

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

REVOCABLE LICENSE

THIS IS A REVOCABLE LICENSE granted this _____ day of _____, 2019 by and between:

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

and

CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company whose mailing address is 777 Yamato Road, Suite 401, Boca Raton, FL 33431, its successors and assigns ("LICENSEE")

WHEREAS, LICENSEE is the fee simple owner of the Property, located at the 555 NE 8th Street, Fort Lauderdale, FL and more particularly described in **Exhibit "A"** attached hereto and made a part hereof (hereinafter, "Property")(a 24" x 36" copy of Exhibit "A" is on file with the City Engineer); and

WHEREAS, the Property is the real property upon which Licensee proposes to develop, 350 multifamily residential units with structured parking for 424 parking spaces. The site plan received City approval in May 2019 for a 24-story (269' high), 604,364 square foot building under DRC Case No. R18060, referred to as MODERA 555 (the "Development Project" see **Exhibit "F"** for Location Map); and

WHEREAS, in order to construct the Development Project, LICENSEE indicates it is necessary that certain limited construction activities and precautions take place, in part, within the public right-of-way abutting the Property; and

WHEREAS, further in order to construct the Development Project, certain limited construction activities relative to construction of MODERA 555; and

WHEREAS, LICENSEE indicates that to best ensure the public's safety during the construction period and to control construction access to the Property, it is necessary to close

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portions of the rights-of-way adjacent to the project which are more particularly described below, to pedestrians and vehicles (See **Exhibit “D”** attached hereto and made a part hereof) ; and

WHEREAS, LICENSEE is desirous of securing a Revocable License for the closure of such portions of rights of way (more particularly described below) with appropriate traffic control plans, emergency access, pavement markings, signage, warning lights, temporary barrier fences, restoration of pavement, subject to certain terms and conditions; and

WHEREAS, on July 18, 2019, under Case # PRW19006, the CITY’s Property and Right of Way Committee considered and recommended approval of LICENSEE’s application for a Revocable License and Maintenance of Traffic Plan involving temporary closures of the License Areas which are set forth in **Exhibit “B”** hereto.

WHEREAS, the City Commission of the City of Fort Lauderdale, by Motion, adopted on October 15, 2019, 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.

Building means the building located on the Property.

City Engineer shall mean the CITY’S Land Development Manager, Urban Design & Development, Department of Sustainable Development.

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

Contract Administrator means the City Engineer, 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.

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.

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Development Project means the construction of a 350 multifamily residential units with structured parking for 424 parking spaces. The site plan received City approval in May 2019 for a 24-story (269' high), 604,364 square foot building approved pursuant to DRC Case No. R18060, including installation and construction of landscaping, irrigation, utilities, on street parking spaces, sidewalks, lighting or other improvements shown on the approved site plan for the Development Project. The Development Project is known by the name "MODERA 555."

Effective Date means shall be the date upon which both (i) the MOT Permit is issued and (ii) the Revocable License is recorded in the Public Records of Broward County, Florida. No work can commence under the Revocable License until the Effective Date has been achieved. *License Areas* means the areas depicted with the Sketch and Legal Descriptions set forth in **Exhibit "B"** hereof.

LICENSEE means **CIP 18 FLAGLER VILLAGE, LLC**, a Delaware limited liability company whose mailing address is 2255 Glades Road, Suite 432A, Boca Raton, FL 33431, its successors and assigns, the fee simple owner of the Property.

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 MOT Permit No. _____, associated with Master Permit No. 19051136.

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 rights-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

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purpose, except as expressly authorized in this Revocable License. The term *Project* includes any portion thereof.

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, parallel parking, landscaping, irrigation, pedestrian lighting, sidewalks, 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 and made a part hereof.

Staging of Materials or Equipment means the placement of materials or equipment or parking of vehicles within the License Areas 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 Areas 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 Areas relative to the construction of the Development Project. This Revocable License does permit the Staging of Materials or Equipment within the License Area for improvements to existing rights-of-way including, but not limited to, water and sewer facilities, storm drainage, street and sidewalk improvements, including curb and gutter, fiberoptic cable installations, and on-street parking. The granting of this Revocable License is intended to ensure the public safety and to enable the numerous trucks and deliveries that the construction will generate to take place in an area inaccessible to the public and in a manner that will enhance the public safety.

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4. **Term.**

4.1 Due to the need to keep the public safe and to make certain improvements within the License Area, LICENSEE may close a portion of the rights-of-way of as set forth below as follows:

The closure is being requested as a safety measure for pedestrians due to site access constraints and the high volume of material deliveries generated by a project of this size. The proposed closure is described below and graphically shown in the “License Areas”, attached as **Exhibit “B”** and the “**Detour Plan**”, attached as **Exhibit “E”**.

□ Along this section of NE 5th Avenue is a two-lane local road within a 45-foot wide right-of-way, with a five-foot wide sidewalk on the west side of the road; there is no existing sidewalk on the east side of the road. This License Area would occupy approximately 10 feet of the eastern-most portion of NE 5th Avenue right-of-way along the Property frontage, from NE 8th Street to approximately 250 feet north. Both vehicular lanes would remain open to traffic.

□ Along this section of NE 8th Street is a two-lane local road within a 40-foot wide right-of-way; there are no existing sidewalks. This License Area would occupy 10 feet of the northern-most portion of NE 8th Street right-of-way along the Property frontage, between NE 5th Avenue and NE 5th Terrace. Both vehicular lanes would remain open to traffic.

□ Along this section of NE 5th Terrace is a two-lane local road within a 40-foot wide right-of-way; there are no existing sidewalks. This License Area would occupy approximately 10 feet of the western-most portion of NE 5th Terrace right-of-way along the Property frontage, from NE 8th Street to approximately 400 feet north. Both vehicular lanes would remain open to traffic.

□ The License Areas will not displace any on street metered public parking spaces.

□ The proposed MOT plan does not appear to present any conflicts with the other construction projects in this area.

4.1.1 Closure:

(a) **Boundary of closure:** See **Exhibit “B”**

(b) **Duration:** 26 months, unless terminated sooner pursuant to provisions 4.4, 4.5 or 23 hereof. This closure period may commence upon the Effective Date and the issuance of the MOT Permit. The City Manager shall have the authority, upon written request by LICENSEE, to extend the term of this closure by not more than two (2) thirty (30) day periods beyond the period set

forth in this subsection. Requests for extensions must be made at least two (2) weeks prior to the expiration date of this closure.

