

**AMENDED AND RESTATED
RELEASE OF DEED RESTRICTION AND REVERTER AGREEMENT**

THIS AMENDED AND RESTATED RELEASE OF DEED RESTRICTION AND REVERTER AGREEMENT ("AGREEMENT") made and entered into this June 9th, 2021, by and between the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA ("TRUSTEES") and the CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida ("CITY");

WHEREAS the TRUSTEES conveyed to the CITY certain lands more particularly described in Deed No. 21846, recorded in the Official Records Book 1275, Page 403, in the Public Records of Broward County, a copy of which is attached hereto as Exhibit "A" and made a part hereof; and

WHEREAS, the above-described deed contains certain restrictions, as set forth herein, regarding the use and development of such lands; and

WHEREAS, the above-described lands are included within an area sometimes known as the Birch/Las Olas parking lot ("LOT") which is more particularly described in Exhibit "B" attached hereto and made a part hereof; and

WHEREAS, the CITY proposed to lease the LOT to a private developer to initiate the redevelopment of the central beach area; and

WHEREAS, in order for the property described in Exhibit "A" to be leased to a private party it was necessary that aforementioned deed restrictions be released; and

WHEREAS, the parties previously agreed to release, assign, transfer, and quitclaim to the CITY all of the TRUSTEES' interest in the restrictions and reverter contained in that certain Deed from the TRUSTEES in favor of the CITY, dated July 17, 1958, and recorded in the Official Records Book 1275, Page 403 of the Public Records of Broward County, Florida; and equitably compensate the TRUSTEES for the release of the aforementioned deed restrictions, and in connection therewith executed that certain Release of Deed Restriction and Reverter dated October 24, 1989, and recorded in the Official Records Book 17136, Page 0645 of the Public Records of Broward County, Florida (the "ORIGINAL AGREEMENT"); and

WHEREAS, the previous redevelopment plans contemplated a hospitality focused resort property with several high-rise buildings, resort amenities, and conference center spaces but the plan ultimately did not obtain necessary public support; and

WHEREAS, Las Olas SMI, LLC (the "CURRENT DEVELOPER") currently intends to develop a public waterfront promenade, approximately 5,500 or more linear feet of dock space, a marina operations and marine services building, waterfront restaurants, and a public water taxi stop as part of the Las Olas Marina expansion (the "MARINA REDEVELOPMENT"); and

WHEREAS, it is a state policy to encourage downtown redevelopment and assist local government in redevelopment efforts; and

WHEREAS, after a culmination of ten (10) years of stakeholder input, design changes, and meetings with the public, the Marina Redevelopment was unanimously approved by the CITY's Board of Commissioners on July 9, 2019;

WHEREAS, in an effort to accommodate the Marina Redevelopment, the CITY and TRUSTEES now desire to amend and restate the Original Agreement in its entirety with the rights and obligations set forth in this Agreement.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree that the Original Agreement is restated and replaced in its entirety as follows:

1. The TRUSTEES hereby release, assign, transfer, and quitclaim to the CITY all of the TRUSTEES' interest in the restrictions and reverter contained in that certain Deed from the TRUSTEES in favor of the CITY, dated July 17, 1958, and recorded in the Official Records Book 1275, Page 403 of the Public Records of Broward County, Florida, to wit:

That the property conveyed hereby when filled will be used by the grantee exclusively for public municipal purposes and cannot be sold or leased for private purposes.

That the CITY shall provide and maintain at all times screening, landscaping and planting of the perimeter of the fill adjacent to the river adequate to prevent vehicular lights from projecting from the fill area across said river.

That no fill will be made or permitted in New River Sound which extends any greater distance than 270 feet from the existing east bulkhead westward into the waters of said New River Sound, for the contemplated construction of an off-street parking lot, or any other purpose, nor will any fill be made or permitted beyond the bulkhead line established by Ordinance No. C-1421 of the CITY OF FORT LAUDERDALE, passed on June 3, 1958.

