

This Instrument prepared
by and return to:
Andrew J. Schein, Esq.
Lochrie & Chakas, P.A.
1401 East Broward Boulevard, Suite 303
Fort Lauderdale, FL 33301

**AGREEMENT ANCILLARY
TO
REVOCABLE LICENSE AGREEMENT
("Agreement")**

THIS IS AN AGREEMENT ANCILLARY TO A REVOCABLE LICENSE AGREEMENT (hereinafter "Agreement") made and entered into this ____ day of _____, 2021 by and between:

New River III, LLC, a Florida limited liability company, whose principal address is 2850 Tigertail Avenue, Suite 800, Miami, FL 33133, its successors and assigns (hereinafter "LICENSEE")

and

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida having a principal address of 100 North Andrews Avenue, Fort Lauderdale, FL 33301, FEI/EIN 59-6000319 (hereinafter, "CITY")

RECITALS

WHEREAS, LICENSEE is the owner of the property located at 417-441 South Andrews Avenue and legally described in **Exhibit "A"**; and

WHEREAS, LICENSEE wishes to install and maintain certain Project Improvements in the South Andrews Avenue right-of-way; and

WHEREAS, South Andrews Avenue is under the jurisdiction of Broward County, a political subdivision of the State of Florida (hereinafter, "COUNTY"); and

WHEREAS, in order to permit the improvements to be made, COUNTY requires CITY and LICENSEE to enter into a tri-party agreement with COUNTY entitled "Revocable License Agreement" which is attached hereto and incorporated herein as **Exhibit "B"** (hereinafter, "RLA"); and

WHEREAS, the terms and conditions of the RLA impose responsibilities and liabilities on the CITY; and

WHEREAS, as a condition to the CITY executing the RLA, LICENSEE agrees to assume responsibilities and liabilities under this Agreement Ancillary to RLA (hereinafter, "Agreement"); and

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, and other good and valuable considerations, the sufficiency and adequacy of which is hereby acknowledged, LICENSEE and CITY agree as follows:

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

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

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

Agreement means this Agreement Ancillary to Revocable License Agreement.

Contract Administrator means the City Engineer of the CITY, or his designee. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator.

Day(s). In computing any period of time expressed in day(s) in this Agreement, 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.

Effective Date means the effective date of this Agreement, which shall be the date upon which both the fully executed RLA and this Agreement are recorded in the Public Records of Broward County.

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

License Area means that area identified as the "Revocable License Area" as set forth in **Exhibit "B"** to the RLA.

LICENSEE means **New River III, LLC**, a Florida limited liability company, whose principal address is 2850 Tigertail Avenue, Suite 800, Miami, FL 33133, its successors and assigns.

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

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 construction permit plans, specifications and details for the Project Improvements approved by the Broward County Highway Construction & Engineering Division (BCHCED) to be installed, constructed, operated, maintained, repaired and (if applicable) removed from the License Area(s). An electronic copy of the BCHCED **Permit No. 170403001** Plans and Specifications shall be delivered by Licensee to the City Engineer in the Department of Sustainable Development, associated with City **Revocable License Permit No. ENG-RL-21100002**, prior to issuance of a Certificate of Occupancy for City **Master Permit No. PM-19030378**. A copy of the Plans and Specifications shall be kept on file by the City Engineer and made available for review by the public on request.

Project means the implementation, construction, installation, operation, maintenance, repair and replacement from time to time of the Project Improvements within the designated License Area for the purpose of establishing, operating, maintaining and repairing, from time to time the Project Improvements as more particularly identified in **Exhibit “C”** to the RLA. The term *Project* also includes the ongoing obligation of maintenance and repair of the Project Improvements within the designated License Area, including reconstruction, repair or reinstallation of Project Improvements from time to time and shall also include the operational activities involved in the Project Improvements as more particularly set forth in the RLA. The term *Project* shall not include the possession, use or occupancy of the designated License Areas for any other purpose, except as expressly authorized in this Revocable License. The term *Project* includes any portion thereof.

Project Improvements means the placement, installation, construction, fabrication, and maintenance of certain improvements within the License Area as more particularly described in Exhibit “C” and Exhibit “D” of the RLA. The term *Project Improvements* includes any portion of the License Area thereof.

Property means the real property identified as the “Legal Description of Burdened Property” as set forth in **Exhibit “A”** to the RLA.

RLA means that Revocable License Agreement by and between COUNTY, CITY and LICENSEE which includes responsibilities for the COUNTY, CITY, and LICENSEE and specifically requires the LICENSEE to install and maintain Project Improvements on South Andrews Avenue as more specifically described in the RLA. The RLA is incorporated herein and attached to this Agreement as **Exhibit “B”**.

Staging of Materials or Equipment means the placement of materials or equipment or parking of vehicles within the License Area or vehicular travel lanes adjacent thereto during the assembling or construction of the Project Improvements 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 within two (2) hours.

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 in such a manner as would constitute *Staging of Materials or Equipment* if the materials or equipment were within the License Area.

3. Compliance and Default. LICENSEE shall comply with each and every term and condition set forth in the RLA and failure to so comply shall constitute a default under this Agreement. Any acts or omissions by LICENSEE or LICENSEE'S contractors which are not in compliance with the terms and conditions of the RLA shall constitute a default under this Agreement. Furthermore, LICENSEE shall comply with each and every term and conditions set forth in this Agreement.

4. Conditions. This Agreement is subject to the following conditions:

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

4.2 For the License Area where the Project Improvements are to be placed, installed or constructed, prior to construction and installation of Project Improvements within the License Area, LICENSEE, at the discretion of the City Engineer shall perform, at its sole cost and expense, a sub-surface utility investigation before and after the construction of the Project Improvements and provide videos, reports and any other required documentation to the City.

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

4.2.2 In the event no defects to any of the subterranean utilities are identified as a result of the sub-surface utility investigation under 4.2.1., or in the event LICENSEE has failed to document conditions prior to starting construction, LICENSEE shall bear the cost of any repairs required after construction of the Project Improvements for a period of one (1) year after receiving a Certificate of Completion from the CITY Engineer.

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

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

4.5 LICENSEE shall be responsible for conducting due diligence to identify potential utility conflicts, performing field verifications, making all utility notifications and obtaining all locations and clearances prior to performing any excavation work, including for the installation of signs and fence posts.

4.6 Any damage to existing pavement or to any public sidewalk caused by the installation, movement or removal of Project Improvements shall be repaired to the satisfaction of the Office of City Engineer and the cost of such repairs shall be borne by LICENSEE.

4.7 At the conclusion of the construction and installation phase of the Project, all damage to any elements such as pavement, curbs, sidewalks, signs, markings, landscaping, trees, irrigation, parking meters, lighting, vegetation, mulch, tree gate, pavers, and any other Project Improvements located within the public right of way or License Area shall be repaired or restored to a condition equal to or better than that existing prior to commencement of construction of the Project.

4.8 Storage of construction materials or equipment shall be limited to the Property or other permissible area subject to the limitations referenced herein and shall not be stored within any of the public rights-of-way within a two-block radius of the Property. Staging of Materials and Equipment in the public right of ways is strictly prohibited.

4.9 Storage of dumpsters and debris during the construction and installation phase of the Project shall be limited to the Property and shall not be stored, placed or collected within the any of the public rights-of-way within a two-block radius of the Property.

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

4.11 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 traffic.

4.12 LICENSEE shall be responsible for verifying all underground utilities prior to digging in any area. Licensee shall notify all necessary utility companies 48 hours minimum prior to digging for verification all underground utilities, irrigation and all other obstructions and coordinate prior to initiating operations. No portion of the Project Improvements may be located any closer than ten (10) feet to any underground utility.

5. Cost Recovery and Fees.

5.1 Construction Permit Fees and Annual Inspection Fees. Prior to execution of this Agreement, LICENSEE shall pay for a revocable license permit fee, as established by City Ordinances, to cover the review, inspection and administration costs associated with this Agreement. After completion of the Project Improvements and acceptance of work by Broward County, LICENSEE shall pay to CITY for each fiscal year that this Agreement is in effect, commencing with the date the Project Improvements were accepted by the County, and continuing annually on the first day of January of each year thereafter, an annual inspection fee to be determined by the City Manager 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 Agreement over the then current fiscal year (October 1st through September 30th), such reasonable projected cost of periodic inspections not to exceed \$500.00 per annum.

5.2 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

creation, administration, monitoring and enforcement of this Agreement and the RLA, including, but not limited to, staff time incurred relative thereto, and reasonable cost of CITY'S attorneys' services associated with the preparation and administration of this Agreement and any amendments thereto and including enforcement of the terms thereof, with such reasonable cost of services a flat fee of \$500.00 per annum.

5.3 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, but not to exceed the highest lawful amount allowed by law. If a dispute arises as to the fees owed CITY under the Statement, and such dispute is not resolved within ninety (90) days after the date of rendition of the Statement, LICENSEE shall pay the undisputed amount and shall provide CITY with a bond or other security acceptable to the City Manager for the disputed amount pending a resolution of the dispute by negotiation or litigation. In addition to any other remedies available to CITY, CITY shall be entitled to recover from LICENSEE all costs of collection, including reasonable attorneys' fees and court costs incurred at all tribunal and appellate levels, provided CITY ultimately prevails.

6. 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 as it is applicable.

7. Condition of License Area. LICENSEE accepts the License Area in an "As-Is Condition as of the Effective Date of this Agreement. If LICENSEE finds any conditions altered after an initial inspection of the License Area, which has a material adverse effect on the Project, the City shall be notified immediately.

8. Compliance with Regulations of Public Bodies. LICENSEE shall, at its sole cost and expense, possess, use, construct, operate, maintain and repair and replace, from time to time, the Project Improvements within the License Area and the Project and perform such acts and do such things as shall be lawfully required by any public body having jurisdiction over the License Area, Project Improvements 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, environmental requirements and other similar regulatory requirements.

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

10. Repairs and Maintenance. LICENSEE shall not damage the Project Improvements or License Area. LICENSEE shall, at its own cost and expense, safely and securely maintain the Project Improvements and the License Area and keep the License Area in clean and good condition, make repairs, and keep the License Area free of rubbish and other hazards to Persons using the License Area. LICENSEE further covenants and agrees, to make or cause to be

made any and all repairs or replacements, ordinary or extraordinary, structural or otherwise, necessary to maintain the License Area and Project Improvements in their original condition at the time of the commencement of the term of the RLA. The Office of the CITY Engineer shall approve all structural repairs and replacements. When making repairs, replacements and maintenance LICENSEE shall comply with all laws, CITY or applicable County Codes, ordinances, Florida Building Code, regulations promulgated by federal, state, county, City or any other agency with jurisdiction over the Project and Project Improvements and CITY Engineering standards then in effect; provided, however, that LICENSEE shall only be responsible to make such repairs and replacements as required under the RLA. The License Area shall be maintained in a neat and orderly appearance at all times.