4.2 As to each phase and as to the duration of each phase and notwithstanding the foregoing, the City Engineer, in its sole discretion, will determine whether to close the sidewalk and vehicular lane and the duration of the closure after consideration of such matters as site conditions, construction operations, pedestrian and vehicular circulation, feasibility of alternative means of pedestrian and vehicular access and pathways and such other aspects of this Project as the City Engineer deems necessary and appropriate.

4.3 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, (a), (b) or (c) 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' notice to the LICENSEE.

4.4 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 Areas 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 ten (10) days, at the end of which period the City Commission shall consider termination of the License granted herein.

4.5 In the event that emergent conditions arise within any of the License Areas that present an imminent threat to the health, safety or welfare of Persons or property, 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 12, 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.

4.6 This Revocable License may also be revoked or terminated pursuant to the terms of Section 21.2.1.

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

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

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

5.3 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.

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

5.5 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, as required by the Office of the City Engineer.

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

5.7 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.

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 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.

5.9 At the conclusion of the Development Project, LICENSEE shall mill and surface the roadway within License Area as provided in Section 11.1.3 hereof.

5.10 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.

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5.11 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.

5.12 Except as to the Staging of Materials and Equipment in conjunction with the construction and installation of utility facilities or streetscape improvements within the License Areas, storage of construction materials or equipment shall not be permitted within the License Areas or any of the public rights-of-way within a two-block radius of the Property, unless the such offsite area is approved as a construction staging area by the City. Staging of Materials and Equipment and the use of cranes in the License Areas is strictly prohibited. Vehicles may only be parked in the License Area for no more than two (2) hours.

5.13 Storage of dumpsters and debris shall be limited to the Property and shall not be stored, placed or collected within the License Areas or any of the public rights-of-way within a two-block radius of the Property.

5.14 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.

5.15 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 after the Effective Date hereof has been attained. The terms and conditions of this Revocable License are hereby incorporated into the M.O.T. Plan and the Master Permit.

5.15.1 LICENSEE shall provide CITY with twenty-four (24) hour access to the Property and License Areas. Access shall be provided via Knox box(es) located as approved by the Contract Administrator.

5.16 LICENSEE shall use its best efforts to ensure that structural concrete pours do not to 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.

5.17 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.

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

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

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

5.21 Except as provided in Section 5.12, 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.

5.22 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.

5.23 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.

5.23.1 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 21.1, et seq. hereof.

5.23.2 LICENSEE shall provide on-site parking for all personnel working on the job-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 job-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 job-site during the construction of the Development Project, which such off-site parking facilities shall be approved by the Contract Administrator, 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 Development Project shall park their vehicles in either the on-site or off-site parking facilities supplied pursuant to this License.

5.23.3 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

5.24 LICENSEE shall mail written notice of the closures at least ten (10) days in advance of the closures to the relevant business association and residential neighborhood association recognized by the City within which the Property lies and to all

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area property owners¹ and multi-family structures within the area described in 5.24.1 below.

5.24.1 The area for notice referenced in 5.24 above shall be an area within a five hundred (500) foot radius of the License Area.

6. Cost Recovery and Fees.

6.1 **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 1st through September 30th) or relevant portion thereof.

6.2 **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.

6.3 **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. 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.

7. **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.

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

8. **Condition of License Areas.** LICENSEE accepts the License Areas 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 Areas, which have a material adverse effect on the Project, CITY should be notified immediately.

9. **Compliance with Regulations of Public Bodies.** LICENSEE shall, at its sole cost and expense, possess, use, construct, operate, maintain and repair the License Areas 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 Areas 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.

10. **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 Areas.

11. **Repairs and Maintenance.** LICENSEE shall not commit or suffer waste or injury to the License Areas 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 Areas 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 Areas 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 Areas shall be maintained in a neat and orderly appearance at all times.

11.1 **Restoration of Road Right-of-Way.**

11.1.1 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 right-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,

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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.

11.1.2 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.

11.1.3 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.

11.1.4 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 Department of Sustainable Development prior to starting construction of any improvements or any repairs in the public right-of-way. A bond in the amount of 100% of the construction value will be required for a period of one year.

11.1.5 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 Development Project to document all existing and new features within the public right-of-way.

12. **Emergencies.** If an emergency situation arises with respect to the License Areas 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

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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 Paragraph, LICENSEE's Contact Person shall be **Frank Navia, Project Manager**; cell phone number: **561-992-7994**; e-mail address: **fnavia@mcctrust.com**; and address: **777 Yamato Road, Suite 401, Boca Raton, Florida 33431**. 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.

13. **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.

14. **Liens Against the License Areas.** 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 Areas, 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 any of the License Areas, or upon materialmen 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 Areas. These provisions shall be deemed a notice under Section 713.10(1), Florida Statutes of the "non-liability" of the CITY.

15. **Removal.** Except as may otherwise be expressly provided herein, LICENSEE shall remove all Project Improvements constructed within the License Areas 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 Areas to the condition(s) that existed prior to LICENSEE's installation of any such Project Improvements within the License Areas. 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 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 improvements in the License Areas, 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 Areas upon termination of this License, in the event LICENSEE fails to do so, CITY

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shall have the right to remove same, recouping the reasonable cost thereof from LICENSEE in the manner set forth herein.

16. **Damage and Destruction.** LICENSEE shall not by its possession, use, occupancy, operation, maintenance or repair of the License Areas, suffer or permit any damage to the License Areas or to the adjacent real property or public rights-of-way. If during the term of this Revocable License the structures, Improvements, fixtures or personalty within the License Areas or adjacent public rights-of-way 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 Areas or adjacent real property or adjacent public rights-of-way 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 Areas or real property or public rights-of-way 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 Areas 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

17. **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 Areas by CITY but rather a License granted to LICENSEE by CITY for the nonexclusive possession, use, occupancy, operation, maintenance and repair of the License Areas 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.

18. **Indemnity.**

18.1 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 attorney's 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

Revocable License

Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

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.

18.2 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 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.