It is expressly covenanted and agreed by the grantee hereunder for itself, its successors and assigns that the three express covenants and conditions set forth above shall run with the said described land and any breach or violation of said covenants and conditions shall automatically cause the title to said lands to revert to grantors, their successors and assigns.

2. Neither the fee title to the real property deeded to the CITY by Deed in No. 21846, nor the fee title to any other real property comprising the LOT shall ever be sold or conveyed, but shall be leased for fair value, as defined in Chapter 163, Part III, F. S., and under reasonable market terms for redevelopment purposes.

3. Commencing upon the execution of this Agreement and continuing in perpetuity, the CITY shall pay to the TRUSTEES the following respective percentages of revenues received by the CITY from the lease of the LOT on an annual basis: (i) fifteen percent (15%) of net revenues received by the CITY from the lease of the uplands portion of the LOT; and (ii) six percent (6%) of all revenues received by the CITY from the lease of wet slips located within the LOT, but only to the extent the wet slips are located within the portion of the LOT excavated as part of the Marina

Redevelopment. In the event any wet slips are located on both the LOT and the abutting submerged land, the revenues will be allocated to whichever area contains the majority of the slip's square footage, but in no event both areas. For avoidance of doubt, any revenues received by CITY for the right to use any submerged lands area directly abutting the Lot pursuant to a submerged lands lease between the TRUSTEES and the CITY or the lessee of the LOT (the "SLL"), shall not be included in any rent calculation relating to the LOT under this Agreement. "Net revenues" shall mean gross revenues less the normal repair and maintenance expenses incurred by the CITY or incurred (consistent with generally accepted accounting principles and practices) for the maintenance and repair of the structures and facilities on the LOT. The CITY shall annually provide to the TRUSTEES a certified statement accounting for the gross revenues and normal repair and maintenance expenses incurred by the CITY and attributable to leasing of the LOT. Additionally, the CITY shall allow the TRUSTEES or its agents to audit the books and records of the CITY on at least an annual basis to assure proper classification of accounts, propriety of records, and accuracy of payments.

4. Anything herein to the contrary notwithstanding, the Trustees shall always receive a minimum of \$110,000.00 per calendar year (the "MINIMUM TRUSTEES PROCEEDS") when calculating the fifteen percent (15%) of net revenues received by the CITY from the lease of the uplands portion of the LOT plus the six percent (6%) of all revenues received by the CITY from the lease of wet slips located within the LOT as set forth in Section 3. The Minimum Trustee Proceeds shall only be due and payable in the first calendar year following the final certificate of occupancy for the Marina Redevelopment (the "MINIMUM PROCEEDS COMMENCEMENT DATE") and for each calendar year thereafter. For avoidance of doubt, the MINIMUM TRUSTEES PROCEEDS shall be deemed a minimum rent amount but shall not be paid in addition to or as a supplement to the consideration set forth in Section 3 of this AGREEMENT if the consideration received by the TRUSTEES relating to the LOT exceeds the MINIMUM TRUSTEES PROCEEDS (and/or once the supplemental consideration paid under this Section 4 combined with the amounts paid under Section 3 in connection with the LOT exceeds the MINIMUM TRUSTEES PROCEEDS).

5. In the event the CITY refuses or fails to perform any agreement or covenant contained herein, the TRUSTEES shall be entitled to enforce the provisions of this Agreement against the CITY by any proceedings at law or in equity including, but not limited to, an action for specific performance, mandamus, injunction, damages, or otherwise as may be appropriate. In any litigation between the CITY and the TRUSTEES arising from this Agreement, the prevailing party shall be entitled to recover its costs and reasonable attorneys' fees.

IN WITNESS WHEREOF, the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA and the City of Fort Lauderdale have hereunto subscribed their hands and affixed their seals on the day and year first hereinabove written.

