



Memorandum

Memorandum No: 25-046

TO: Honorable Mayor and Members of the Fort Lauderdale City Commission

FROM: Rickelle Williams, City Manager *RW*

DATE: April 28, 2025

SUBJECT: Fort Lauderdale Beach Park Improvements (Interlocal Agreement)

The intent of this memorandum is to provide the City Commission with background information regarding a sign recently installed at the basketball court area at Fort Lauderdale Beach Park. The sign is being removed as additional planning and coordination is required before converting basketball courts to pickleball courts as part of the planned improvements at the park.

As described further below, the City, pursuant to an Interlocal Agreement, is required to convert the existing basketball courts into pickleball courts, install new fitness equipment, and relocate operational components from beneath the Bahia Mar pedestrian bridge. These modifications are required to be completed as defined in the Interlocal Agreement between the City of Fort Lauderdale and the Bahia Mar Community Development District (CDD).

On December 5, 2023, the City Commission approved Resolution No. 23-284 (CAM #23-1085) declaring intent to convey the City's interest in air rights above a portion of the property located at 801 Seabreeze Boulevard to the CDD and setting a public hearing date for January 9, 2024. As part of the notice of intent, CAM #23-1085 noted that the CDD will provide funding in an amount not to exceed \$1,000,000 for off-site improvements to the area surrounding Bahia Mar to be memorialized in an interlocal agreement between the City and the CDD.

On January 9, 2024, the City Commission approved Resolution No. 24-14 (CAM #24-0002) to convey the City's interest in air rights above a portion of the property located at 801 Seabreeze Boulevard and approved an Interlocal Agreement between the City of Fort Lauderdale and the CDD. The approved and executed Interlocal Agreement states that the \$1,000,000 contribution will fund the following off-site improvements:

- *Pickleball Courts:* The installation of at least two (2) pickleball courts on the existing basketball courts by January 2027;

- *Fitness Equipment:* The installation of new fitness equipment within Fort Lauderdale Beach Park by January 2027; and
- *Storage/Maintenance Equipment:* The relocation of the storage space and maintenance equipment from underneath the Bahia Mar pedestrian bridge by January 2026.

The improvements will be available to the public and managed by the City's Parks and Recreation Department. In an effort to improve area aesthetics, City staff proactively relocated the storage space, dumpsters and maintenance equipment from underneath the Bahia Mar pedestrian bridge to underneath the Las Olas Bridge, adjacent to the Las Olas parking garage.

The new fitness equipment will require Department of Environmental Protection permits as the improvements will be east of the Coastal Construction Conservation Line. This portion of the project is being managed by AECOM as part of the park bond improvements for Fort Lauderdale Beach Park.

For additional information or questions, please contact Ben Rogers, Acting Assistant City Manager, at brogers@fortlauderdale.gov.

Attachments:

Resolution 23-284

Resolution 24-14

Interlocal Agreement between the City of Fort Lauderdale and the Bahia Mar Community Development District

c: D'Wayne M. Spence, Interim City Attorney
David R. Soloman, City Clerk
Patrick Reilly, City Auditor
City Manager's Office
Department Directors

RESOLUTION NO. 23-284

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, PROVIDING NOTICE DECLARING ITS INTENT TO CONVEY CITY OF FORT LAUDERDALE INTEREST IN AIR RIGHTS LOCATED ABOVE A PORTION OF THE REAL PROPERTY LOCATED AT 801 SEABREEZE BOULEVARD TO THE BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT FOR PUBLIC PURPOSES PURSUANT TO SECTION 8.02 OF THE CITY CHARTER SUBJECT TO TERMS AND CONDITIONS; PROVIDING NOTICE OF A PUBLIC HEARING BEFORE THE CITY COMMISSION AT 6:00 PM ON JANUARY 9, 2024, OR AS SOON THEREAFTER AS CAN BE HEARD, FOR CONSIDERATION OF THE TERMS AND CONDITIONS AND TO AUTHORIZE EXECUTION OF THE CONVEYANCE INSTRUMENTS BY THE PROPER CITY OFFICIALS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Fort Lauderdale, Florida ("City") holds fee simple title to the property located at 801 Seabreeze Boulevard within the City of Fort Lauderdale as described on Exhibit "A" attached hereto and made a part hereof ("Property"); and