10.1 City Performance of Repairs and Maintenance. In the event that LICENSEE fails to maintain the Property or make repairs to the Property in accordance with the terms and conditions of the RLA and this Agreement, the CITY, after fifteen (15) days advance written notice to the LICENSEE, may come upon the License Area and perform the necessary maintenance and repairs, the cost and expense of which will be the responsibility of LICENSEE. The total cost and expense incurred by the CITY in performing such maintenance and repairs and the administrative costs associated therewith shall be considered a special assessment and lien upon the Property. LICENSEE shall have thirty (30) days from the date of the statement of the total expenses incurred by the CITY and the administrative costs associated therewith within which to pay to the CITY the full amount due. Failure to timely pay the amount due or serve upon the CITY Manager a written letter contesting the statement of assessed expenses and administrative costs will result in the matter being scheduled before the CITY Commission for consideration of and adoption of a Resolution assessing against the Property the expenses and administrative costs associated with the CITY's removal of the Project Improvements. The Resolution may also impose a Special Assessment Lien against the Property for the expenses and costs so assessed. A Notice of the Special Assessment assessed by the CITY Commission for the unpaid expenses and costs as stated above shall be recorded with the CITY and may be recorded and in the Public Records of Broward County, Florida. 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 necessary costs and expenses together with administrative costs attendant thereto or reimburse CITY for curative actions taken by CITY. The assessed expenses and costs and the lien provided for herein may be foreclosed in the manner provided by law. LICENSEE shall be entitled to pursue all legal and equitable remedies to contest the amount or existence of any such Lien.

11. Emergencies. If an emergency situation arises with respect to the License Areas where 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 and fax or email notice to the LICENSEE's Contact Person. If, following that notice, LICENSEE fails to take timely action to correct the emergency situation, and allowing the emergency situation to continue would pose an imminent threat to health or safety to Persons or property, CITY may undertake such limited actions as are necessary to eliminate the emergency; and CITY shall be entitled to recover its reasonable costs of cure from LICENSEE in accordance with provisions hereof. For the purposes of this Section, LICENSEE's Contact Person shall be **Steven Arcamonte**; address: 2850 Tigertail Avenue, Suite 800, Miami, FL 33133; telephone number: **954-245-7757**; and e-mail address: **SArcamonte@relatedgroup.com**. In the event the

LICENSEE's Contact Persons or any other information pertaining to the LICENSEE's Contact Person shall change, such change shall be provided to the CITY Engineer in writing.

12. Damage to Public Property. In the event the use, operation, maintenance, repair, construction, demolition or reconstruction of the Project Improvements 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, subject to CITY's reasonable satisfaction.

13. Removal of Project Improvements and Restoration of License Area.

13.1 Except as may otherwise be expressly provided herein, it is agreed that upon termination of RLA, in whole or in part, as to the License Area, upon written request of CITY within thirty (30) days of such termination or such time as required by the COUNTY, whichever is less, LICENSEE shall remove all or any part of the Project Improvements and any components thereof and upon demand of COUNTY for removal of all or any part of the Project Improvements as to the License Area, and upon demand of COUNTY or CITY for removal of all or any part of the Project Improvements as to the License Area, then LICENSEE shall restore the surface of the such License Area to conditions acceptable to the COUNTY as to the roadway and conditions acceptable to the CITY as to the sidewalk area and any impacted public utilities. Such removal and restoration shall be at LICENSEE's sole cost and expense. In the event LICENSEE fails to begin to remove all or any part of the Project Improvements contemplated herein with thirty (30) days after written demand by the COUNTY or CITY, the CITY is hereby authorized to remove such Project Improvements that interfere with the easement rights or the public's use of dedicated rights-of-way and restore the respective License Area to conditions acceptable to the COUNTY as to the roadway and conditions acceptable to the CITY as to the sidewalk area and any impacted public utilities, and all reasonable costs associated with the removal and restoration thereof shall be fully reimbursed by LICENSEE.

13.2. In the event the LICENSEE fails to remove the Project Improvements and CITY finds it necessary to remove the Project Improvements in accordance with the foregoing, then the total expense incurred by the CITY in removing the Project Improvements and the administrative costs associated therewith shall be considered a special assessment and lien upon the Property. LICENSEE shall have thirty (30) days from the date of the statement of the total expenses incurred by the CITY and the administrative costs associated therewith within which to pay to the CITY the full amount due. Failure to timely pay the amount due or serve upon the CITY Manager a written letter contesting the statement of assessed expenses and administrative costs will result in the matter being scheduled before the CITY Commission for consideration of and adoption of a Resolution assessing against the Property the expenses and administrative costs associated with the CITY's removal of the Project Improvements. The Resolution may also impose a special assessment lien against the Property for the expenses and costs so assessed. A Notice of the Special Assessment assessed by the CITY Commission for the unpaid expenses and costs as stated above shall be recorded with the CITY Clerk and in the Public Records of Broward County, Florida. The assessed expenses and costs and the lien provided for herein may be foreclosed in the manner provided by law.

14. Damage and Destruction. LICENSEE shall not by its possession, use, occupancy, operation, maintenance or repair of the License Area, cause damage to the License Area or to the adjacent real property. If during the term of the RLA or this Agreement, LICENSEE becomes

aware that the Project Improvements within the License Area have been 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 the regulatory agencies with jurisdiction over the License Area, Project Improvements or adjacent real property to repair, replace and rebuild the same or cause the same to be repaired, replaced or rebuilt as nearly as possible to their original condition; or

(b) to the extent that such destruction or damage affected the Project Improvements within the License Area or real property adjacent thereto, or any part thereof, if LICENSEE elects to remove such Project Improvements consistent with the terms of the RLA, then LICENSEE shall seek the Permits and approvals, if any, required for such removal and cause such Project Improvements to be removed from the License Area and return the License Area to the condition that existed prior to the Effective Date of the RLA.

15. Indemnity.

(a) LICENSEE shall protect, defend, indemnify and hold harmless the CITY, its officers, employees, volunteers, and agents from and against any and all lawsuits, penalties, damages, settlements, judgments, decrees, costs, charges and other expenses charged or incurred, including reasonable attorney's fees actually incurred, or liabilities of every kind, nature or degree arising out of or in connection with the rights, responsibilities and obligations of LICENSEE under the RLA and this Agreement, conditions contained therein, the location, construction, repair, maintenance use or occupancy by LICENSEE of the License Area, Project Improvements or Project, or the breach or default by LICENSEE of any covenant or provision of the RLA or this Agreement, except for any occurrence arising out of or resulting from the intentional torts or gross negligence of the CITY, its officers, agents and employees acting during the course and scope of their employment. Without limiting the foregoing, any and all such charges, claims, suits, causes of action relating to personal injury, death, damage to property, defects in construction, rehabilitation or restoration of the License Area by LICENSEE or others, alleged infringement of any patents, trademarks, copyrights or of any other tangible or intangible personal or real property right by LICENSEE, or any actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation or decree of any court by LICENSEE, is included in the indemnity.

(b) LICENSEE further agrees that upon proper and timely notice to investigate, handle, respond to, provide defense for, and defend any such claims at its sole expense and agrees to bear all other costs and expenses related thereto even if the claim is groundless, false or fraudulent and if called upon by the CITY, LICENSEE shall assume and defend not only itself but also the CITY in connection with any claims, suits or causes of action, and any such defense shall be at no cost or expense whatsoever to CITY, provided that the CITY (exercisable by the CITY's Risk Manager) shall retain the right to select counsel of its own choosing. This indemnification shall survive termination, revocation or expiration of the RLA and this Agreement and shall cover any acts or omissions occurring during the term of the RLA and this Agreement, including any period after termination, revocation or expiration of the RLA and this Agreement while any curative acts are undertaken.

16. Insurance. At all times during the term of the RLA and this Agreement, LICENSEE, at its expense, shall keep or cause to be kept in effect the insurance coverages set forth in the RLA, naming the City as an “additional insured” and LICENSEE shall provide Certificates of Insurance to CITY at least fourteen (14) days prior to the commencement of the term of the RLA and this Agreement and annually thereafter on the anniversary date of the policies.

17. Remedies of CITY.

17.1 In the event the LICENSEE fails to perform or violates any of the terms or conditions of RLA or this Agreement or is in breach or default in any term or condition hereof, COUNTY or CITY shall provide written notice thereof to LICENSEE and LICENSEE shall cure such violation within twenty (20) days of such Notice. LICENSEE shall be obligated to serve upon the CITY any notices of breach of default served upon LICENSEE by COUNTY.

17.1.1 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 written Notice thereof. Contract Administrator shall provide written Notice to LICENSEE when Contract Administrator finds that the violation has been cured.

17.2 In the event the LICENSEE fails to timely cure the violation within the time specified in Section 17.1, the CITY, as an alternative to the procedures set forth above, may:

17.2.1 take any equitable action to enforce the terms and conditions of the RLA or this Agreement, it being stipulated by the parties that since the RLA and this Agreement deals with the right to use public easements and rights-of-way on or within COUNTY or CITY owned or dedicated lands used for a governmental purpose, a violation or breach of any term or condition of the RLA constitutes an irreparable injury to the public and CITY for which there is no adequate remedy at law; or

17.2.2 take such curative action that was required to be taken by the LICENSEE under the RLA 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 thirty (30) days following written demand for payment thereof. Interest shall accrue on the unpaid amount at the rate of twelve percent (12%) per annum simple interest but in no event shall interest exceed the highest amount allowed by Florida law. The demand shall include reasonable documentation supporting the expenses incurred by CITY. If a dispute arises as to the need for, or amount due to the CITY for repairs or maintenance undertaken by CITY in accordance with this License, and such dispute is not resolved within forty-five (45) days after the date that CITY makes the original written demand for payment, the LICENSEE shall pay to CITY the

undisputed amount and shall provide CITY with a bond or other security acceptable to CITY for the disputed amount pending a resolution of the dispute by negotiation or litigation.

17.3 If LICENSEE does not make the payments required under this Section within the thirty (30) day period set forth herein, then CITY shall have a right to record a Claim of Lien against the Property, which Lien may be either (a) for the total amount of the fines resulting from the procedures set forth in Sections 17.1 and 17.2, including all subsections thereunder, 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 the 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.

17.4 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. The remedies found within this Section 17, including all subsections thereof, are cumulative. The exercise of one does not preclude the exercise of any other remedy.

18. Requirement for Notice. LICENSEE shall give CITY prompt written notice of any accidents on, in, over, within, under and above the License Area. LICENSEE shall also give CITY prompt written notice of any notices of violation received from the COUNTY.

19. Notices.

(a) Except as provided in subsection (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 hand delivery, or by a nationally recognized overnight courier, or 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 LICENSEE 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 upon receipt if by hand delivery, or upon one (1) business day after deposit with such overnight courier as required above, or upon two (2) business days after deposit with 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 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: New River III, LLC
c/o Patrick Campbell
2850 Tigertail Avenue, Suite 800
Miami, FL 33133

With a copy to: Andrew J. Schein, Esq.
Lochrie & Chakas, P.A.
1401 East Broward Boulevard, Suite 303
Fort Lauderdale, FL 33301
ASchein@Lochrielaw.com

(c) As to activities under Section 11, Emergencies, notice need not be given in accordance with subsection (a) above, but notice shall be sufficient if given to the Contact Person pursuant to Section 11, Emergencies.