WITNESSES:

Kathy C Griffin
Original Signature

Kathy C Griffin
Print/Type Name of Witness

[Signature]
Original Signature

Brad Richardson
Print/Type Name of Witness

BOARD OF TRUSTEES OF THE INTERNAL
IMPROVEMENT TRUST FUND OF THE
STATE OF FLORIDA

(SEAL)

BY: Callie DeHaven
Callie DeHaven, Director, Division of State
Lands, State of Florida Department of
Environmental Protection, as agent for and on
behalf of the Board of Trustees of the Internal
Improvement Trust Fund of the State of Florida

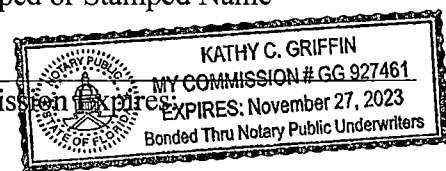
STATE OF FLORIDA
COUNTY OF LEON

The foregoing instrument was acknowledged before me by means of physical presence this 9th day of June, 2021, by Callie DeHaven, Director, Division of State Lands, State of Florida Department of Environmental Protection for, as agent for and on behalf of the Board of Trustees of the Internal Improvement Trust Fund of the State of Florida. She is personally known to me.

Kathy C Griffin
Notary Public, State of Florida

Printed, Typed or Stamped Name

My Commission Expires:



Commission/Serial No.

Approved subject to proper execution

By: [Signature] 6/9/2021
Date Attorney Date

[Signature]
Witness

Scott Wyman
Print/Type Name of Witness

Donna Varisco
Witness

Donna Varisco
Print/Type Name of Witness

THE CITY OF FORT LAUDERDALE

By: [Signature]
Dean J. Trantalis, Mayor

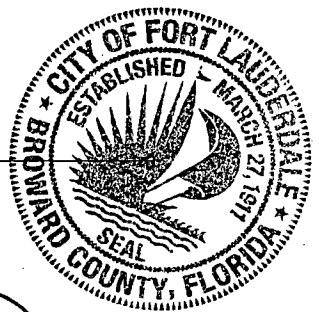
By: [Signature]
Christopher J. Lagerbloom, ICMA-CM,
City Manager

ATTEST:

[Signature]
Jeffrey A. Modarelli, City Clerk

Approved as to form:
Alain E. Boileau, City Attorney

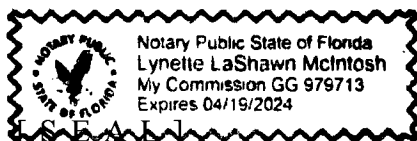
By: [Signature]
Lynn Solomon, Asst. City Attorney



STATE OF FLORIDA
COUNTY OF BROWARD

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Dean J. Trantalis - Mayor, Christopher J. Lagerbloom, ICMA -CM - City Manager and Jeffrey A, Modarelli - City Clerk, respectively, of the City of Fort Lauderdale, Florida, a municipal corporation of Florida, and acknowledged that he executed the foregoing instrument as the proper officials of the City of Fort Lauderdale, and the same is the act indeed of the City of Fort Lauderdale.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at Fort Lauderdale, in the State and County aforesaid on June 7, 2021



[Signature]
Notary Public, State of Florida

My Commission Expires: _____

Lynette LaShawn McIntosh
Printed Name of Notary

**TRUSTEES OF THE INTERNAL IMPROVEMENT FUND
OF THE STATE OF FLORIDA**

DEED NO. 21846

KNOW ALL MEN BY THESE PRESENTS: That the undersigned, the Trustees of the Internal Improvement Fund of the State of Florida, under authority of law, for and in consideration of the sum of One (\$1.00) Dollar and other good and valuable considerations to them in hand paid by the City of Fort Lauderdale, a municipal corporation under the laws of the State of Florida, have granted, bargained and sold, and do by these presents grant, bargain, sell and convey, unto the said City of Fort Lauderdale, a municipal corporation, its successors and assigns, the following described lands, to-wit:

