENSES FOR CITY SERVICES:**

- a. As provided for in Section 5 above, Applicant shall plan and provide for public safety. The Applicant shall pay for the expense of all city services provided as a result of the event identified by city staff prior to the event. Applicant agrees to cover all out of pocket costs and expenses incurred by the City for services provided for the Event including, without limitation, public safety, maintenance, cleanup, utility connections, breakdown and removal, storage and Repair or replacement of property, and staff time incurred as a result of the Event. The police department may require the Applicant to provide and pay for security personnel for crowd control and traffic direction purposes. The fire department may require the applicant to provide and pay

for EMS and fire watch personnel or both. Police, fire and EMS costs are exempt from prior notice provisions. Applicant agrees and understands that the off duty rate for police personnel for all special events is calculated at a three (3) hour minimum rate. There is a 24 hour cancellation requirement to avoid the three (3) hour minimum payment per officer. All payments will be paid within two (2) weeks of the payroll being submitted. Applicant agrees that positions for all security and supplemental police details for the Event should first be offered to City personnel at the detail rate. If an insufficient number of personnel are available at the detail rate, Applicant shall have the option to utilize outside Florida sworn agencies to fill the deficiency prior to the City mandating personnel to work at the overtime rate, with this request made through and coordinated by the City Police and/or Fire Rescue Departments. The Fort Lauderdale Police Department and Fire Department shall retain the command and control of their respective event operation areas at all times and any mutual aid or assisting agency personnel shall follow such command procedures. Applicant further agrees to be responsible for any capital improvements that the City must make to accommodate Applicant's request for any building, electrical, plumbing, fire, municipal, or county code requirements. Applicant shall also be responsible for any replacement and restoration costs.

20. REIMBURSEMENT OF COSTS AND EXPENSES:

- a. Subject to the terms hereof, Applicant shall pay City for all costs and expenses incurred by City for which Applicant is responsible hereunder within fourteen (14) days of receipt of any invoice from City. If total amount is not paid within fourteen (14) days, interest charges of four percent (4%) annual percentage rate shall be applied.
- b. Should Applicant disagree with the invoice provided by the City, it shall state its reason(s) in writing and may request the City Manager to review the charges and render a decision. If Applicant does not agree with the City Manager's decision, Applicant may make a petition to the City Commission. If Applicant does not agree with the results of such review, upon the filing of a lawsuit the parties shall agree to mandatory mediation.

21. AUTHORITY OF CITY MANAGER. Applicant shall coordinate the use of Event Site in accordance with the terms hereof and the approved Site Plan, in consultation with the City Manager. The City Manager shall notify Applicant when, in the City Manager's reasonable opinion, such activities may be or are detrimental to the public or to the City, or if the City has reason to believe that Applicant, its agents, subcontractors, independent contractors and/or employees have violated any law, rule or ordinance. After consultation with Applicant, City reserves the right to eject or cause to be ejected from the Event Site any person or persons causing a disturbance and neither the City nor any of its officers, agents or employees shall be liable to Applicant for any damages that may be sustained by Applicant through the exercise by City of such right. The decision of the City Manager in such regard shall be final and binding.

22. **TERMINATION.** Applicant may elect, during the Term of this Agreement, to terminate this Agreement and no longer conduct the Event. If Applicant elects to terminate this Agreement, Applicant shall notify the City in writing of such election one ten (10) days prior to the date of the Event. Applicant shall be obligated to reimburse City for any out of pocket costs and expenses incurred by the City in connection with the fulfillment of the City's obligations under this Agreement. It is expressly understood that City reserves the right, in its best interest as determined by the City, to terminate this Agreement for convenience by giving written notice to the Applicant at least thirty (30) days prior to the effective date of such termination. The City may also seek to terminate this Agreement if the City decides it is necessary to protect the public's health, safety and welfare. City may also seek to terminate this Agreement upon the breach by the Applicant of its obligations under this Agreement. If the City seeks to terminate this Agreement, the City shall provide notice of the reason for termination as set forth in the Notice Section of this Agreement, and the Applicant shall have seventy-two (72) hours to cure the reason for the termination to the exclusive satisfaction of the City. In the event of an imminent threat to the public's health or safety, the City may terminate this Agreement at any time by providing notice as set forth in the Notice section of this Agreement.