20. 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, Broward County, City of Fort Lauderdale, and of any other public authority that may be applicable to RLA or this Agreement and the possession, use, occupancy and maintenance of the License Area and the conduct of the Project permitted herein.

21. Independent Contractor. As between CITY and LICENSEE, LICENSEE is an independent contractor under this Agreement. In providing such services, neither LICENSEE nor its agents shall act as officers, employees, or agents of CITY. No partnership, joint venture, or other joint relationship is created hereby. CITY does not extend to LICENSEE or LICENSEE's agents any authority of any kind to bind CITY in any respect whatsoever.

22. Joint Preparation. Each party and its counsel have participated fully in the review and revision of this Agreement and acknowledge that the preparation of this Agreement has been their joint effort. The language agreed to expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

23. Interpretation of Agreement; Severability. This Agreement 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 Agreement or the application of the remainder of the provisions, shall not be affected. Rather, this Agreement is to be enforced to the extent permitted by law. The captions, headings and title of this Agreement are solely for convenience of reference and are not to affect its interpretation. Each covenant, term, condition, obligation or other provision of the Agreement 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 Agreement, unless otherwise expressly provided. All terms and words used in this Agreement, 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.

24. Successors. This Agreement shall be binding on and inure to the benefit of the parties, their successors and assigns.

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

26. 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 Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against any of the parties based on this Agreement. Nothing herein shall be construed as consent by any agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

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

28. Records. Each party shall maintain its own respective records and documents associated with this Agreement 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 Chapter 119, Florida Statutes, and any resultant award of attorney's fees of non-compliance with that law.

29. 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 Agreement 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.

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

31. Governing Law. This Agreement 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 Agreement any controversies or legal problems arising out of this Agreement, and any action involving the enforcement or interpretation of any rights hereunder, shall be brought exclusively in the state courts of the Seventeenth Judicial Circuit in Broward County, Florida, and venue for litigation arising out of this Revocable License shall be exclusively in Broward County state courts, forsaking any other jurisdiction which either party may claim by virtue of its residency or other jurisdictional device. **By entering into this Agreement, CITY and LICENSEE hereby expressly waive any rights either party may have to a trial by jury of any civil litigation related to this Agreement or any acts or omissions in relation thereto.**

32. Force Majeure. Neither party shall be obligated to perform any duty, requirement or obligation under this Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotions, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense (“Force Majeure”). In no event shall a lack of funds alone on the part of LICENSEE be deemed Force Majeure.

33. Term and Termination for Convenience.

This Agreement shall commence on the Effective Date and continue in perpetuity unless terminated in accordance with the terms herein. The Director of the Department of Sustainable Development or his or her designee may terminate this Agreement for convenience in writing upon thirty (30) days’ written notice of termination to LICENSEE and the written notice shall include the date that such termination becomes effective.

34. Recording. This Agreement, including all Exhibits thereto, together with a fully executed copy of the Revocable License Agreement between (i) Broward County, (ii) CITY, and (iii) LICENSEE /**New River III, LLC** shall be recorded in the Public Records of Broward County, Florida by LICENSEE at LICENSEE’s sole cost and expense. Once recorded, LICENSEE shall provide within seven (7) days a copy of the fully executed recorded Revocable License to the City Clerk’s Office of the City of Fort Lauderdale and the Contract Administrator, and E-mail a recorded copy to dengineeringadmin@fortlauderdale.gov.

[SIGNATURE PAGES TO FOLLOW]

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

AS TO CITY:

WITNESSES:

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

[Witness type or print name]

[Witness type or print name]

By: _____
Dean J. Trantalis, Mayor

By: _____
Christopher J. Lagerbloom, ICMA-CM
City Manager

(CORPORATE SEAL)

ATTEST:

Jeffrey A. Modarelli, City Clerk

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

By: _____
Shari C. Wallen, Esq.
Assistant City Attorney

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2021, 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

Name of Notary Typed, Printed or Stamped

Personally Known ____ OR Produced Identification ____
Type of Identification Produced _____

STATE OF FLORIDA:
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 2021, by **Christopher J. Lagerbloom, ICMA-CM**, 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

Name of Notary Typed, Printed or Stamped

Personally Known ____ OR Produced Identification ____
Type of Identification Produced _____

LICENSEE

WITNESSES:

New River III, LLC, a Florida limited liability company

By: _____
Patrick Campbell, Vice President

[Witness type or print name]

[Witness type or print name]

STATE OF FLORIDA:

COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me, by means of ☐ physical presence or ☐ online notarization this ____ day of _____, 2021 by **Patrick Campbell, as Vice President of New River III, LLC, a Florida limited liability company**, who has the authority to execute this Agreement on behalf of said corporation.

[SEAL]

Notary Public, State of Florida

Name of Notary Typed, Printed or Stamped

Personally Known _____ OR Produced Identification _____
Type of Identification Produced _____

Exhibit “A”

Legal Description of Licensee, New River III, LLC’s

Property

Legal Description of Burdened Property:

Lots 3, 4, 5, 6, 11, 12, 13, 14, 15, 16 and 17, less the East 15 feet of said Lots 11, 12, 13, 14, 15, 16 and 17 in Block 41, TOWN OF FORT LAUDERDALE, according to the plat thereof, as recorded in Plat Book "B", Page 40, of the Public records of Miami-Dade County, Florida.

TOGETHER WITH: All that portion of that certain vacated 14 foot alley adjacent to Lot 3, Block 41, and lying between the North and South Lines of Lot 3, Block 41, of TOWN OF FORT LAUDERDALE, according to the Plat thereof as recorded in Plat Book "B", Page 40 of the Public Records of Miami-Dade County, Florida, extended East to a line which is the East line of the West half of the 14 foot alley vacated by Ordinance No. C-17-18 recorded October 5, 2017 in Instrument #114643838, of the Public Records of Broward County, Florida, said lands now lying, being and situate in Broward County, Florida.

ALSO

A portion of that certain 14.00 feet platted Alley in Block 41, FORT LAUDERDALE, according to the plat thereof recorded in Plat Book "B", at Page 40, of the Public Records of Miami-Dade County, Florida, bounded as follows:

On the North by the Easterly extension of the North line of Lot 3, of said Block 41; On the East by the West line of the South 50.00 feet of Lot 19, of said Block 41; On the South by the Westerly extension of the South line of said Lot 19, of Block 41; On the West by a line 7.00 feet West of and parallel with the West line of the South 50.00 feet of said Lot 19, of Block 41.

ALSO TOGETHER WITH: All of that portion of that certain vacated 14 foot alley lying between the south line of Lot 3, Block 41, extended East to the North line of Lot 17, and the South line of Lot 6, Block 41, extended East to the South line of Lot 15, Block 4, shown on the Plat of TOWN OF FORT LAUDERDALE, according to the Plat thereof as recorded in Plat Book "B", Page 40, of the Public Records of Miami-Dade County, Florida, said lands now lying, being and situate in Broward County, Florida, AND VACATED by Ordinance No. C-17-18 recorded October 5, 2017 in Instrument #114643838, of the Public Records of Broward County, Florida, said lands now lying, being and situate in Broward County, Florida.

Said land situate, lying and being in the City of Fort Lauderdale, Broward County, Florida.

Exhibit “B”

Revocable License Agreement

Return recorded copy to:

**Broward County Highway Construction &
Engineering Division
1 North University Drive, Suite 300B
Plantation, FL 33324-2038**

Document reviewed by:

**Israel Fajardo
Assistant County Attorney
115 S. Andrews Avenue, Room 423
Fort Lauderdale, FL 33301**

REVOCABLE LICENSE AGREEMENT

This Revocable License Agreement ("Agreement") between Broward County ("County"), a political subdivision of the State of Florida, New River III, LLC ("Licensee"), a Florida limited liability company authorized to do business in the State of Florida, and the City of Fort Lauderdale ("City"), a municipal corporation organized and existing under the laws of the State of Florida (collectively, the "Parties"), is entered into and effective as of the date this Agreement is fully executed by the Parties (the "Effective Date").

RECITALS

A. Licensee is the owner of property described in the attached Exhibit A (the "Burdened Property");

B. The Burdened Property is adjacent to a right-of-way as set forth in Exhibit B (the "Revocable License Area") located on South Andrews Avenue;

C. County owns and controls the Revocable License Area and South Andrews Avenue;

D. Licensee seeks and County is amenable to Licensee's nonexclusive access and use of the Revocable License Area to make certain improvements in the Revocable License Area, as set forth in Exhibit C (the "Improvements"), and to maintain the Improvements, as set forth in Exhibit D (the "Maintenance Obligations");

E. The Improvements and maintenance thereof will benefit the residents of County and City;

F. City, through formal action of its governing body taken on the ____ day of _____, 20__, has accepted responsibility for the Maintenance Obligations and

other such obligations of Licensee under the terms of this Agreement should Licensee fail to comply with such obligations; and

G. City has authorized the appropriate municipal officers to execute this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. DEFINITIONS

1.1. **Approved Plans** means the construction documents and specifications depicting and defining the Improvements, including all materials to be installed in the Revocable License Area as referenced in the plans submitted to and approved by the Contract Administrator, and filed under Project Reference Number 170403001.

1.2. **Board** means the Board of County Commissioners of Broward County, Florida.

1.3. **Contract Administrator** means the Director of the Broward County Highway Construction and Engineering Division, or designee.

1.4. **County Administrator** means the administrative head of County as appointed by the Board.

1.5. **County Attorney** means the chief legal counsel for County, as appointed by the Board.

1.6. **Division** means the Broward County Highway Construction and Engineering Division.

SECTION 2. GRANT OF REVOCABLE LICENSE

2.1. County hereby grants to Licensee a revocable license for nonexclusive access and use of the Revocable License Area solely for the purposes of making the Improvements, performing the Maintenance Obligations, and taking other actions as may be required by this Agreement. The Improvements must meet County's Minimum Standards Applicable to Public Right-of-Way Under Broward County Jurisdiction as described in Exhibit 25.A of the Broward County Administrative Code.

2.2. Other than for the purposes identified in this Agreement, Licensee may not use the Revocable License Area for any other purpose whatsoever without written amendment of this Agreement executed with the same formalities as this Agreement. Licensee may not permit the Revocable License Area to be used in any manner that will violate the terms of this Agreement or any laws, administrative rules, or regulations of any applicable governmental entity or agency.

2.3. County shall have full and unrestricted access to the Revocable License Area at all times.

2.4. This Agreement is merely a right to access and use and grants no estate in the Revocable License Area to Licensee, City, or any other party.