19. **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 Areas. This policy shall not be affected by any other insurance carried by CITY.

(b) 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.

(c) 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.

Revocable License

Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

- (d) All of the policies of insurance provided for in this Revocable License:
- (i) shall be In the form and substance approved by the Department of Insurance of the State of Florida (“DOI”),
 - (ii) shall be issued only by companies licensed by DOI,
 - (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.

(e) 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.

(f) 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.

20. **Special Exception.** If 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

Revocable License

Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

stipulated between the parties that this Revocable License shall be construed most strictly in favor of the CITY and against LICENSEE.

21. Remedies of CITY.

21.1 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.

21.1.1 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 21.1.

21.1.2 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.

21.1.3 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.

21.1.4 Within ten (10) days of receiving a Notice of Appeal under Section 21.1.3, 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 21.1.3, 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.

21.1.5 In the event LICENSEE contests the Final Order of the City Manager under Section 21.1.4 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.

Revocable License

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21.1.6 Any fines resulting from the process set forth in Sections 21.1.1 through 21.1.5 shall be paid to CITY within sixty (60) days from the final adjudication resulting from that process.

21.1.7 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.

21.1.8 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.

21.1.9 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.

21.2 In the event the LICENSEE falls to timely cure the violation within the time specified in Section 21.1, the CITY, as an alternative to the procedures set forth in Sections 21.1.1 through 21.1.9, may

21.2.1 revoke or terminate this License; or

21.2.1 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

21.2.2 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, maintenance or removal 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

Revocable License

Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

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.

21.2.3 If LICENSEE does not make the payments required under this Section 21 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 21.1.1 through 21.1.6 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.

21.2.4 The remedies found within this Section 21, including all subsections thereof, are cumulative. The exercise of one does not preclude the exercise of any other remedy.

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

23. **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 mailing the same by registered or certified mail, postage prepaid, return receipt requested, 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 in the United States mail, postage prepaid; in the manner aforesaid, provided, however, that for any distance in excess of five hundred (500) miles, air mail service or Federal Express or similar carrier shall be utilized, if available.

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
100 North Andrews Avenue
Fort Lauderdale, FL 33301

AS TO LICENSEE:

CIP 19 Flagler Village, LLC, a Delaware
limited liability company

777 Yamato Road, Suite 401

Boca Raton, Florida 33431

Attn: Rolando Jaime, Project Executive

With Copy to:

MCRT Investments LLC

c/o Jeff Meran, Senior Managing Director

5910 N Central Expressway, Suite 1100

Dallas, Texas 75206

(c) As to activities under Paragraph 12, 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 12, Emergencies.

24. **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 Areas without prior written consent of CITY, which such consent may be granted or withheld in its sole discretion. Notwithstanding the foregoing, CITY hereby consents to LICENSEE's assignment

Revocable License

Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

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.

25. **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 Areas and the conduct of the Project permitted herein.

26. **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 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.

27. **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. The 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.

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

29. **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.

30. **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 beneficial 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

Revocable License

Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

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.

31. **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.

32. **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.

33. **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.

34. **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.

35. **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.

36. **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.

37. **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.

38. **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,

Revocable License

Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

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.

39. **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.

[THE BALANCE OF THIS PAGE REMAINS INTENTIONALLY BLANK.]

Revocable License

Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

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]

Dean J. Trantalis, Mayor

[Witness print or type name]

Christopher J. Lagerbloom, City Manager

ATTEST:

Jeffrey A. Modarelli, City Clerk

APPROVED AS TO FORM:
Alain E. Boileau

By:_____
Robert B. Dunkel, Assistant City Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this _____, 2019, by **Dean J. Trantalis**, 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 Acknowledgement)

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 _____, by **Christopher J. Lagerbloom**, 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 Acknowledgement)

Name of notary Typed, Printed, or Stamped

My commission Expires:

Commission Number

Revocable License
Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

WITNESSES:

[Witness print/type name]

[Witness print/type name]

STATE OF _____)
) SS
COUNTY OF _____)

The foregoing instrument was acknowledged before me this __ day of _____, 2019, by JEFF MERAN, Senior Managing Director of MCRT FLAGLER VILLAGE, LLC, a foreign limited liability company, Member of CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company, who freely and voluntarily on executed this instrument on behalf of said limited liability company. He is personally known to me or has produced as identification or is known to me personally.

Notary Public

Typed, printed, stamped name of Notary
Public

My Commission Expires:

Revocable License

Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

LICENSEE: CIP 18 FLAGLER VILLAGE,
LLC, a Delaware limited liability company

By: MCRT FLAGLER VILLAGE, LLC, a
foreign limited liability company, its Member

By: _____
Jeff Meran, Senior Managing Director

EXHIBIT "A"

PROPERTY

LAND DESCRIPTIONS: (4 Parcels)

ID# 4942 34 06 1820

LOTS 25, 26, 27, 28, 29 AND 30, BLOCK 253, PROGRESSO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 18, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA.