Commencing at the Northeast corner of Section 12, Township 50 South, Range 42 East; thence westerly along the North boundary line of said Section 12, a distance of 480 feet more or less to an intersection with the existing East Right-of-Way line of the Intracoastal Waterway; thence, southerly along the said East Right-of-Way line for a distance of 498 feet more or less to the intersection with the South boundary of Lot 5, Block 12, of Lander-Del-Mar, as recorded in Plat Book 7, Page 30, of Broward County Records, said intersection being the point of beginning; thence, westerly along a line being a westerly projection of the South line of said Lot 5 for a distance of 190 feet more or less to the East boundary of Parcel 1, as recorded in Deed Book 259, Page 450, of the Public Records of Broward County; thence, southerly along the said East boundary of Parcel 1 for a distance of 1165 feet more or less to its intersection with a line being the westerly projection of the South line of Lot 6 of Mooney Point, as recorded in Plat Book 3, Page 28, of the Public Records of Broward County; thence, easterly along said westerly projection for a distance of 170 feet more or less to the Southwest corner of said Lot 6, Mooney Point; thence, northerly along the existing East Right-of-Way line of the Intracoastal Waterway for a distance of 1180 feet more or less to the point of beginning.

lying and being in the County of Broward, in said State of Florida.

MEMO: Legibility of writing.
typing or printing unsatisfactory. In
this document when microfilmed.

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City of Fort Lauderdale
P. O. Drawer 14250
Fort Lauderdale, FL 33302

Exhibit "A"

BK 7136P60648

TO HAVE AND TO HOLD the above granted and described premises forever.

The within deed is made, executed and delivered upon the following express covenants and conditions:

(1) That the property conveyed hereby when filled will be used by the grantee exclusively for public municipal purposes and cannot be sold or leased for private purposes.

(2) That the city shall provide and maintain at all times screening, landscaping and planting of the perimeter of the fill adjacent to the river adequate to prevent vehicular lights from projecting from the fill area across said river.

(3) That no fill will be made or permitted in New River Sound which extends any greater distance than 270 feet from the existing east bulkhead westward into the waters of said New River Sound, for the contemplated construction of an off-street parking lot, or any other purpose, nor will any fill be made or permitted beyond the bulkhead line established by Ordinance No. C-1421 of the City of Fort Lauderdale, passed on June 3, 1958.

It is expressly covenanted and agreed by the grantee hereunder for itself, its successors and assigns that the three express covenants and conditions set forth above shall run with the said described land and any breach or violation of said covenants and conditions shall automatically cause the title to said lands to revert to grantors, their successors and assigns.

IN TESTIMONY WHEREOF, the said Trustees have hereunto subscribed their names and affixed their seal and have caused

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Fort Lauderdale, FL 33302

MEMO: Legibility of writing,
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Exhibit "A"

OK 7-13-68 0649

the seal of THE DEPARTMENT OF AGRICULTURE OF THE STATE OF
FLORIDA to be herunto affixed, at the Capitol, in the City
of Tallahassee, on this the 17th day of July
A. D. Nineteen Hundred and Fifty-Eight.

Le Roy Collins (SEAL)
Governor

Ray E. Green (SEAL)
Comptroller

Edwin Turner (SEAL)
Treasurer

Richard W. Ewing (SEAL)
Attorney General

Richard W. Ewing (SEAL)
Commissioner of Agriculture

As and Composing the TRUSTEES OF THE
INTERNAL IMPROVEMENT FUND OF THE STATE
OF FLORIDA

Sent to
W. J. Veeder
City Manager
Ft. Lauderdale, Fla.
July 23, 1958

MEMO: Legibility of writing.
Type or print satisfactory for
this document when microfilmed.