23. **BREACH.** A material breach of this Agreement by the Applicant shall be grounds for the City to terminate this Agreement, except that before such termination, the Applicant shall be entitled to ten (10) days written notice and an opportunity to cure the breach within such period. Notice of any breach may be sent by electronic mail followed by hand delivery of the notice as provided in Section 30, Notice, of this Agreement.

24. **FORCE MAJEURE.** In the event the Event Site shall, at any time during the term of this Agreement, be destroyed or rendered unusable by fire, storm or threat of a named storm within five hundred (500) miles of the Event Site, act of terrorism, war, act of God or other disaster or epidemic, (collectively or separately, "Force Majeure Event"), or the Event is cancelled or postponed due to a Force Majeure Event, then either party may terminate this Agreement by providing prior written notice to the other party. In such event, each party shall be responsible for their own costs and expenses incurred prior to such termination except if the Force Majeure Event occurs during the Event Period, whereas Applicant will reimburse City for all actual costs incurred related to the Event, as otherwise provided for hereunder.

25. **GOVERNING LAW.** This Agreement shall be interpreted and construed in accordance with the laws of the State of Florida and shall inure to and be binding upon the parties, their successors and assigns. Venue for any action brought in state court shall be in Broward County, Florida. Venue for any action brought in Federal Court shall be in the Southern District of Florida, Fort Lauderdale Division. The parties consent to the personal jurisdiction of the aforementioned courts and irrevocably waive any objections to said jurisdiction.

26. **AMENDMENT.** No modification, amendment or alteration of the terms or conditions of this Agreement shall be effective unless contained in a written document duly executed by both parties, with the same formality as this Agreement.

27. **WAIVER OF BREACH.** Failure by City to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement.

28. EXTENT OF AGREEMENT. This Agreement represents the entire and integrated Agreement between City and Applicant and supersedes all prior negotiations, representations or agreements either written or oral.

29. NOTICE. Whenever any party desires to give notice to any other party, it must be given by written notice sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended at the place designated below and the place so designated shall remain such until they have been changed by written notice in compliance with the provisions of this section. For the present, the parties designate the following as the respective places for giving notice:

CITY:

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

With a copy to:

City of Fort Lauderdale
City Attorney's Office
100 North Andrews Avenue
Fort Lauderdale, Florida 33301
With a copy to:

Sails Ventures, LLC:
Jessi Blakely
Tavistock
6900 Tavistock Lakes Boulevard, Suite 200
Orlando, Florida 32827

30. SEVERANCE. In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless City or Applicant elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

31. NON-DISCRIMINATION. In the performance of this Agreement, Applicant shall not discriminate against any vendor, concessionaire, employee, patron, visitor, attendee or customer because of sex, age, race, color, religion, ancestry, national origin or sexual orientation. In addition, to ensure that the Event is a true community event, Applicant will encourage the participation of minority groups in all aspects of the Event, including the organization, planning, implementation, concessions and support services. Applicant agrees to comply with the terms and provisions of the Americans With Disabilities Act and shall make the Event Site and Event

Impact Areas accessible for persons with disabilities.

32. EMERGENCY ACCESS. Applicant agrees to provide any and all emergency access required by the City and its employees for the safety and welfare of the community and those attending the Event, and proper entrances into any gates which are locked. If, in the course of Applicant's operations, Applicant or City, or their officers, agents and/or employees, become aware of any condition in or about the Event Site or Event Impact Areas which may be dangerous, Applicant will immediately correct such condition or cease operations upon becoming aware or being notified of such condition so as not to endanger persons or property.