ID# 4942 34 06 1830

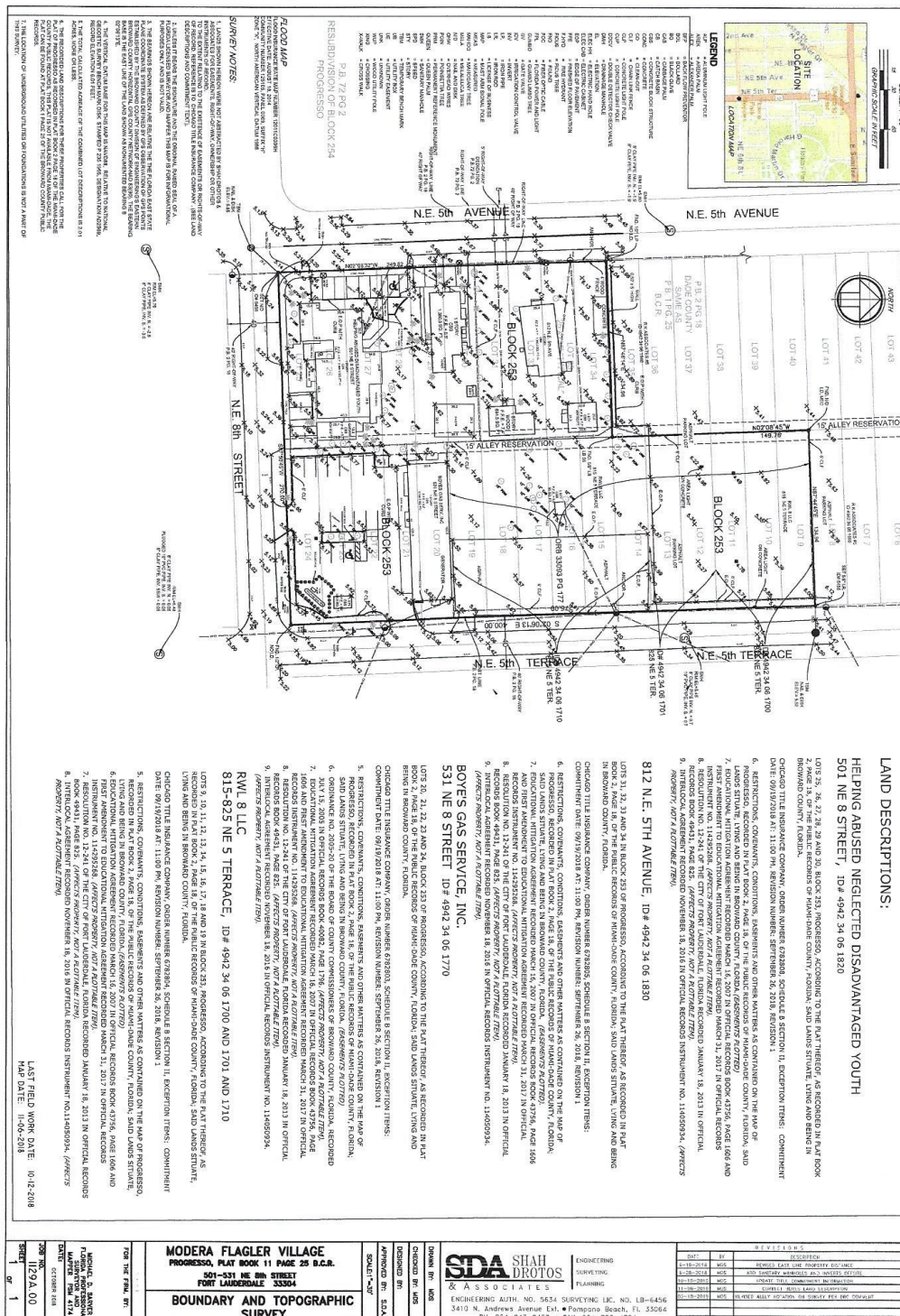
LOTS 31, 32, 33 AND 34 IN BLOCK 253 OF PROGRESSO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 18, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA.

ID# 4942 34 06 1770

LOTS 20, 21, 22, 23 AND 24, BLOCK 253 OF PROGRESSO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 18, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA.

ID# 4942 34 06 1700 AND 1701 AND 1710

LOTS 9, 10, 11, 12, 13, 14, 15, 16, 17, 18 AND 19 IN BLOCK 253, PROGRESSO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 2, PAGE 18, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA; SAID LANDS SITUATE, LYING AND BEING IN BROWARD COUNTY, FLORIDA.



Revocable License
Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

EXHIBIT "B"