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City of Fort Lauderdale
P. O. Drawer 14250
Fort Lauderdale, FL 33302

Exhibit "A"

8K4743680650

DESCRIPTION:

Portions of those certain lands of the New River Sound together with a portion of the AMENDED PLAT OF LAS OLAS BY THE SEA SUBDIVISION, according to the plat thereof, as recorded in Plat Book 1, Page 6 of the Public Records of Broward County, Florida, lying in Section 12, Township 50 South, Range 42 East, Broward County, Florida, being described as follows:

COMMENCE at the Northeast corner of Lot 6, Block 12, LAUDER DEL MAR, according to the plat thereof, as recorded in Plat Book 7, Page 30 of said Public Records; thence South $89^{\circ}02'35''$ West, along the North line of said Lot 6, and its Westerly extension, a distance of 239.92 feet to the **POINT OF BEGINNING**; thence South $03^{\circ}48'51''$ East, a distance of 190.17 feet; thence South $05^{\circ}23'36''$ East, a distance of 19.75 feet; thence South $02^{\circ}43'00''$ East, a distance of 63.17 feet; thence South $01^{\circ}21'24''$ East, a distance of 154.66 feet; thence South $04^{\circ}35'16''$ West, a distance of 19.98 feet; thence South $07^{\circ}25'12''$ West, a distance of 90.81 feet; thence South $07^{\circ}36'31''$ West, a distance of 52.66 feet; thence South $07^{\circ}09'00''$ West, a distance of 214.39 feet to an intersection with the arc of a curve concave to the Northwest and whose radius point bears North $49^{\circ}02'29''$ West from the last described point; thence Southwesterly and Westerly along the arc of said curve having a radius of 15.00 feet, a central angle of $59^{\circ}53'33''$, an arc distance of 15.68 feet to the point of tangency; thence North $79^{\circ}08'56''$ West, along the North right-of-way line of East Las Olas Boulevard, as described in Official Records Book 3465, Page 622 of said Public Records, a distance of 347.33 feet; thence North $08^{\circ}12'14''$ East, along the existing bulkhead line as described in City of Fort Lauderdale Ordinance No. C-1421 and recorded in Official Records Book 1282, Page 182 of said Public Records, a distance of 650.86 feet to a point of curvature of a curve concave to the Southeast; thence Northerly and Easterly along the arc of said curve and said bulkhead line, said curve having a radius of 110.00 feet, a central angle of $80^{\circ}50'21''$, an arc distance of 155.20 feet to a point of tangency; thence North $89^{\circ}02'35''$ East, and continuing along said bulkhead line, a distance of 181.31 feet to the **POINT OF BEGINNING**.

TOGETHER WITH:

BEGINNING at the Northwest corner of the "RESUBDIVISION OF LOTS 5,7,8,9,10,11 and 12, MOONEY POINT" according to the Plat thereof, as recorded in Plat Book 68, Page 27 of said Public Records; thence South $89^{\circ}02'35''$ West, along the existing bulkhead line as described in said City of Fort Lauderdale Ordinance C-1421, a distance of 135.83 feet to a point of curvature of a curve concave to the Northeast; thence Westerly and Northerly along the arc of said curve and said bulkhead line, said curve having a radius of 110.00 feet, a central angle of $99^{\circ}09'39''$, an arc distance of 190.38 feet to a point of tangency; thence North $08^{\circ}12'14''$ East, and continuing along said bulkhead line, a distance of 192.70 feet; thence South $79^{\circ}08'56''$ East, along the South right-of-way line of East Las Olas Boulevard as described in said Official Records Book 3465, Page 622, a distance of 266.02 feet to an intersection with a line being the Northerly extension of the face of the bulkhead line as it existed on May 5, 1958 and shown on the City of Fort Lauderdale's Engineering plan entitled "Bulkhead Line and Fill Plan - Birch -Las Olas Parking Lot and Adjoining Area"; thence South $09^{\circ}05'17''$ West, along said bulkhead line and its Northerly extension, a distance of 267.42 feet to the **POINT OF BEGINNING**.

Subject to all easements, rights-of-way, and reservations of record.

Containing 7.64 acres, more or less.

Bearings described herein are relative to the Transverse Mercator Projection, Florida East Zone, Grid North.