SECTION 3. LICENSEE'S OBLIGATIONS

3.1. Licensee shall make application to the Division for a permit to perform the Improvements as set forth in the Approved Plans. Licensee may not proceed with the Improvements until all permits have been issued and all permit conditions for commencement of construction have been satisfied.

3.2. Licensee may not make any alterations to the Improvements without first obtaining a permit from the Division and the written approval of the Contract Administrator for such alterations.

3.3. Licensee shall make the Improvements at its own expense and in accordance with the Approved Plans and to the Contract Administrator's satisfaction. Licensee shall not be entitled to any compensation from County for making the Improvements.

3.4. Following Licensee's installation of the Improvements and County's approval of same (as set forth in Section 5), Licensee shall provide County with signed and sealed certified as-built drawings and warranties for all work performed as set forth in the Approved Plans.

3.5. Once the Improvements have been made, Licensee shall perform the Maintenance Obligations at its own expense and in accordance with the requirements set forth in Exhibit D. As part of the Maintenance Obligations, Licensee shall keep the Improvements and the Revocable License Area clean, sanitary, and in good condition consistent with industry-standard maintenance standards and techniques. The Maintenance Obligations shall include all repair and replacement of materials due to any cause, including but not limited to normal wear and tear, acts of God, vandalism, and accidents. Licensee shall promptly replace all defective or unsightly materials, as well as any materials that the Contract Administrator determines, in his/her reasonable discretion, should be replaced for safety reasons or because such materials would interfere with any County property or County operations. All replacements must be approved in writing by the Contract Administrator.

3.6. If Licensee takes any action or makes any omission that causes or results in alterations to the Revocable License Area (or any materials on the Revocable License Area), which alterations are not specified in the Approved Plans, Licensee shall, at its own expense, restore the Revocable License Area to its condition before the alterations were made or such condition as approved in writing by the Contract Administrator. If Licensee fails to make such restoration within thirty (30) calendar days after County's request, County may make the restoration or exercise its rights as provided in Section 4 of this Agreement. If County elects to make the restoration, it will invoice Licensee for the costs thereof. Licensee shall pay such invoice within thirty (30) calendar days after receipt.

3.7. If Licensee takes any action or makes any omission that causes or results in damage to the Revocable License Area (or any materials on the License Area), Licensee shall, at its own expense, repair such damage. If Licensee fails to make such repair within thirty (30) calendar days after County's request, County may make the repair or exercise its rights as provided in

Section 4 of this Agreement. If County elects to make the repair, it will invoice Licensee for the costs thereof. Licensee shall pay such invoice within thirty (30) calendar days after receipt.

3.8. If the Revocable License Area is serviced by any utilities (including but not limited to electricity, water, sewage, or gas), Licensee shall be solely responsible for the cost of such utilities.

3.9. If the Revocable License Area contains an irrigation or water pump system, Licensee shall maintain same in compliance with the requirements set forth in Exhibit D and all applicable rules and regulations of the applicable South Florida Water Management District.

3.10. Licensee shall provide the Contract Administrator with immediate verbal notice, followed by written notice (in the manner set forth in Section 8 of this Agreement), of any condition on the Revocable License Area that might present a risk of damage to the Revocable License Area or adjacent property, or might pose a risk of injury to any person.

3.11. Licensee shall provide the Contract Administrator with immediate verbal notice, followed by prompt written notice (in the manner set forth in Section 8 of this Agreement), of any damage to the Revocable License Area or any injury to any person on the Revocable License Area.

3.12. Licensee may retain a third party to make the Improvements and/or perform the Maintenance Obligations. If Licensee retains a third party for such purpose(s), Licensee shall enter into a written contract with the third party under which the third party must agree to make the Improvements and/or perform the Maintenance Obligations in accordance with the requirements of this Agreement. Licensee shall provide the Contract Administrator with a copy of any such contract(s). Notwithstanding Licensee's use of any third party, Licensee shall remain obligated and responsible for making the Improvements and performing the Maintenance Obligations if the third party does not. Licensee may not relieve itself of any of its obligations under this Agreement by contracting with a third party.

SECTION 4. CITY'S OBLIGATIONS

4.1. If Licensee fails to timely comply with the requirements set forth in Section 3, upon written demand of Contract Administrator, City shall, at its own expense, immediately perform the Maintenance Obligations for the duration of this Agreement. In addition, City shall, at its own expense, cure any and all deficiencies or failures by Licensee identified in the Contract Administrator's written notice to City. City shall cure such deficiencies and failures within thirty (30) calendar days after such notice. If City fails to timely comply with its obligations under this section, County may fulfill such obligations, and then invoice the City for the cost thereof. City shall pay such invoice within thirty (30) calendar days after receipt.

4.2. City may retain a third party to perform the Maintenance Obligations. If City retains a third party for such purpose(s), City shall enter into a written contract with the third party under which the third party agrees to perform the Maintenance Obligations in accordance with the requirements of this Agreement. City shall provide the Contract Administrator with a copy of any such contract(s). Notwithstanding City's use of any third party, City shall remain obligated

and responsible for performing the Maintenance Obligations if the third party does not. City may not relieve itself of any of its obligations under this Agreement by contracting with a third party.

SECTION 5. COUNTY'S OBLIGATIONS

5.1. County shall review the Approved Plans to determine whether to issue a permit for the Approved Plans and shall issue a permit only if the Approved Plans comply with all applicable County permitting requirements.

5.2. County shall inspect the Improvements and may reject work that does not conform to the Approved Plans.

5.3. After receiving signed and sealed certified as-built drawings that the Improvements are in conformance with the Approved Plans, and receiving request for a final inspection, County shall perform a final inspection of the Improvements and notify Licensee and City of County's final approval or rejection of the Improvements.

5.4. County shall have no further obligations under this Agreement other than those stated in this section but may exercise any and all rights it has under this Agreement.

SECTION 6. RISK OF LOSS

All Improvements not permanently affixed to the Revocable License Area shall remain the property of Licensee, and all risk of loss for the Improvements (whether permanently affixed or not) shall be Licensee's risk alone. However, Licensee may not remove, replace or alter any of the Improvements without the Contract Administrator's written consent and any required permitting.

SECTION 7. TERM AND TERMINATION

7.1. This Agreement shall begin on the Effective Date and continue in perpetuity unless terminated as provided in this section.

7.2. This Agreement may be terminated for cause by County if Licensee, City, or both breach any obligations under this Agreement and have not corrected the breach within thirty (30) calendar days after receipt of written notice identifying the breach. County may, at the option of the Contract Administrator, cause such breach to be corrected and invoice the breaching party or parties for the costs of the correction or may terminate this Agreement. If County opts to correct the breach and invoice the breaching party or parties for the costs of correction, the invoiced party or parties (as applicable) shall pay such invoice within thirty (30) calendar days after receipt. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall, at County's sole election, be deemed a termination for convenience, which shall be effective thirty (30) calendar days after such notice of termination for cause is provided.

7.3. This Agreement may be terminated for convenience by the Board. Termination for convenience by the Board shall be effective on the termination date stated in the written notice provided by County, which termination date shall not be less than thirty (30) calendar days after

the date of such written notice.

7.4. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate if the County Administrator determines that termination is necessary to protect the public health or safety. Termination under this section shall be effective on the date County provides notice of such termination.

7.5. Upon termination of this Agreement, Licensee shall peaceably surrender its use of the Revocable License Area. If City has assumed the Maintenance Obligations pursuant to Section 4, City shall peaceably surrender use of the Revocable License Area.

7.6. If County terminates this Agreement, Licensee shall remove all Improvements, materials and equipment installed or placed in the Revocable License Area, unless the Contract Administrator, in writing, authorizes Licensee to leave any such Improvements, materials, or equipment in the Revocable License Area. In addition, Licensee shall be obligated to repair any damage to the Revocable License Area resulting from the removal of any Improvements, materials and equipment. If Licensee fails to comply with these removal and/or repair obligations within thirty (30) days of termination, County may perform them, and then invoice Licensee for the cost thereof. Licensee shall pay such invoice within thirty (30) calendar days after receipt.

7.7. If County terminates this Agreement, Licensee shall restore the Revocable License Area to its condition before the Improvements or to such condition as approved in writing by the Contract Administrator. If Licensee fails to make such restorations within thirty (30) days of termination, County may make them and then invoice Licensee for the costs thereof. Licensee shall pay such invoice within thirty (30) calendar days after receipt.

7.8. County shall have no obligation to compensate Licensee or City for any loss resulting from or arising out of the termination of this Agreement.

7.9. If tree mitigation is required as a result of termination of this Agreement, Licensee must obtain a Broward County Environmental Licensing and Building Permitting Division, Tree Preservation Program Agreement required by Chapter 27, Article XIV, Sections 27-401 through 27-414 of the Broward County Tree Preservation and Abuse Ordinance, as may be amended from time to time, to provide for relocation, removal, and replacement per the tree removal Agreement requirements at Licensee's sole cost and expense.

7.10. If Licensee fails to comply with the requirements of Sections 7.6, 7.7, and/or 7.9, City shall perform said requirements within thirty (30) days of written notice from the Contract Administrator. If City fails to timely perform such requirements, County may perform them, and then invoice City for the cost thereof. City shall pay the invoice within thirty (30) calendar days after receipt.

7.11. Notice of termination shall be provided in accordance with Section 8 of this Agreement, except that notice of termination by the County Administrator, pursuant to Section 7.4 of this Agreement may be verbal notice that shall be promptly confirmed in writing in accordance with Section 8 of this Agreement.

SECTION 8. NOTICES

Whenever any party desires or is required to give notice to another, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, together with a contemporaneous email, addressed to the party for whom it is intended at the place last specified in this section. The manner in which and persons to whom notice shall be provided will remain the same unless and until changed in writing in accordance with this section. The Parties respectively designate the following persons for receipt and issuance of notice:

FOR COUNTY:

Director, Broward County Highway Construction and Engineering Division
One North University Drive, Suite 300B
Plantation, Florida 33324-2038
Email: bterrier@broward.org

FOR CITY:

Christopher J. Lagerbloom, City Manager
City of Fort Lauderdale
100 N. Andrews Avenue, 7th Floor
Fort Lauderdale, FL 33301
CLagerbloom@fortlauderdale.gov
954-828-5013

FOR LICENSEE:

The Related Group
c/o Patrick Campbell, Vice President
315 S. Biscayne Boulevard
Miami, FL 33138
Email: PCampbell@relatedgroup.com
(305) 460-9900

SECTION 9. INDEMNIFICATION

9.1. Licensee shall indemnify and hold harmless County, and all of County's, past, present, and future officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses (collectively, a "Claim"), raised or asserted by any person or entity not a party to this Agreement, which Claim is caused or alleged to be caused in whole or in part, by any intentional, reckless, or negligent act or omission of

Licensee, its then current or former officers, employees, agents, servants or assigns, arising from, relating to, or in connection with this Agreement. If any Claim is brought against an Indemnified Party, Licensee shall, at its own expense, upon written notice from County defend each Indemnified Party against each such Claim by counsel satisfactory to County, or, at the option of County, pay for an attorney selected by the County Attorney to defend the Indemnified Party.