LICENSE AREA

PROPOSED R.O.W. CLOSURE AREA

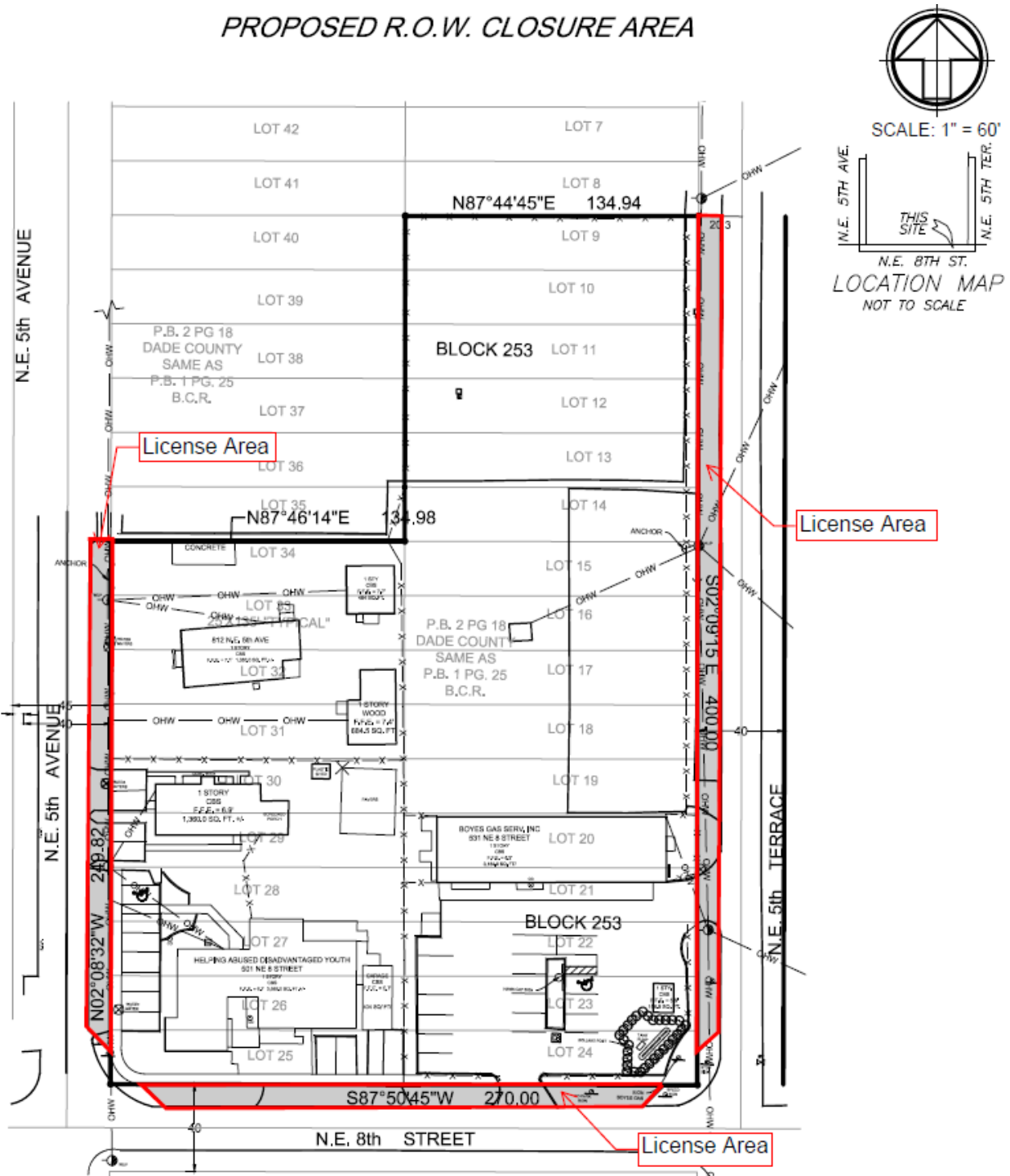


Exhibit B page 1 of 4

Revocable License

Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

REVOCABLE LICENSE AGREEMENT

SKETCH OF DESCRIPTION

M.O.T. PHASE 1

A PORTION OF RIGHT-OF-WAY ADJACENT TO BLOCK 253

PROGRESSO, PLAT BOOK 2 PAGE 18

DADE COUNTY FLORIDA PUBLIC RECORDS

SAID LANDS LYING IN THE CITY OF FORT LAUDERDALE BROWARD

COUNTY FLORIDA

LEGEND:

P.B. = PLAT BOOK

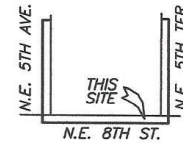
O.R.B = OFFICIAL RECORDS BOOK

D.C.R. = DADE COUNTY RECORDS

P.G. = PAGE

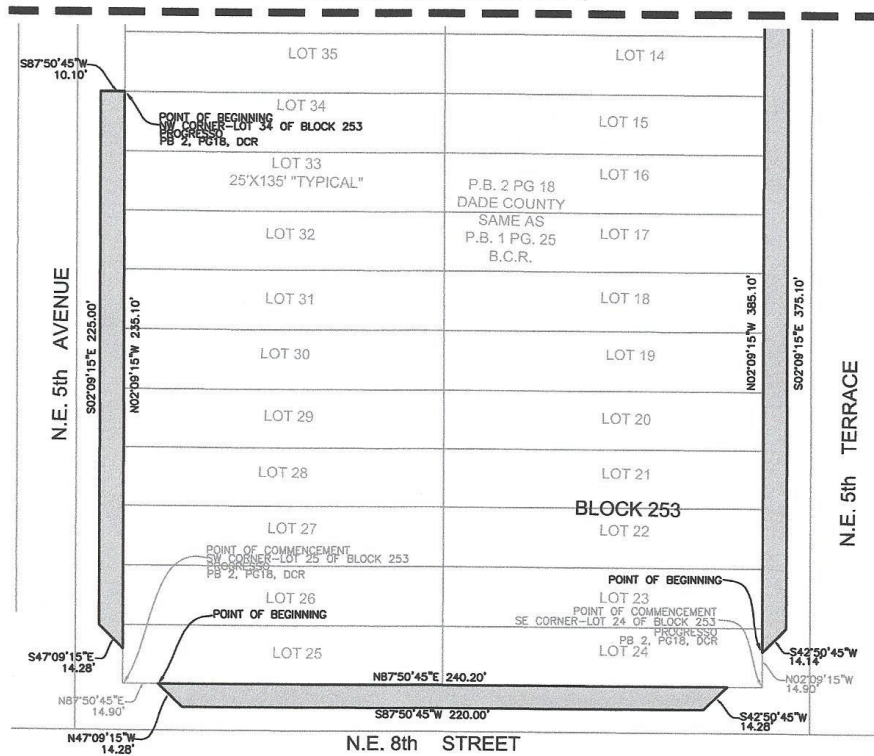


SCALE: 1" = 60'



LOCATION MAP
NOT TO SCALE

MATCHLINE SEE SHEET 3 OF 3



SHEET 2 OF 3 SHEETS

REVISIONS	DWN	DATE	FB/PG	CHKD

SDA SHAH
& ASSOCIATES DROTOS

CERTIFICATE OF AUTHORIZATION NO. LB 6456
3410 N. Andrews Avenue Ext. • Pompano Beach, FL 33064
PH: 954-943-9433 • FAX: 954-7783-4754

ENGINEERING
SURVEYING
PLANNING

Exhibit B page 2 of 4

Revocable License

Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

REVOCABLE LICENSE AGREEMENT **SKETCH OF DESCRIPTION**

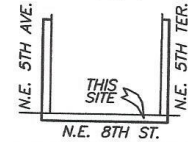
M.O.T. PHASE 1
A PORTION OF RIGHT-OF-WAY ADJACENT TO BLOCK 253
PROGRESSO, PLAT BOOK 2 PAGE 18
DADE COUNTY FLORIDA PUBLIC RECORDS
SAID LANDS LYING IN THE CITY OF FORT LAUDERDALE BROWARD
COUNTY FLORIDA

LEGEND:

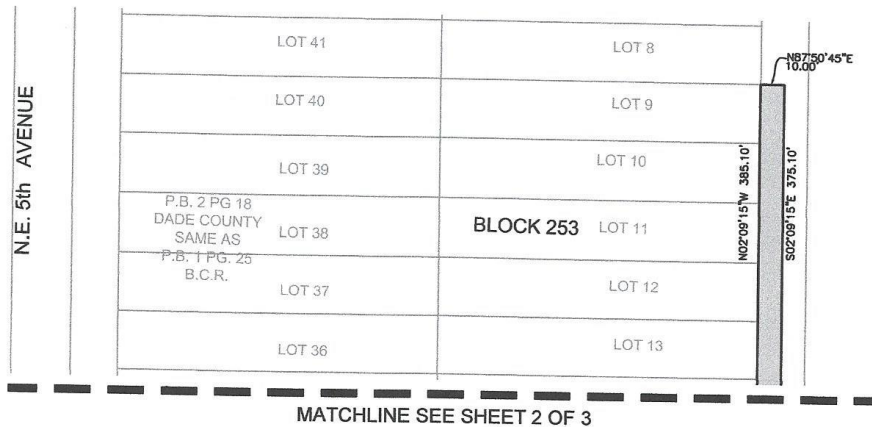
P.B. = PLAT BOOK
O.R.B = OFFICIAL RECORDS BOOK
D.C.R. = DADE COUNTY RECORDS
P.G. = PAGE