WHEREAS, Section 8.02 of the City Charter permits transfer of city-owned real property to "public bodies" for "public purposes"; and

WHEREAS, the City of Fort Lauderdale has received a petition to establish the Bahia Mar Community Development District ("CDD"); and

WHEREAS, the City of Fort Lauderdale intends to convey to the CDD the fee simple title to the air rights over a limited portion of the Property as described on Exhibit "B" attached hereto and made a part hereof ("Air Rights Parcel") for the construction of public parking within a parking garage and other uses; and

WHEREAS, the City Commission finds that such activity constitutes a public purpose.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That the above recitals are true and correct and incorporated into this Resolution by this reference.

RESOLUTION NO. 23-284

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SECTION 2. That the City Commission of the City of Fort Lauderdale, Florida, pursuant to Section 8.02 of the City Charter, hereby declares its intention to convey the City of Fort Lauderdale's interest in the Air Rights Parcel to the CDD, a local unit of special-purpose government organized and existing pursuant to Chapter 190 of the Florida Statutes.

SECTION 3. That the City Commission declares that the transfer of interest in the Air Rights Parcel to the CDD is in the best interest of the City as the transfer will serve the public and provide a public benefit.

SECTION 4. That the transfer by the City to the CDD of the fee simple title to the Air Rights Parcel is subject to the following terms and conditions:

- a. All fees, costs and expenses associated with the transfer of the Air Rights Parcel shall be borne by the CDD.
- b. The City shall convey to the CDD fee simple title to the Air Rights Parcel by Quit Claim Deed.
- c. That prior to the execution of the Quit Claim Deed the CDD and the City shall enter into an Interlocal Agreement identifying public benefits and public improvements to be funded by the CDD in an amount equal to or exceeding One Million Dollars (\$1,000,000.00).

SECTION 5. That a Public Hearing shall be heard before the City Commission on **January 9, 2024, at 6:00 p.m.**, or as soon thereafter as can be heard, at The Parker, 707 NE 8th Street, Fort Lauderdale, Florida 33304, regarding the proposed transfer at which time citizens and taxpayers shall have the opportunity to object to the execution, form or conditions of the proposed transfer, and if the City Commission is satisfied with the terms and conditions of the proposed transfer, the Commission will pass a Resolution authorizing transfer of the Air Rights by the proper City Officials

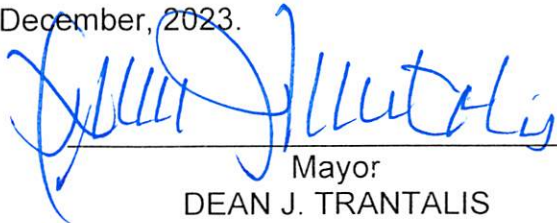
SECTION 6. That the City Clerk shall cause this Resolution to be published in full in the official newspaper for two (2) issues, with the first publication at least ten (10) days before the date of such Public Hearing scheduled for **January 9, 2024**, and second publication one week after the first publication.

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SECTION 7. That this Resolution shall be in full force and effect immediately upon and after its passage.

ADOPTED this 5th day of December, 2023.



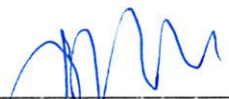
Mayor
DEAN J. TRANTALIS

ATTEST:



City Clerk
DAVID R. SOLOMAN

APPROVED AS TO FORM
AND CORRECTNESS:



City Attorney
THOMAS J. ANSBRO

Dean J. Trantalis	<u>Yea</u>
John C. Herbst	<u>Yea</u>
Steven Glassman	<u>Yea</u>
Pamela Beasley-Pittman	<u>Yea</u>
Warren Sturman	<u>Yea</u>

EXHIBIT "A"
LEGAL DESCRIPTION

All that part of BAHIA MAR, according to the plat thereof recorded in Plat Book 35, page 39 of the public records of Broward County, Florida, lying West of the West right of way line of Seabreeze Boulevard, excepting therefrom Parcel No. 1 and also excepting the North 80 feet of Parcel No. 34.