33. MISCELLANEOUS PROVISIONS:

- a. Applicant agrees to exercise a good faith and reasonable effort to work with the City Police Department and representatives of the adjacent Homeowners Associations, including but not limited to Harbor Beach Property Homeowners Association, Inc., and Harbour Inlet Association, to implement a plan permitting homeowner's ingress and egress to their residences during the course of the Event.
- b. Applicant acknowledges that it is solely responsible for all utilities for the Event including, without limitation, electrical, water, and sewer and storm sewer hookup requirements.
- c. In the Event that the City is required to file any legal action against Applicant to collect any fees due under this Agreement, City shall be entitled to its costs of collection, repairs, attorney's fees and costs and interest at the maximum rate allowable by law.
- d. The Applicant, after receiving permission by the City's Contract Administrator, reserves the right to add decor, including, but not limited to signage to the location or cover any existing signage, as authorized by the City of Fort Lauderdale Code of Ordinances and Unified Land Development Code.
- e. Applicant agrees to meet with the respective President of each affected neighborhood association including but not limited to Harbor Beach Property Homeowners Association, Inc., and Harbour Inlet Association, on or about the 6-month, 12-month and 24-month anniversary of the issue of the Certificate of Occupancy and thereafter as may be requested, to discuss and jointly resolve major issues in a timely fashion. Some specific examples include but are not limited to: any damage that is evidenced as having been caused by a guest leaving the venue will be addressed and fixed by Applicant, signage will be posted at the venue making it clear that Harbor Inlet is not to be used to access or exit the venue and cars associated with the venue shall not be parked on residential streets. Applicant commits to having continuing and ongoing dialogue with the official representative of Harbor Inlet.

- f. On each one-year anniversary of the Certificate of Occupancy issued by the City, Applicant will provide an annual report to the City Manager detailing the type and nature of Events for the previous year. The City Manager will send the annual report to the City Commission and, should the City Manager or a majority of the City Commission wish to discuss the annual report at a public hearing, the report shall be placed on a City Commission agenda at a future date. Notwithstanding the termination provisions of Section 22, in no event shall the annual report or the hearing be a mechanism to revoke the approved outdoor event permit, except, at the discretion of the City Commission, and upon a finding of competent and substantial evidence of repeated negative impacts on the health and welfare of the community.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGES TO FOLLOW]

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

WITNESSES:

[Witness print or type name]

[Witness print or type name]

CITY

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

By: _____
Dean J. Trantalis, Mayor

By: _____
Christopher J. Lagerbloom
City Manager

ATTEST:

Jeffrey A. Modarelli, City Clerk

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

Tania Marie Amar
Assistant City Attorney

APPLICANT

WITNESSES:

SAILS VENTURES, LLC, a Florida limited liability company.

Witness print/type name

Witness print/type name

(CORPORATE SEAL)

By: _____

Print Name: _____

Title: _____

ATTEST:

By: _____

Print Name: _____

Title: _____

STATE OF FLORIDA:

COUNTY OF _____:

STATE OF _____:

COUNTY OF _____:

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____ as _____ for Sails Ventures, LLC, a Florida limited liability company.

(SEAL)

Notary Public, State of _____

(Signature of Notary Public)

(Print, Type, or Stamp Commissioned Name
of Notary Public)