SCALE: 1" = 60'



LOCATION MAP
NOT TO SCALE



MATCHLINE SEE SHEET 2 OF 3

SURVEY NOTES:

1. THIS IS NOT A BOUNDARY SURVEY.
2. LANDS SHOWN HEREON WERE NOT ABSTRACTED BY SHAH, DROTOS & ASSOCIATES FOR EASEMENTS, RIGHTS-OF-WAY, OWNERSHIP OR OTHER INSTRUMENTS OF RECORD.
3. UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER, THIS MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.

FOR THE FIRM, BY:

MICHAEL D. SARVER
PROFESSIONAL SURVEYOR
AND MAPPER
FLORIDA REGISTRATION NO. 4174

SHEET 3 OF 3 SHEETS

REVISIONS	DWN	DATE	FB/PG	CHKD	

SDA SHAH
& ASSOCIATES DROTOS

CERTIFICATE OF AUTHORIZATION NO. LB 6456
3410 N. Andrews Avenue Ext. • Pompano Beach, FL 33064
PH: 954-943-9433 • FAX: 954-7783-4754

ENGINEERING
SURVEYING
PLANNING

Exhibit B page 3 of 4

Revocable License

Licensee: CIP 18 FLAGLER VILLAGE, LLC, a Delaware limited liability company

REVOCABLE LICENSE AGREEMENT

SKETCH OF DESCRIPTION

M.O.T. PHASE 1

A PORTION OF RIGHT-OF-WAY ADJACENT TO BLOCK 253 PROGRESSO, PLAT BOOK 2 PAGE 18
DADE COUNTY FLORIDA PUBLIC RECORDS
SAID LANDS LYING IN THE CITY OF FORT LAUDERDALE BROWARD COUNTY FLORIDA

A PORTION OF THE 45' WIDE N.E. 5TH AVENUE RIGHT-OF-WAY, ADJACENT TO BLOCK 253, PROGRESSO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 18 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 34 OF BLOCK 253 OF SAID PROGRESSO PLAT;

THENCE SOUTH 87°50'45" WEST, 10.10 FEET;

THENCE SOUTH 02°09'15" EAST, 225.00 FEET;

THENCE SOUTH 47°09'15" EAST, 14.28 FEET;

THENCE NORTH 02°09'15" WEST, 235.10 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PORTION OF THE 40' WIDE N.E. 8TH STREET RIGHT-OF-WAY, ADJACENT TO BLOCK 253, PROGRESSO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 18 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 25 OF BLOCK 253 OF SAID PROGRESSO PLAT;

THENCE NORTH 87°50'45" EAST, 14.90 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 87°50'45" EAST, 240.20 FEET;

THENCE SOUTH 42°50'45" WEST, 14.28 FEET;

THENCE SOUTH 87°50'45" WEST, 220.00 FEET;

THENCE NORTH 47°09'15" WEST, 14.28 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

A PORTION OF THE 40' WIDE N.E. 5TH TERRACE RIGHT-OF-WAY, ADJACENT TO BLOCK 253, PROGRESSO, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 2, PAGE 18 OF THE PUBLIC RECORDS OF DADE COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF LOT 24 OF BLOCK 253 OF SAID PROGRESSO PLAT;

THENCE NORTH 02°09'15" WEST, 14.90 FEET TO THE POINT OF BEGINNING;

THENCE NORTH 02°09'15" WEST, 385.10 FEET;

THENCE NORTH 87°50'45" EAST, 10.00 FEET;

THENCE SOUTH 02°09'15" EAST, 375.10 FEET;

THENCE SOUTH 42°50'45" WEST, 14.14 FEET TO THE POINT OF BEGINNING.

SAID LANDS LYING IN THE CITY OF FORT LAUDERDALE, BROWARD COUNTY, FLORIDA, CONTAINING 8,449 SQUARE FEET (0.194 ACRE), MORE OR LESS.

SHEET 1 OF 3 SHEETS

					SDA SHAH DROTOS & ASSOCIATES ENGINEERING SURVEYING PLANNING CERTIFICATE OF AUTHORIZATION NO. LB 6456 3410 N. Andrews Avenue Ext. • Pompano Beach, FL 33064 PH: 954-943-9433 • FAX: 954-7783-4754
REVISIONS	DWN	DATE	FB/PG	CHKD	

Exhibit B page 4 of 4

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EXHIBIT “C”

PROJECT NARRATIVE

LICENSEE PROPOSES TO DEVELOP, 350 MULTIFAMILY RESIDENTIAL UNITS WITH STRUCTURED PARKING FOR 424 PARKING SPACES. THE SITE PLAN RECEIVED CITY APPROVAL IN MAY 2019 FOR A 24-STORY (269’ HIGH), 604,364 SQUARE FOOT BUILDING UNDER DRC CASE NO. R18060.REFERRED TO AS MODERA 555. THE PROJECT WILL TAKE 26 MONTHS TO CONSTRUCT.

EXHIBIT “D”

CLOSURES AND DATES

The closure is being requested as a safety measure for pedestrians due to site access constraints and the high volume of material deliveries generated by a project of this size. The proposed closure is described below and graphically shown in the “License Area”, attached as Exhibit B and the “Detour Plan”, attached as Exhibit E.