EXHIBIT "B"



McLAUGHLIN ENGINEERING COMPANY LB 285
A DIVISION OF CONTROL POINT ASSOCIATES, INC. LB 8137
CUTTING EDGE SURVEYING * PLATTING * LAND PLANNING
1700 N.W. 64th STREET #400, FORT LAUDERDALE, FLORIDA 33309
PHONE: (954) 763-7611 * EMAIL: JHADDIX@CPASURVEY.COM



**SKETCH AND DESCRIPTION
BAHIA MAR
CDD PODIUM AIRSPACE
SHEET 1 OF 2 SHEETS**

LEGAL DESCRIPTION:

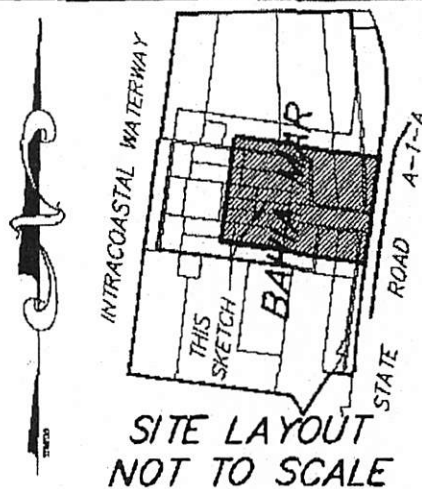
A portion of the Parcels and those certain 10.00 foot Walkways adjacent thereto and within said Parcels, BAHIA MAR, according to the plat thereof, as recorded in Plat Book 35, Page 39, of the public records of Broward County, Florida, above the ground level (preconstruction), Elevation= 3.5 feet, North American Vertical Datum 1988, more fully described as follows:

Commencing at the Northeast corner of Parcel 32, of said BAHIA MAR; thence South 05°24'49" East, a distance of 80.22 feet; thence North 88°51'31" East, a distance of 110.52 feet to a point on a curve; thence Southerly on the West right of way line of State Road A-1-A (Seabreeze Boulevard) the following four (4) courses and distances 1) thence Southerly on said curve to the right, whose radius point bears South 71°48'21" West, with a radius of 876.51 feet, a central angle of 24°37'04", an arc distance of 376.60 feet to a point of tangency; 2) thence South 06°25'25" West, a distance of 216.58 feet to the Point of Beginning; 3) thence continuing South 06°25'25" West, a distance of 9.63 feet; 4) to the end of said four (4) courses and distances; thence South 08°01'55" West, a distance of 465.71 feet; thence North 81°58'10" West, a distance of 669.51 feet; thence North 08°01'50" East, a distance of 475.33 feet; thence South 81°58'10" East, a distance of 669.24 feet to the Point of Beginning.

Said lands situate, lying and being in the City of Fort Lauderdale, Broward County Florida and containing 318,241 square feet or 7.3058 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 North line of plat (35/39), as North 81°51'26" East.



CERTIFICATION

Certified Correct. Dated at Fort Lauderdale, Florida this 4th day of October, 2023.

McLAUGHLIN ENGINEERING COMPANY
A DIVISION OF CONTROL POINT ASSOC. INC.

JAMES M. McLAUGHLIN JR.
 Registered Land Surveyor No. LS4497
 State of Florida.

FIELD BOOK NO. _____

DRAWN BY: JMM/j

JOB ORDER NO. 230306 (BAHIA MAR)

CHECKED BY: _____

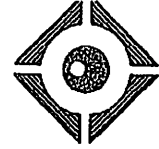
REF. DWG.: A-20(14), 97-3-134

C: \JMMj\2023\ 230306 (BAHIA MAR)