Personally Known ____ OR Produced Identification _____

Type of Identification Produced _____

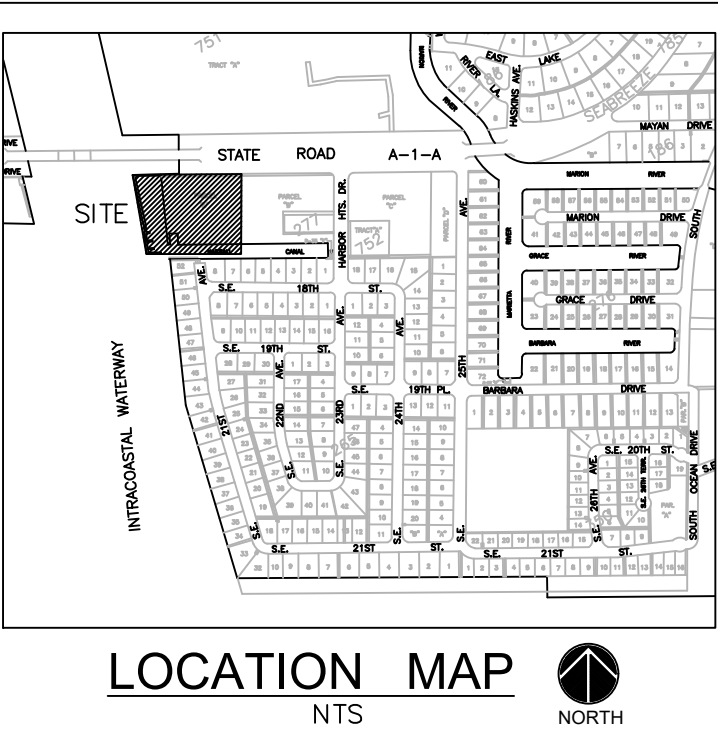
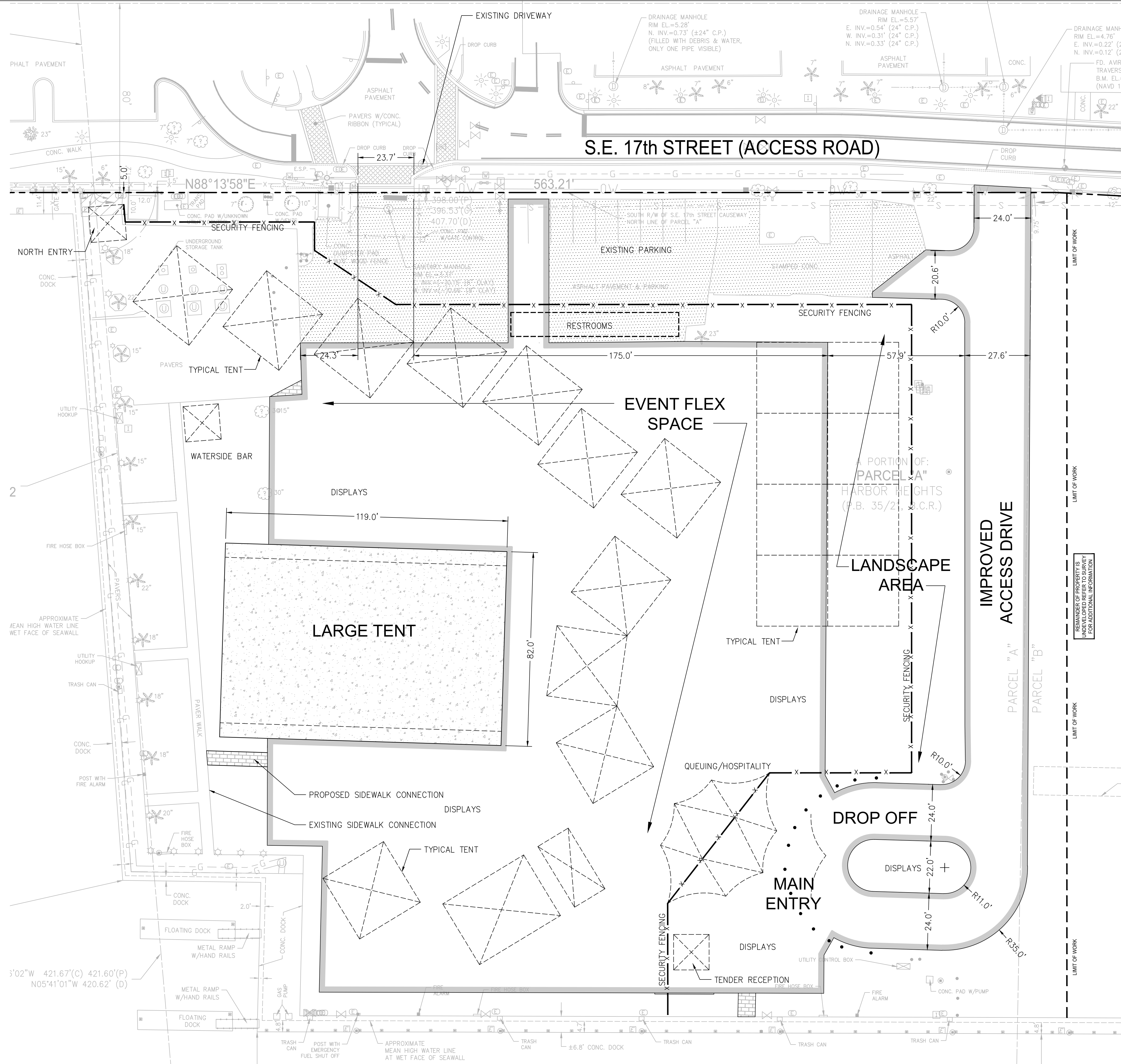
EXHIBIT A