- ☐ Along this section of NE 5th Avenue is a two-lane local road within a 45-foot wide right-of-way, with a five-foot wide sidewalk on the west side of the road; there is no existing sidewalk on the east side of the road. The License Area would occupy approximately 10 feet of the eastern-most portion of NE 5th Avenue right-of-way along the property frontage, from NE 8th Street to approximately 250 feet north. Both vehicular lanes would remain open to traffic.
- ☐ Along this section of NE 8th Street is a two-lane local road within a 40-foot wide right-of-way; there are no existing sidewalks. The License Area would occupy 10 feet of the northern-most portion of NE 8th Street right-of-way along the property frontage, between NE 5th Avenue and NE 5th Terrace. Both vehicular lanes would remain open to traffic.
- ☐ Along this section of NE 5th Terrace is a two-lane local road within a 40-foot wide right-of-way; there are no existing sidewalks. The License Area would occupy approximately 10 feet of the western-most portion of NE 5th Terrace right-of-way along the property frontage, from NE 8th Street to approximately 400 feet north. Both vehicular lanes would remain open to traffic.
- ☐ The License Area will not displace any on street metered public parking spaces.
- ☐ The requested period for the closure is 26 months. The City Manager would have the ability to approve up to two 30-day extensions.
- ☐ The proposed MOT plan does not appear to present any conflicts with the other construction projects in this area.

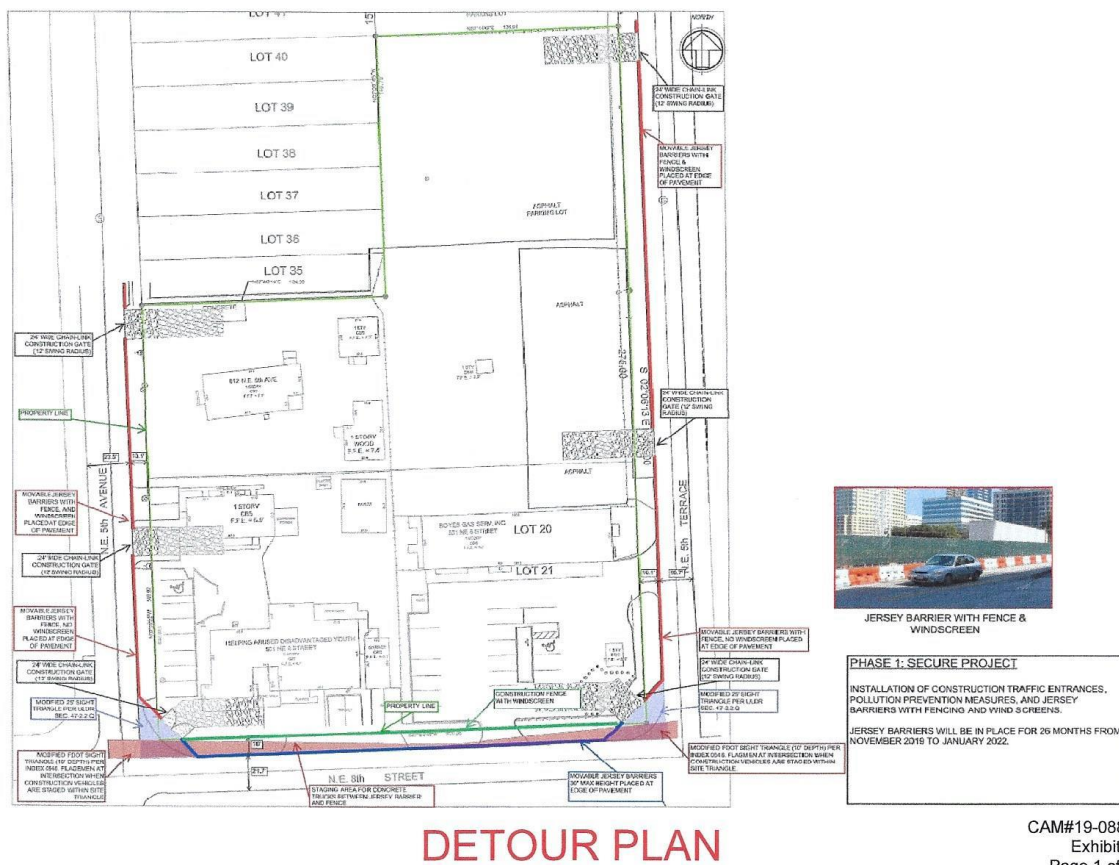
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EXHIBIT "E"

DETOUR PLAN

(1 of 2 sheets)



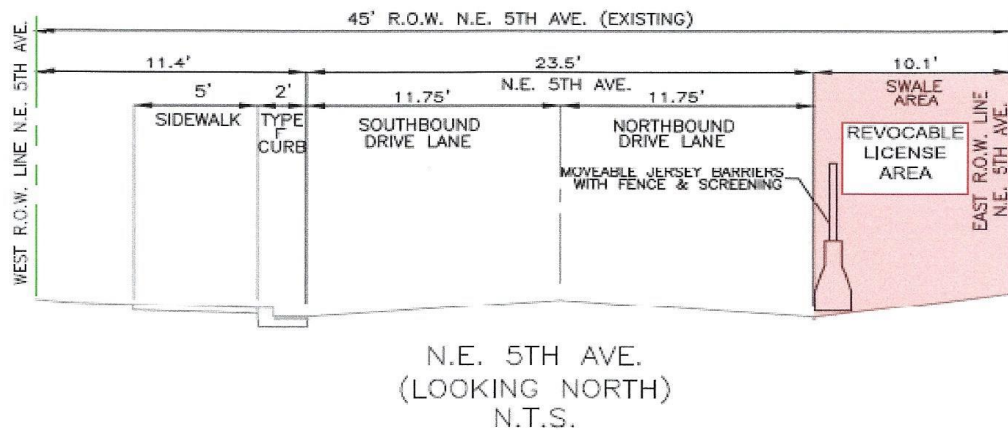
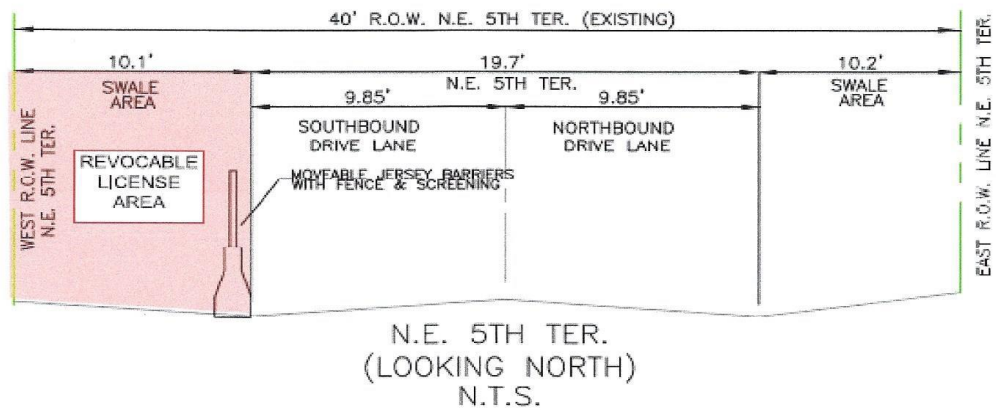
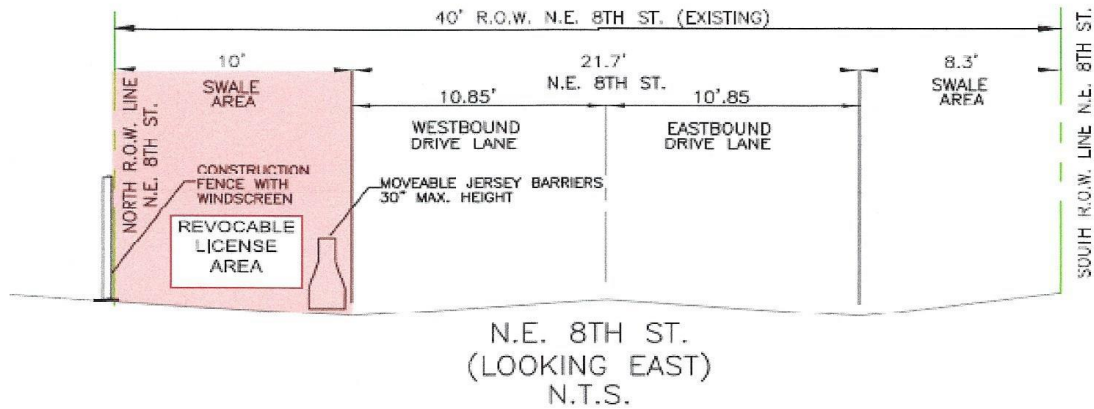
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EXHIBIT "E"