Sheet 1 of 3
DER/ss
Job No. C162J
89012.DR4

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Fort Lauderdale, FL 33302

Exhibit "B"

BK 17136 PG 0651

NOTES:

1. The lands shown hereon were not abstracted by the undersigned from rights-of-way, easements, reservations, and other similar matters of record. Such information should be obtained and verified by others through appropriate title verification.
2. This drawing is the property of DARBY AND WAY, INC., and shall not be used or reproduced in whole or part without written permission.
3. Reproductions of the Sketch are not valid unless sealed with an embossed surveyor's seal.
4. This is not a Sketch of Survey but only a graphic depiction of the lands described hereon.

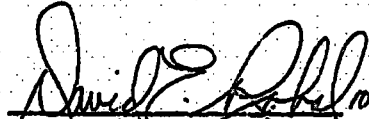
CERTIFICATE:

I hereby certify that this SKETCH AND LEGAL DESCRIPTION is true and correct to the best of my knowledge and belief and meets the Minimum Technical Standards for Land Surveying in the State of Florida as set forth in Chapter 21HH-6 of the FLORIDA ADMINISTRATIVE CODE.

DARBY AND WAY, INC.

Sheet 2 of 3

DER/ss
Job No. C162J
89013.DR4


By: David E. Rohal
Registered Land Surveyor No. 4315
State of Florida

BK 17136R0652

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Public Works Department
City of Fort Lauderdale
P. O. Drawer 14250
Fort Lauderdale, FL 33302

Exhibit "B"



COMMISSION AGENDA ITEM
DOCUMENT ROUTING FORM
Today's Date: 6/4/2021

1L 6/7/2021

DOCUMENT TITLE: Amended and Restated Release of Deed Restriction and Reverter Agreement

COMM. MTG. DATE: 4/20/21 CAM #: 21-0075 ITEM #: R-5 CAM attached: ☒ YES ☐ NO

Routing Origin: CAO Router Name/Ext: Erica K./6088 Action Summary attached: ☒ YES ☐ NO

CIP FUNDED: ☐ YES ☐ NO

Capital Investment / Community Improvement Projects defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, or fixtures) that add value and/or extend useful life, including major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, or real.

1) Dept: CMO Router Name/Ext: Donna V./5027 # of originals routed: 2 Date to CAO: 6/04/21

2) City Attorney's Office: Documents to be signed/routed? ☒ YES ☐ NO # of originals attached: 2

Is attached Granicus document Final? ☒ YES ☐ NO Approved as to Form: ☒ YES ☐ NO

Date to CCO: 104-71

Lynn Solomon
Attorney's Name

LS
Initials

3) City Clerk's Office: # of originals: 1 Routed to: Donna V./Aimee L./CMO Date: 6/4/2021

4) City Manager's Office: CMO LOG #: Jun 9 Document received from: _____

Assigned to: CHRIS LAGERBLOOM ☐ TARLESHA SMITH ☐ GREG CHAVARRIA ☐
CHRIS LAGERBLOOM as CRA Executive Director ☐

☐ APPROVED FOR C. LAGERBLOOM'S SIGNATURE ☐ N/A FOR C. LAGERBLOOM TO SIGN

PER ACM: T. Smith (Initial/Date) PER ACM: G. Chavarria (Initial/Date)

☐ PENDING APPROVAL (See comments below)

Comments/Questions: _____

Forward _____ originals to ☐ Mayor ☐ CCO Date: _____

5) Mayor/CRA Chairman: Please sign as indicated. Forward _____ originals to CCO for attestation/City seal (as applicable) Date: _____

6) City Clerk: Forward 1 originals to CAO for FINAL APPROVAL Date: 6/7/2021

7) CAO forwards _____ originals to CCO Date: _____

8) City Clerk: Scan original and forwards 2 originals to: Lynn Solomon xt.5581

Attach _____ certified Reso # _____ ☐ YES ☐ NO

Original Route form to Sonia S.