- LEGEND**
- 1 MAIN ENTRY
 - 2 SECURITY FENCING
 - 3 DROP OFF
 - 4 SHOW VEHICLES
 - 5 QUEUING/HOSPITALITY
 - 6 TENDER DROP OFF
 - 7 TENDER RECEPTION (20X20)
 - 8 WATERSIDE BAR (20X20)
 - 9 LARGE TENT (60X84)
 - 10 RESTROOMS
 - 11 NORTH ENTRY (20X20)
 - 12 TENT (20X30)
 - 13 TENT (30X40)
 - 14 TYPICAL TENT (30X30)
 - 15 RELOCATED TREES (FROM PIER NORTH)
 - 16 ASPHALT DRIVE (ON TOP OF EXISTING GRAVEL DRIVE)



ILLUSTRATIVE PLAN

SUPER YACHT VILLAGE AT PIER SOUTH CONCEPT



| SITE PLAN INFORMATION | | |
|--|---------------------------------|-------|
| CURRENT USE OF PROPERTY | PARKING LOT & VACANT LOT | |
| CURRENT LAND USE DESIGNATION | COMMERCIAL | |
| PROPOSED LAND USE DESIGNATION | COMMERCIAL | |
| CURRENT ZONING DESIGNATION | B-1 | |
| ADJACENT ZONING DESIGNATION | B-1 | |
| TOTAL SITE AREA OF WORK | 3.19 ACRES TOTAL / 138,970 S.F. | |
| TOTAL PERVIOUS EXISTING (LANDSCAPE) | 101,031 S.F. | 72.7% |
| TOTAL PERVIOUS PROPOSED (LANDSCAPE) | 33,348 S.F. | 24.0% |
| TOTAL IMPERVIOUS EXISTING | 37,939 S.F. | 27.3% |
| TOTAL IMPERVIOUS PROPOSED | 105,622 S.F. | 76.0% |
| TOTAL BUILDING FOOT PRINT EXISTING | 0 S.F. | 0.0% |
| TOTAL BUILDING FOOT PRINT PROPOSED | 9,758 S.F. | 7.0% |
| WATER/ WASTE WATER SERV. PROVIDER | CITY OF FORT LAUDERDALE | |
| RESIDENTIAL DEVELOPMENT: NUMBER OF UNITS, TYPE, FLOOR AREA, SITE DENSITY | N/A | |

| BUILDING SETBACK TABLE | | |
|---|----------|----------|
| | REQUIRED | PROVIDED |
| FRONT YARD (NORTH) - SE 17TH STREET | 5' | 134.0' |
| SIDE YARD (EAST) - ADJACENT LOT | 5' | 218.7' |
| SIDE YARD (WEST) - WET FACE OF SEAWALL | 0' | 117.7' |
| REAR YARD (SOUTH) - WET FACE OF SEAWALL | 0' | 132.2' |

FLYNN ENGINEERING

241 COMMERCE BLVD., LAUDERDALE BEACH, FL 33308
PHONE: (954) 522-1004 | WWW.FLYNNENGINEERING.COM
ECP 6578

Sheet Title

SITE PLAN

Job Title

PIER SIXTY-SIX SOUTH
BOAT SHOW IMPROVEMENTS
2150 SE 17TH STREET
FORT LAUDERDALE, FLORIDA 33316

NORTH

| Revisions | |
|-----------|--|
| | |
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| | |
| | |
| | |
| | |

Phase:
DRC
DOCUMENTS

SEAL

Scale:
1"=20'

Date
04/26/19

Job No.
05-0568.05

Plot Date
07/02/19

Drawn by
BMK

Proj. Mgr.
JMF

Appr. by
JMF

Sheet No.
C0

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