DETOUR PLAN

(2 of 2 sheets)



TYPICAL SECTIONS

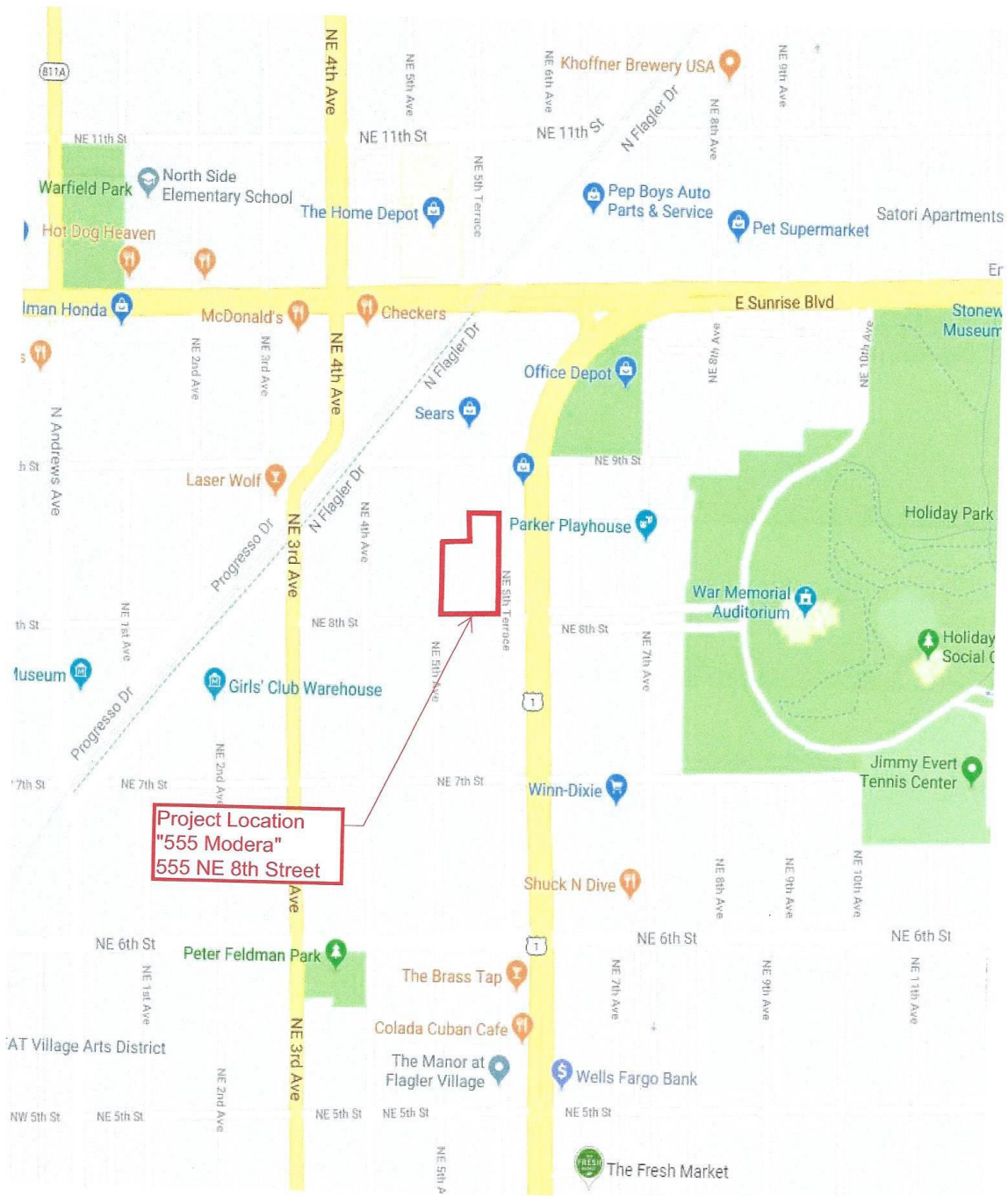
CAM#19-0881
Exhibit 3
Page 2 of 2

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EXHIBIT "F"

Location Map



LOCATION MAP

CAM#19-0881
Exhibit 1
Page 1 of 1

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