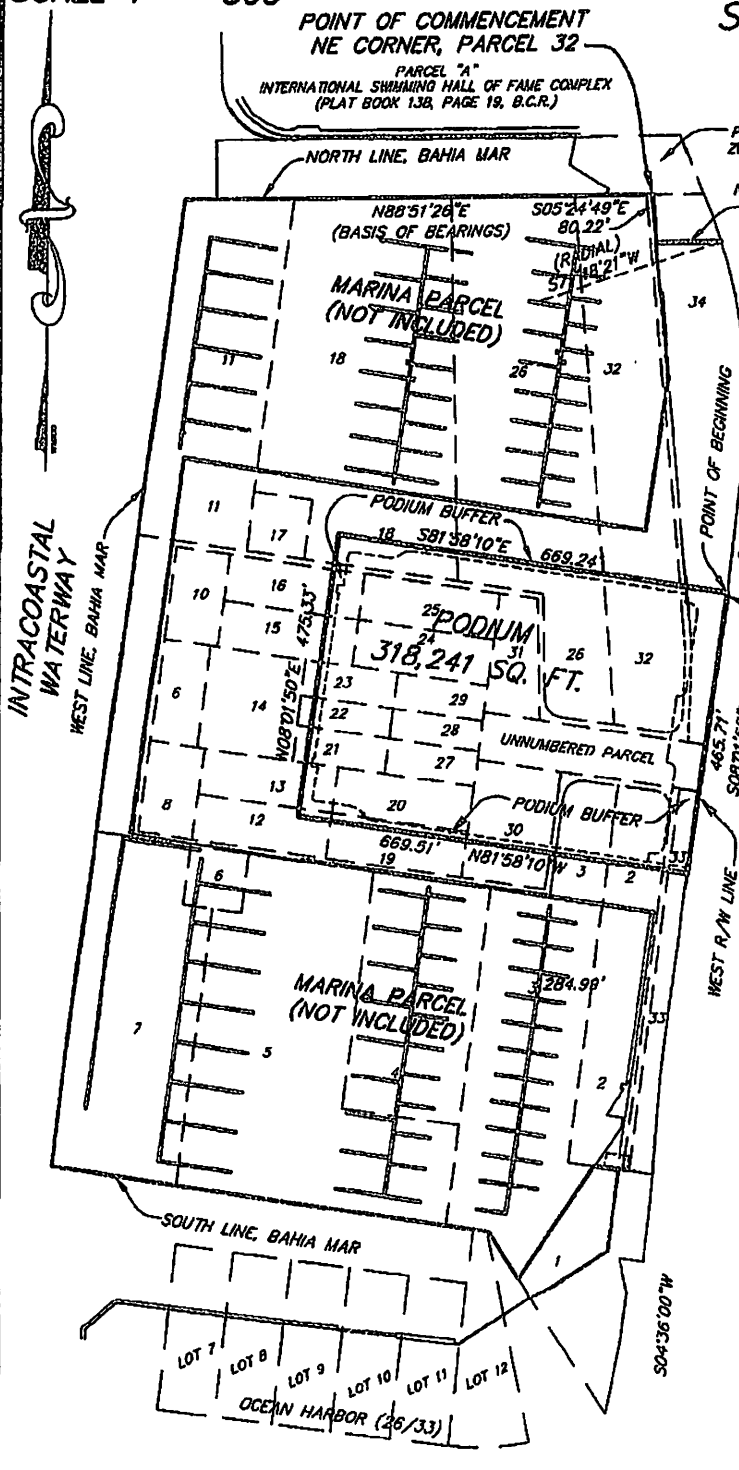
McLAUGHLIN ENGINEERING COMPANY LB 285
A DIVISION OF CONTROL POINT ASSOCIATES, INC. LB 8137

CUTTING EDGE SURVEYING * PLATTING * LAND PLANNING
 1700 N.W. 64th STREET #400, FORT LAUDERDALE, FLORIDA 33309
 PHONE: (954) 763-7611 * EMAIL: JHADDIX@CPASURVEY.COM



SCALE 1" = 300'

SKETCH AND DESCRIPTION
BAHIA MAR CDD
PODIUM AIRSPACE
SHEET 2 OF
2 SHEETS



LEGAL DESCRIPTION:

A portion of the Parcels and those certain 10.00 foot Walkways adjacent thereto and within said Parcels, BAHIA MAR, according to the plat thereof, as recorded in Plat Book 35, Page 39, of the public records of Broward County, Florida, above the ground level (preconstruction), Elevation= 3.5 feet, North American Vertical Datum 1988, more fully described on Sheet 1 of 2 Sheets.