9.2. If Licensee or City contract with a third party to perform any of their obligations under this Agreement, Licensee and City must enter into written agreements with such third parties, which contracts are required to include an indemnification provision by such third party in favor of the Indemnified Party using the language provided in Section 9.1.

9.3. County and City are entities subject to Section 768.28, Florida Statutes, as may be amended from time to time, and agree to be fully responsible for the negligent or wrongful acts and omissions of their respective agents or employees to the extent permitted by law. Nothing herein is intended to serve as a waiver of sovereign immunity by any party to which sovereign immunity may be applicable. Nothing herein shall be construed as consent by either party to be sued by third parties in any matter arising out of this Agreement or any other contract.

9.4. The provisions of this Section 9 shall survive the expiration or earlier termination of this Agreement.

SECTION 10. INSURANCE

10.1. For the duration of the Agreement, Licensee shall, at its sole expense, maintain the minimum coverages stated in Exhibit E in accordance with the terms and conditions of this section. Licensee shall maintain insurance coverage against claims relating to any act or omission by Licensee, its agents, representatives, employees, or any third parties in connection with this Agreement. County reserves the right at any time to review and adjust the limits and types of coverage required under this section.

10.2. Licensee shall ensure that "Broward County, Florida" is listed and endorsed as an additional insured as stated in Exhibit E on all policies required under this section.

10.3. On or before the Effective Date, or at least fifteen (15) days before the commencement of the Improvements, Licensee shall provide County with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required by Exhibit E and this section. If and to the extent requested by County, Licensee shall provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after County's request.

10.4. Licensee shall ensure that all insurance coverages required by this section remain in full force and effect for the duration of this Agreement and until all performance required by Licensee has been completed, as determined by Contract Administrator. Licensee or its insurer shall provide notice to County of any cancellation or modification of any required policy at least thirty (30) days prior to the effective date of cancellation or modification, and at least ten (10) days prior to the effective date of any cancellation due to nonpayment, and shall concurrently

provide County with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s). Licensee shall ensure that there is no lapse in coverage at any time during the time period for which coverage is required by this section.

10.5. Licensee shall ensure that all required insurance policies are issued by insurers: (1) assigned an A.M. Best rating of at least "A" with a Financial Size Category of at least Class VII; (2) authorized to transact insurance in the State of Florida; or (3) a qualified eligible surplus lines insurer pursuant to Section 626.917 or 626.918, Florida Statutes, with approval by County's Risk Management Division.

10.6. If Licensee maintains broader coverage or higher limits than the minimum insurance requirements stated in Exhibit E, County shall be entitled to any such broader coverage and higher limits maintained by Licensee. All required insurance coverages under this section shall provide primary coverage and shall not require contribution from any County insurance, self-insurance or otherwise, both of which shall be in excess of and shall not contribute to the insurance required and provided by Licensee.

10.7. Licensee shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in Exhibit E and submit to County for approval at least fifteen (15) days prior to the Effective Date or commencement of the Improvements. Licensee shall be solely responsible for and shall pay any deductibles or self-insured retention applicable to any claim against County. County may, at any time, require Licensee to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. Licensee agrees that any deductible or self-insured retention may be satisfied by either the named insured or County, if so elected by County, and Licensee agrees to obtain same in endorsements to the required policies.

10.8. Unless prohibited by the applicable policy, Licensee waives any right to subrogation that any of Licensee's insurers may acquire against County and agrees to obtain same in an endorsement of Licensee's insurance policies.

10.9. If any of the policies required under this article provide claims-made coverage: (1) any retroactive date must be prior to the Effective Date; (2) the required coverage must be maintained after termination or expiration of the Agreement for at least the duration stated in Exhibit E; and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the Effective Date, Licensee must obtain and maintain "extended reporting" coverage that applies after termination or expiration of the Agreement for at least the duration stated in Exhibit E.

10.10. Licensee shall require that each third party retained by Licensee for performance of any of Licensee's obligations under this Agreement maintain coverage that adequately covers the performance of the third party on substantially the same insurance terms and conditions required of Licensee under this Section. Licensee shall ensure that all such third parties comply with these requirements and that "Broward County, Florida" is named as an additional insured under the third parties' policies.

10.11. Licensee shall not permit any third party to provide services under this Agreement unless

and until the requirements of this section are satisfied. If requested by County, Licensee shall provide, within one (1) business day, evidence of any third party's compliance with this section.

10.12. City is a governmental entity and is fully responsible for the negligent or wrongful acts and omissions of its agents or employees, subject to any applicable limitations of Section 768.28, Florida Statutes.

10.13. Within five (5) calendar days after request by County, City must provide County with written verification of liability protection that meets or exceeds any requirements of Florida law. If City holds any excess liability coverage, City must ensure that Broward County is named as an additional insured and certificate holder under such excess liability policy and provide evidence of same to County.

10.14. If City maintains broader coverage or higher limits than the minimum coverage required under Florida law, County shall be entitled to such broader coverage and higher limits on a primary and non-contributory basis.

10.15. The foregoing requirements shall apply to City's self-insurance, if any.

10.16. If City contracts with one or more third parties to perform any of City's obligations set forth herein, City shall require that each third party (and any subcontractors retained by the third party) procure and maintain insurance coverages as provided in Exhibit E and Sections 10.1 through 10.11 of this Agreement. City must ensure that all such third parties name "Broward County, Florida" as an additional insured and certificate holder under the applicable insurance policies. City shall not permit any third party to provide services required by this Agreement until the insurance requirements of the third party under this section are met. If requested by County, City shall furnish evidence of all insurance required by this section.

10.17. County reserves the right, but not the responsibility, to periodically review any and all insurance coverage(s) required by this Agreement and to reasonably adjust the limits and/or types of coverage required herein, from time to time throughout the term of this Agreement.

SECTION 11. MISCELLANEOUS

11.1. **Road Easement.** County shall, within forty-five (45) days after the full execution of this Agreement, record the Road Easement attached hereto as Exhibit F ("Road Easement") in the Public Records of Broward County, Florida. Licensee agrees that Licensee's conveyance of the Road Easement to County does not in any way impose any legal responsibility or obligation upon County to perform any work or services, including any construction, repair, or maintenance work or services, upon or within the property legally described in the Road Easement ("Road Easement Area"). To the extent County, in its sole and absolute discretion, exercises its rights under the Road Easement to perform any work or services, including any construction, repair, or maintenance work or services, upon or within the Road Easement Area, County shall not be liable or responsible for any damage (or costs associated with repairing or fixing any damage) caused to the Road Easement Area as a result of such work or services. Notwithstanding the foregoing, if County exercises its rights under the Road Easement to perform any work or services within the Road Easement Area, County shall use its best efforts to restore the Road

Easement Area to meet the applicable construction standards set forth in the Minimum Standards Applicable to Public Rights-of-Way under Broward County Jurisdiction described in Exhibit 25.A of the Broward County Administrative Code. This Section 11.1 shall survive the expiration or termination of this Agreement.

11.2. Independent Contractor. Licensee and City are each an independent contractor under this Agreement. In performing under this Agreement, neither Licensee, City, nor any of their respective agents shall act as officers, employees, or agents of County. Neither Licensee nor City has the power or right to bind County to any obligation not expressly undertaken by County under this Agreement.

11.3. Third Party Beneficiaries. Licensee, City, and County do not intend to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.4. Assignment and Performance. Neither this Agreement nor any right or interest herein may be assigned, transferred, or encumbered by Licensee or City without the prior written consent of County, which consent may be withheld in County's sole discretion. Licensee and City each represent that each person and entity that will perform services under this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render services. Licensee and City each agree that all services under this Agreement will be performed in a skillful and respectful manner, and that the quality of all such services will equal or exceed prevailing industry standards for the provision of such services.

11.5. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof. County's failure to enforce any provision of this Agreement will not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement will not be deemed a waiver of any subsequent breach and will not be construed to be a modification of the terms of this Agreement.

11.6. Compliance with Laws. Licensee and City shall each comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

11.7. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to its subject matter. It may not be modified or terminated except as provided in this Agreement. If any provision is deemed invalid by a court of competent jurisdiction, it shall be considered severed from this Agreement, and such severance shall not invalidate the remaining provisions.

11.8. Joint Preparation. This Agreement has been jointly prepared by the Parties and will not be construed more strictly against either party.

11.9. Interpretation. The headings contained in this Agreement are for reference purposes only and do not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement include the other gender, and the singular includes the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter," refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section of this Agreement, such reference is to the section as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection.

11.10. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any Exhibit attached hereto or referenced or incorporated herein and any provision in this Agreement, the provisions contained in this Agreement shall prevail and be given effect.

11.11. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement will be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for litigation arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, LICENSEE, CITY, AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

11.12. Amendments. No modification, amendment, or alteration in the terms or conditions contained herein will be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Parties.

11.13. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

11.14. Representation of Authority. Each individual executing this Agreement on behalf of a party represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

11.15. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which will be deemed to be an original, but all of which, taken together, will constitute one and the same Agreement.

11.16. Nondiscrimination. No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement.

11.17. Time of the Essence. Time is of the essence for Licensee's and City's performance of all obligations under this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 20__, New River III, LLC, signing by and through its _____, authorized to execute same, and City of Fort Lauderdale, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
ex officio Clerk of the Broward County
Board of County Commissioners

By _____
Mayor/Vice-Mayor
____ day of _____, 20__

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

By _____
Israel Fajardo (Date)
Assistant County Attorney

By _____
Michael J. Kerr (Date)
Deputy County Attorney

REVOCABLE LICENSE AGREEMENT

LICENSEE:

WITNESSES:

New River III, LLC

Signature

By: _____

Print Name of Witness above

Print Name

Signature

Print Title

Print Name of Witness above

_____ day of _____, 2020

ATTEST:

Corporate Secretary or other person
authorized to attest

(Corporate Seal or Notary)

REVOCABLE LICENSE AGREEMENT

CITY:

ATTEST:

CITY OF FORT LAUDERDALE

Municipal Clerk

By _____
Mayor-Commissioner

(Print/Type Name)

_____, Mayor
(Print/Type Name)

(SEAL)

____ day of _____, 20____.

City Manager

(Print or Type Name)

APPROVED AS TO FORM:

By _____
City Attorney

Exhibit A

Legal Description of Burdened Property:

Lots 3, 4, 5, 6, 11, 12, 13, 14, 15, 16 and 17, less the East 15 feet of said Lots 11, 12, 13, 14, 15, 16 and 17 in Block 41, TOWN OF FORT LAUDERDALE, according to the plat thereof, as recorded in Plat Book "B", Page 40, of the Public records of Miami-Dade County, Florida.