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 Company.
- 3) This drawing is not valid unless sealed with an appropriate surveyors seal.
- 4) THIS IS NOT A BOUNDARY SURVEY.
- 5) Bearings shown assume the North line of plat (35/39), as North 81°51'26" East.

FIELD BOOK NO. _____

DRAWN BY: JMMjr

JOB ORDER NO. 230306 (BAHIA MAR)

CHECKED BY: _____

REF. DWG.: A-20(14), 97-3-134

C: \JMMjr\2023\ 230306 (BAHIA MAR)

RESOLUTION NO. 24-14

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, APPROVING THE TRANSFER OF AIR RIGHTS OVER A PORTION OF THE REAL PROPERTY LOCATED AT 801 SEABREEZE BOULEVARD TO THE BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT FOR PUBLIC PURPOSES PURSUANT TO SECTION 8.02 OF THE CITY CHARTER SUBJECT TO TERMS AND CONDITIONS; APPROVING AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF FORT LAUDERDALE AND BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT; AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE THE CONVEYANCE INSTRUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on December 5, 2023, pursuant to Resolution No. 23-284, the City Commission of the City of Fort Lauderdale declared its intent to convey air rights over a portion of the real property located at 801 Seabreeze Boulevard (the "Air Rights Parcel"); and

WHEREAS, the Air Rights Parcel is located within the boundaries of the Bahia Mar Community Development District (the "CDD"); and

WHEREAS, the Bahia Mar Community Development District, pursuant to Chapter 190 of the Florida Statutes, is authorized to provide public benefits and public improvements; and

WHEREAS, Section 8.02 of the City Charter permits transfer of city owned real property to public bodies for public purposes; and

WHEREAS, Section 8.02 of the City Charter requires a public hearing on the terms of the proposed transfer and the proposed use.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

RESOLUTION NO. 24-14

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SECTION 1. That the Recitals set forth above are true and correct and incorporated herein by this reference.

SECTION 2. That the City Commission of the City of Fort Lauderdale hereby ratifies and confirms Resolution No. 23-284 and empowers and directs the proper City Officials to execute and convey by Quit Claim Deed(s) the real property described in Exhibit "B" of Resolution No. 23-284, under the terms and conditions set forth in said Resolution and in this Resolution. The Quit Claim Deed shall contain such reservations as necessary and appropriate to protect the property rights and interest of the City in the development, operation and management of Bahia Mar.

SECTION 3. That the City Commission hereby approves the Interlocal Agreement in substantially the form attached to Commission Agenda Memorandum No. 24-0002. In addition to the conditions set forth in Resolution No. 23-284, at its expense, the CDD shall file an application for a separate tax identification number for the Air Rights Parcel with the office of Broward County Property Appraiser.

SECTION 4. In addition to the conditions set forth in Resolution No. 23-284, prior to execution and delivery of the Quit Claim Deed, the City, the CDD and other necessary parties with an interest in the Air Rights Parcel shall have approved 1) an Amendment to the Master Lease dated April 13, 2022 by and between the City and Rahn Bahia Mar L.L.C., 2) the Declaration of Restrictive Covenant by and between the City, the CDD and Rahn Bahia Mar L.L.C., 3) an Amended and Restated Declaration of Covenants and Restrictions of Bahia Mar Master Association, Inc. and 4) such other documents that the City Manager deems necessary.

SECTION 5. That the effective date of this Resolution is the date of adoption.

ADOPTED this 9th day of January, 2024.