TOGETHER WITH: All that portion of that certain vacated 14 foot alley adjacent to Lot 3, Block 41, and lying between the North and South Lines of Lot 3, Block 41, of TOWN OF FORT LAUDERDALE, according to the Plat thereof as recorded in Plat Book "B", Page 40 of the Public Records of Miami-Dade County, Florida, extended East to a line which is the East line of the West half of the 14 foot alley vacated by Ordinance No. C-17-18 recorded October 5, 2017 in Instrument #114643838, of the Public Records of Broward County, Florida, said lands now lying, being and situate in Broward County, Florida.

ALSO

A portion of that certain 14.00 feet platted Alley in Block 41, FORT LAUDERDALE, according to the plat thereof recorded in Plat Book "B", at Page 40, of the Public Records of Miami-Dade County, Florida, bounded as follows:

On the North by the Easterly extension of the North line of Lot 3, of said Block 41; On the East by the West line of the South 50.00 feet of Lot 19, of said Block 41; On the South by the Westerly extension of the South line of said Lot 19, of Block 41; On the West by a line 7.00 feet West of and parallel with the West line of the South 50.00 feet of said Lot 19, of Block 41.

ALSO TOGETHER WITH: All of that portion of that certain vacated 14 foot alley lying between the south line of Lot 3, Block 41, extended East to the North line of Lot 17, and the South line of Lot 6, Block 41, extended East to the South line of Lot 15, Block 4, shown on the Plat of TOWN OF FORT LAUDERDALE, according to the Plat thereof as recorded in Plat Book "B", Page 40, of the Public Records of Miami-Dade County, Florida, said lands now lying, being and situate in Broward County, Florida, AND VACATED by Ordinance No. C-17-18 recorded October 5, 2017 in Instrument #114643838, of the Public Records of Broward County, Florida, said lands now lying, being and situate in Broward County, Florida.

Said land situate, lying and being in the City of Fort Lauderdale, Broward County, Florida.

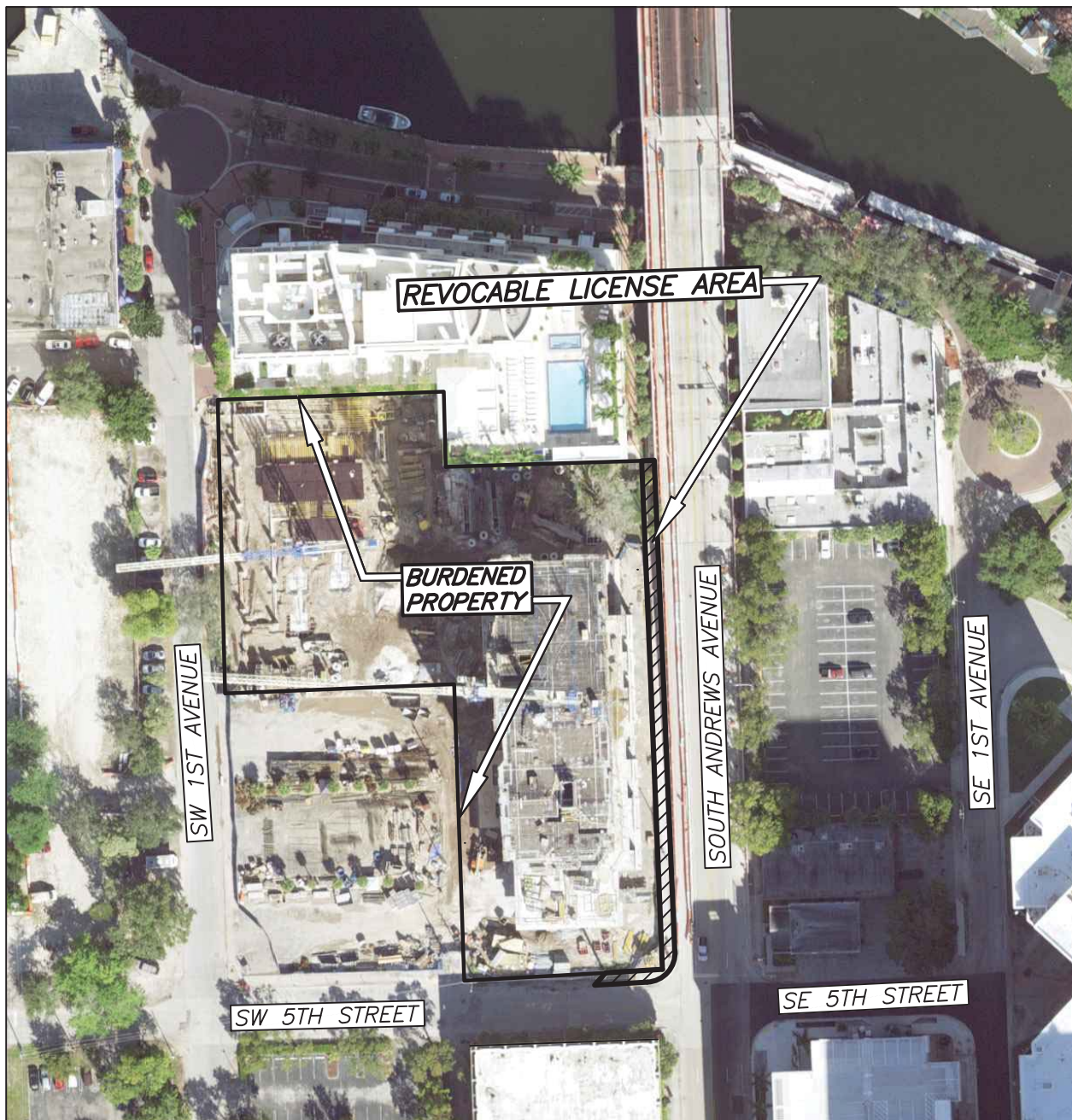
LOCATION MAP

Revocable License Agreement between Broward County,
New River III, LLC and City of Fort Lauderdale

Broward County Reference No. 170403001



EXHIBIT B



LEGEND:



REVOCABLE LICENSE AGREEMENT AREA

SHEET 1 OF 1

Scale:
Not To Scale

Drawn by:
JAT

Date:
12-03-20

Checked by:
CAD

Date:
12-03-20

File Location:
E:\RW\Location Maps\AGREEMENTS\RLA-2018-14.dwg

BROWARD COUNTY HIGHWAY CONSTRUCTION & ENGINEERING DIVISION

CAM # 21-0924

EXHIBIT 4

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McLAUGHLIN ENGINEERING COMPANY LB#285

ENGINEERING * SURVEYING * PLATTING * LAND PLANNING
1700 N.W 64th STREET, SUITE 400 TOWN OF FORT LAUDERDALE, FLORIDA 33309
PHONE (954) 763-7611 * FAX (954) 763-7615

SKETCH AND DESCRIPTION SOUTH ANDREWS AVENUE IMPROVEMENT AREA NEW RIVER YACHT CLUB III SHEET 1 OF 2 SHEETS

LEGAL DESCRIPTION:

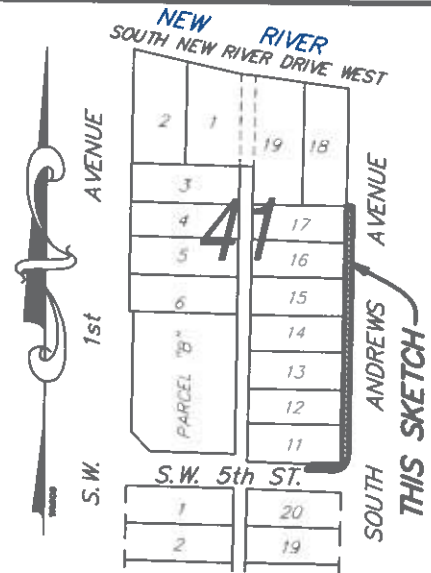
A portion of Lots 11, 12, 13, 14, 15, 16 and 17, Block 41, TOWN OF FORT LAUDERDALE, according to the plat thereof recorded in Plat Book "B", at Page 40, of the Public Records of Dade County, Florida; AND a portion of South Andrews Avenue and S.E. 5th Street right-of-way, adjacent to said Lots, more fully described as follows:

Commencing at the Northeast corner of said Lot 17; thence North $89^{\circ}34'00''$ West, on the North line of said Lot 17, a distance of 6.00 feet to the Point of Beginning; thence continuing North $89^{\circ}34'00''$ West, on said North line, a distance of 9.00 feet; thence South $00^{\circ}00'00''$ East, on a line 15.00 feet West of and parallel with the East line of said Lots 17 to 11, a distance of 350.00 feet; thence North $89^{\circ}34'00''$ West, on the South line of said Lot 11, a distance of 39.23 feet; thence South $45^{\circ}13'00''$ West, a distance of 11.27 feet; thence South $89^{\circ}34'00''$ East, on a line 8.00 feet South of and parallel with the South line of said Lot 11, a distance of 36.08 feet to a point of curve; thence East and North on said curve to the left, with a radius of 20.00 feet, a central angle of $90^{\circ}26'00''$, an arc distance of 31.57 feet to a point of tangency; thence North $00^{\circ}00'00''$ East, on a line 6.00 feet West of and parallel with the East line of said Lots 11 to 17, a distance of 337.85 feet to the Point of Beginning.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida and containing 3,480 square feet or 0.0799 acres more or less.

NOTES:

- 1) This sketch reflects all easements and rights-of-way, as shown on above referenced record plat(s). The subject property was not abstracted for other easements road reservations or rights-of-way of record by McLaughlin Engineering Company.
- 2) Legal description prepared by McLaughlin Engineering Co.
- 3) This drawing is not valid unless sealed with an embossed surveyors seal.
- 4) THIS IS NOT A BOUNDARY SURVEY.
- 5) Bearings shown assume the East line of said Block 41, as North $00^{\circ}00'00''$ East.



**SITE LAYOUT
NOT TO SCALE**

CERTIFICATION

Certified Correct. Dated at Fort Lauderdale, Florida this 23rd day of November, 2020. General revisions made this 4th day of December, 2020.

McLAUGHLIN ENGINEERING COMPANY

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

FIELD BOOK NO. _____

DRAWN BY: JMMjr

JOB ORDER NO. V-4892

CHECKED BY: _____

REF. DWG.: 00-3-045

C: \JMMjr\2020\V4892 (CASE)

CAM # 24-0924

Exhibit 4

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McLAUGHLIN ENGINEERING COMPANY

LB#285

ENGINEERING * SURVEYING * PLATTING * LAND PLANNING
1700 N.W 64th STREET, SUITE 400 TOWN OF FORT LAUDERDALE, FLORIDA 33309
PHONE (954) 763-7611 * FAX (954) 763-7615

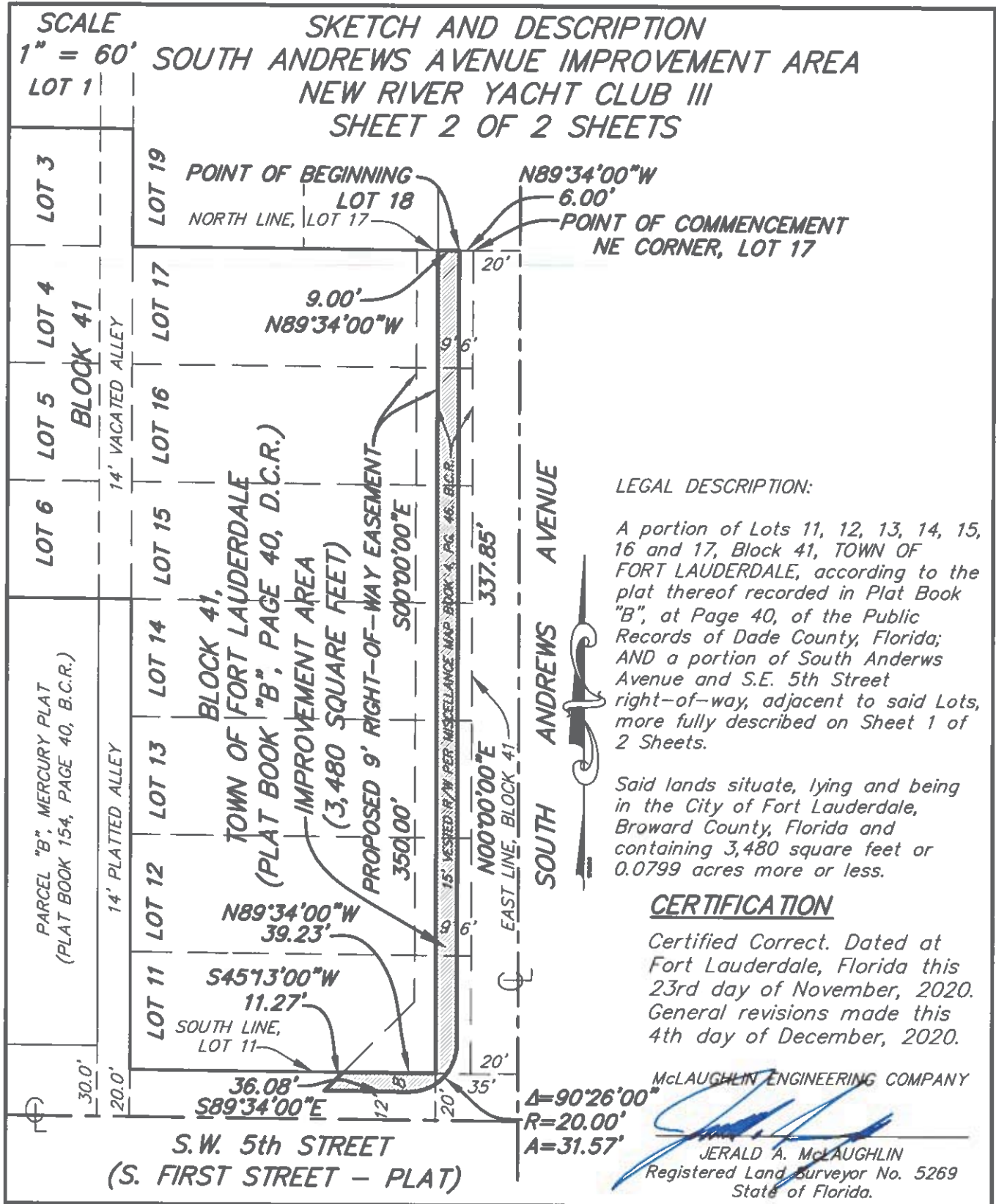


EXHIBIT C

Revocable License Agreement between Broward County, New River III, LLC, a Florida limited liability company, and the City of Fort Lauderdale for the installation of improvements within county right-of-way on S Andrews Avenue and at the intersection of S Andrews Avenue and SW 5th Street, as shown on Exhibit B, in the City of Fort Lauderdale.

SCOPE OF IMPROVEMENTS:

This Revocable License Agreement authorizes the installation of pavers, landscaping, and irrigation improvements for approximately 350 linear feet located on the west side of South Andrews Avenue, including the corner chord on SW 5th Street, in the City of Fort Lauderdale. All work will be according to the approved plans that are on file in Broward County Highway Construction and Engineering Division's Paving and Drainage Section.

NOTES:

All landscaping shall be properly installed, maintained and fertilized in accordance with the Broward County NatureScape program and Florida-Friendly Landscaping principles.

Broward County NatureScape program information can be found at:

<http://www.broward.org/NatureScape/Pages/Default.aspx>

Florida-Friendly Landscaping principles and information can be found at:

<http://floridayards.org>

A full-sized set of plans are on file with the Broward County Highway Construction and Engineering Division under Project Reference No. 170403001.

EXHIBIT D

Broward County Highway Construction and Engineering Division Revocable License Agreement Minimum Maintenance Performance Requirements

General Requirements

Licensee hereby agrees to provide landscape maintenance in the Revocable License Area as described herein and in accordance with all articles of this Agreement. The specifications herein are the minimum standards and do not prevent the Licensee from performing any additional measures necessary to ensure proper landscape maintenance. The Licensee shall care and maintain all installed landscape, irrigation, and any decorative specialty hardscape treatments placed in the Revocable License Area. Licensee shall:

- Properly fertilize all vegetation.
- Keep all vegetation as free from disease and harmful insects as possible.
- Properly mulch the vegetation beds and keep them free from weeds.
- Cut the grass in order to maintain a neat and proper appearance.
- Prune all plants to remove all dead or diseased parts of plants and all parts of plants which present a visual hazard or physical obstacle to the designated use of the areas.
- Remove and replace all vegetation that is dead or diseased or that otherwise falls below the initial level of beautification of the Revocable License Area and ensure that such vegetation is of the same grade as specified in the original approved plans and specifications and the same size as those existing at the time of replacement.
- Remove litter and illegal dumping from the Revocable License Area.
- Maintain irrigation in working order, including the maintenance and replacement of pumps, pipes, and sprinkler heads.

Irrigation

Routine and preventive maintenance and repair of the irrigation system includes but is not limited to the following:

- Adjusting all heads for proper operation and direction such that they do not spray into or across roadways, walkways, or other vehicular or pedestrian areas.
- Clearing away grass, debris, or vegetation that may hinder the operation of the sprinkler heads. All valve boxes must remain free of vegetation and be visible at all times.
- Inspecting irrigation system for clogged or improperly set nozzles and spray heads, adjusting heads, and replacing them as needed.
- Replacing any broken pipes, solenoids, electric valves, rain sensor heads, and all other related parts that may negatively impact the irrigation system.
- Regular inspection of the system and re-filling of the tank holding the rust inhibitor chemicals, if applicable.

Pavers

- Any damages to pavers that present a visual or physical deficiency must be repaired within thirty (30) days of notification to the Licensee. Damages to pavers that present a liability to the County must be repaired within twenty-four (24) hours of notification to the Licensee.
- Make sure paver surfaces maintain Americans with Disabilities Act (ADA) compliance including no tripping hazards.

Tree Grates/Tree Root Ball/Tree Pit “Surround” Zone

- Ensure the opening of the tree grate doesn't hamper the growth of the tree trunk. Repair any uplifting of the tree grates to maintain ADA compliance.
- Pressure wash a minimum of once per year or sooner when necessary.

Pedestrian Lighting

- Periodic maintenance of the lighting system to ensure functionality. Correct any deficiencies (outages, excess light spillage, low lumens, fixture or pole corrosion, damage to pole and fixture, exposed wiring, and all other issues related to components that impact functionality.)

Vegetation

- All ground cover, including shrubs, plants, bushes, bases of palms and hedges, will be trimmed and pruned to maintain a neat and proper appearance.
- Maintain a maximum height of twenty-four (24) inches to ensure sight visibility per Florida Department of Transportation / Broward County guidelines.
- Ground cover, shrub beds, mulch, and other areas must remain weed-free and all undesirable vegetation, including vines, must be removed. Trash/litter must be cleaned regularly.
- All ground cover will be trimmed, pruned, and thinned to retain its natural form in proportionate size to one another. Aesthetic pruning of ground cover shall include the removal of dead and/or broken branches.
- At the completion of each ground cover trimming operation, all material trimmed will be removed from the site, along with any trash/litter in the Revocable License Area.
- Monitor and control insects and ant mounds.

Mulch

- All mulched areas will be replenished at a minimum of once a year. Mulch should be maintained to a depth of three (3) inches.
- The preferred species of mulch is shredded melaleuca or pine bark.

Tree and Palm

- The tree and palm tree pruning will be done in accordance with Article 11 of the Broward County Natural Resource Protection Code, Code of Ordinances. Tree-trimming will be performed by a contractor that is in possession of a Broward County tree-trimming license (minimum Class "B" license).
- Maintain a clearance of 14'- 6" from grade to lowest limbs of tree over vehicular travel lanes and 7'- 0" clearance over pedestrian walkways.
- Maintain travel lanes clear of any palm fronds, branches or debris.
- Dead fronds from palm trees must be removed from the ground immediately. Sabal and Washington Palms must be thinned of dead or dying fronds twice annually.
- Canopy Trees must be pruned to remove sucker growth and to maintain clear visibility between grade and a height of at least 7'- 0". All damaged, dead, or diseased limbs resulting from weather or pests must be removed upon discovery of defective condition.
- Ornamental Trees such as Cattley Guava, Ligustrum and Oleander Standards must be pruned by thinning to maintain shape of tree on a semi-annual basis.

Tree Fertilization

- Canopy Trees (up to three 3" caliper) must be fertilized to maintain good health.
- All palms must be fertilized three (3) times per year.

EXHIBIT E INSURANCE REQUIREMENTS

Project: **Revocable License Agreement with , New River III, LLC and the City of Fort Lauderdale**
Agency: **Highway Construction and Engineering Division**

TYPE OF INSURANCE	ADDL INSD	SUBR WVD	MINIMUM LIABILITY LIMITS		
				Each Occurrence	Aggregate
GENERAL LIABILITY - Broad form <input checked="" type="checkbox"/> Commercial General Liability <input checked="" type="checkbox"/> Premises-Operations <input checked="" type="checkbox"/> XCU Explosion/Collapse/Underground <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Broad Form Property Damage <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury Per Occurrence or Claims-Made: <input checked="" type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made Gen'l Aggregate Limit Applies per: <input type="checkbox"/> Project <input type="checkbox"/> Policy <input type="checkbox"/> Loc. <input type="checkbox"/> Other _____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Bodily Injury		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$1,000,000	\$2,000,000
			Personal Injury		
			Products & Completed Operations		
AUTO LIABILITY <input checked="" type="checkbox"/> Comprehensive Form <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Any Auto, If applicable <i>Note: May be waived if no driving will be done in performance of services/project.</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Bodily Injury (each person)		
			Bodily Injury (each accident)		
			Property Damage		
			Combined Bodily Injury and Property Damage	\$1,000,000	
<input type="checkbox"/> EXCESS LIABILITY / UMBRELLA Per Occurrence or Claims-Made: <input checked="" type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <i>Note: May be used to supplement minimum liability coverage requirements.</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/> WORKER'S COMPENSATION <i>Note: U.S. Longshoremen & Harbor Workers' Act & Jones Act is required for any activities on or about navigable water.</i>	N/A	<input checked="" type="checkbox"/>	Each Accident	STATUTORY LIMITS	
<input checked="" type="checkbox"/> EMPLOYER'S LIABILITY			Each Accident	\$500,000	
<input type="checkbox"/> LIQUOR LIABILITY <i>*May be waived if no alcoholic beverages served from Concession stand.</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Each Accident		
<input type="checkbox"/> Pollution/ Environmental Cargo Liability	N/A	<input checked="" type="checkbox"/>	If claims-made form:		
			Extended Reporting Period of:		
			*Maximum Deductible:		
<input type="checkbox"/> Installation floater is required if Builder's Risk or Property are not carried. <i>Note: Coverage must be "All Risk", Completed Value.</i>			*Maximum Deductible (Wind and/or Flood):		Completed Value
			*Maximum Deductible:		

Description of Operations: "Broward County" shall be listed as Certificate Holder and endorsed as an additional insured for liability, except as to Professional Liability. County shall be provided 30 days written notice of cancellation, 10 days' notice of cancellation for non-payment. Contractors insurance shall provide primary coverage and shall not require contribution from the County, self-insurance or otherwise. Any self-insured retention (SIR) higher than the amount permitted in this Agreement must be declared to and approved by County and may require proof of financial ability to meet losses. Contractor is responsible for all coverage deductibles unless otherwise specified in the agreement.

CERTIFICATE HOLDER:

Broward County
115 South Andrews Avenue
Fort Lauderdale, Florida 33301

Risk Management Division

EXHIBIT F

Return to:
Frank J. Guiliano, PSM
Highway Construction and
Engineering Division
1 N. University Drive, Suite 300
Plantation, FL 33324-2038

This Instrument prepared by:
Andrew J. Schein, Esq.
Lochrie & Chakas, P.A.
1401 East Broward Boulevard, Suite 303
Fort Lauderdale, FL 33301

ROAD EASEMENT
(Corporate)

THIS INDENTURE, made this 25 day of January, A.D., 2021, by New River III, LLC, a Florida limited liability company, whose principal address is 315 S. Biscayne Blvd, 4th Floor, Miami, FL 33131, first party, to BROWARD COUNTY, a political subdivision of the State of FLORIDA, whose Post Office address is Broward County Governmental Center, 115 South Andrews Avenue, Fort Lauderdale, Florida 33301, second party:

(Wherever used herein the terms, "first party" and "second party" shall include singular and plural, heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations wherever the context so admits or requires).

WITNESSETH

WHEREAS, the first party is the owner of a property situated, lying and being in Broward County, Florida, and described as follows:

See Exhibit "A" with accompanying sketch of description attached hereto and made a part hereof.

and,

WHEREAS, the second party desires an easement for public roadway and/or other appropriate purposes incidental thereto, on, over and across said property,

and,

WHEREAS, the first party is willing to grant such an easement,

NOW THEREFORE, for and in consideration of the mutual covenants each to the other running and one dollar (\$1.00) and other good and valuable considerations, the first party does hereby grant unto the second party, its successors and assigns, full and free right and authority to construct, maintain, repair, install and rebuild facilities for the above stated purposes and does hereby grant a perpetual easement on, over and across the above-described property for said purposes.

IN WITNESS WHEREOF, the undersigned has signed and sealed this Instrument on the respective date under its signature and certifies that he/she has the authority to execute this Instrument.

GRANTOR

Witness #1:

Signature

STEVEN ARCAMONTE
Print Name of Witness

Witness #2

Signature

Marcos Miranda
Print Name of Witness

New River III, LLC, a Florida limited liability company

By:

Patrick Campbell
Authorized Representative

25 day of January, 2021

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me, by means of [] physical presence or [] online notarization, this 25 day of January, 2021, by Patrick Campbell, as Authorized Representative of New River III, LLC, a Florida limited liability company, who is ☒ personally known to me or [] who has produced _____ as identification.

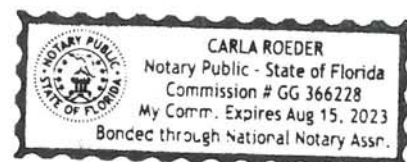
Notary Public, State of Florida:

Signature: Carla Roeder

Print Name:

My Commission Expires: Aug 15, 2023
Commission Number: GG 366228

(Notary Seal)



MORTGAGE SUBORDINATION AGREEMENT

The undersigned ("Mortgagee") is the owner and holder of that certain mortgage dated the 23rd day of December, 2019, and recorded on December 23, 2019, as Instrument No. 116252217 of the Public Records of Broward County, Florida, wherein New River III, LLC, a Florida limited liability company, whose principal address is 315 S. Biscayne Blvd, 4th Floor, Miami, FL 33131, is Mortgagor and which mortgage encumbers all or part of the property described in the attached Easement to Broward County, Florida, attached hereto and by this reference made a part hereof. Mortgagee hereby agrees that the lien of said mortgage and any and all instruments of security incident to said mortgage and all right, title and interest of Mortgagee in the property described in the Easement is hereby made subject, subordinate and inferior to the Easement. The subordination of the right, title and interest of Mortgagee in the aforesaid property is without restriction or limitation to the amount of indebtedness, whether principal, interest, future advances, capitalized interest or otherwise.

IN WITNESS WHEREOF, the undersigned Mortgagee has executed this Mortgage Subordination Agreement, this 21 day of APRIL, 2020.

Signed, sealed and delivered
in the presence of:

Witness

Stephanie Rodriguez
Print Name

Witness

Nigel Matthews
Print Name

MORTGAGEE:

Truist Bank, a North Carolina banking corporation

By:

Name, Title: Rebecca M. Cox, SVP

(CORPORATE SEAL)

ACKNOWLEDGMENT

STATE OF FLORIDA
COUNTY OF MIAMI-DADE

The foregoing instrument was acknowledged before me, by means of ☒ physical presence or ☐ online notarization, this 21 day of APRIL, 2020, by REBECCA M COX, as SENIOR VICE PRESIDENT of Truist Bank, a North Carolina Banking Corporation, who is ☒ personally known to me or ☐ who has produced _____ as identification.

Notary Public, State of FLORIDA

Signature:

Print Name: IRMA MERCEDES REYES

My Commission Expires: _____

Commission Number: _____

(Notary Seal)

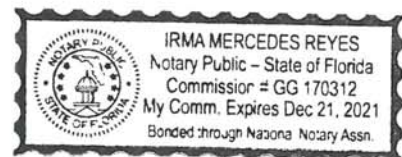


Exhibit "A"

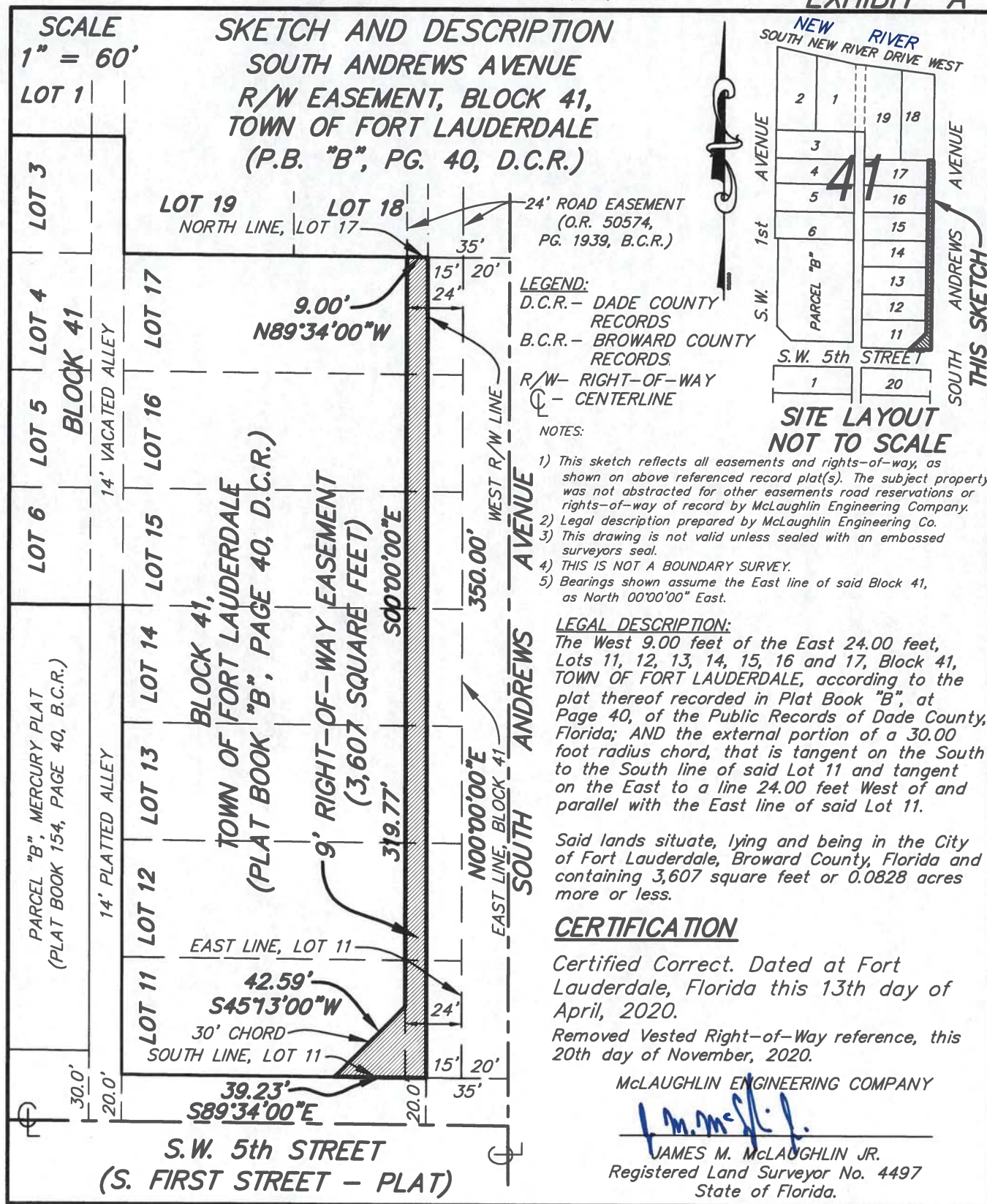
(See attached sketch and legal description)



McLAUGHLIN ENGINEERING COMPANY
LB#285

ENGINEERING * SURVEYING * PLATTING * LAND PLANNING
1700 N.W 64th STREET, SUITE 400 TOWN OF FORT LAUDERDALE, FLORIDA 33309
PHONE (954) 763-7611 * FAX (954) 763-7615

EXHIBIT "A"



FIELD BOOK NO. _____

DRAWN BY: JMMjr

JOB ORDER NO. V-4892

CHECKED BY: _____

REF. DWG.: 00-3-045

C: \JMMjr\2020\4892 (5054)