Mayor
DEAN J. TRANTALIS

RESOLUTION NO. 24-14

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ATTEST:



City Clerk
DAVID R. SOLOMAN

APPROVED AS TO FORM
AND CORRECTNESS:



City Attorney
THOMAS J. ANSBRO

Dean J. Trantalis Yea

John C. Herbst Yea

Steven Glassman Yea

Pamela Beasley-Pittman Yea

Warren Sturman Nay

**INTERLOCAL AGREEMENT BETWEEN
CITY OF FORT LAUDERDALE AND BAHIA MAR COMMUNITY DEVELOPMENT
DISTRICT**

This Agreement ("Agreement") is made and entered into on the 29 day of January, 2024 ("Effective Date"), by and between the **City of Fort Lauderdale, Florida**, a municipal corporation of the State of Florida ("City") and **Bahia Mar Community Development District**, a local unit of special-purpose government organized and existing pursuant to Chapter 190 of the Florida Statutes ("CDD") (each, a "Party" and collectively referred to as the "Parties").

RECITALS

WHEREAS at its meeting of December 5, 2023, the City Commission of the City established the CDD pursuant to Ordinance No. C-23-44; and

WHEREAS, the CDD was established in response to a Petition to Establish Bahia Mar Community Development District ("Petition" filed with the City by Rahn Bahia Mar, L.L.C. ("Master Tenant") describing the CDD funded improvements, including, but not limited to public parking spaces ("Public Parking") within a parking garage within the CDD's boundaries and certain public improvements, as more particularly described in Section 3.1, located on City property and outside the boundaries of the CDD ("Improvements"); and

WHEREAS, in order to construct the parking garage for the Public Parking and other uses, the CDD desires to acquire the fee simple title air rights to the "CDD Air Rights Parcel" (as hereinafter defined); and

WHEREAS, Section 190.012, Florida Statutes, authorizes the CDD to fund certain off-site improvements, such as the Improvements set forth in Section 3.1; and

WHEREAS, the Improvements are consistent with the City's comprehensive plan; and

WHEREAS , the City and the CDD approve the Improvements described in Section 3.1; and

WHEREAS, Section 8.02 of the Charter of the City, provides that the City is authorized and empowered to enter into contracts to convey to the State of Florida or any of its counties, districts, subdivisions or agencies, or to any public body, any public places or any public property, real or personal, now owned by said City of Fort Lauderdale or hereafter acquired, to be used by such public body or agency for a public purpose, or make improvements upon public property used for a public purpose; and

WHEREAS, pursuant to City Resolution No. 23-284, the City has determined and declared its intention to sell, alienate, give, exchange, grant, or convey certain public property to a designated public body, or make improvement to public property, and

such resolution particularly described the public lands, public property, improvements or places intended to be conveyed or improved, the purchase price to be paid, if any, the public purpose for which such land or such property will be used by the grantee, and other details of the sale, and designate a day not less than thirty (30) days after the adoption of such resolution, on which a public hearing will be had before the city commission upon such proposal; and

WHEREAS, the City desires to convey the fee simple air rights to the CDD Air Rights Parcel to the CDD for the purpose of the construction of the parking garage for the Public Parking and other uses; and.

WHEREAS, the City and the CDD have determined that it is mutually beneficial and in the best interests of the CDD and the citizens and residents of the City to enter into this Agreement; and

WHEREAS, Part I of Chapter 163, Florida Statutes, as amended (the "Interlocal Cooperation Act"), permits the City and the CDD, as public agencies, under the Interlocal Cooperation Act, to enter into interlocal agreements with each other to make the most efficient use of their power by enabling them to cooperate on a basis of mutual advantage and thereby provide the services and facilities in a manner and pursuant to forms of governmental organization that accords best with geography, economy, population and other factors influencing the needs and development of such governmental units; and

WHEREAS, this Agreement shall become effective upon filing with the Clerk of the Court of Broward County in accordance with the provisions of Interlocal Cooperation Act, Section 163.01, Florida Statutes.

NOW, THEREFORE, FOR AND IN CONSIDERATION of the mutual covenants and agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. **Recitals.** The above recitals are true and correct and by this reference are incorporated as if fully set forth herein.

2. Conveyance of Fee Simple Title Air Rights

2.1. Within thirty (30) calendar days of the Effective Date of this Agreement, City shall convey (pursuant to a quit claim deed substantially in the form as attached hereto and made a part hereof as Exhibit A) to the CDD the fee simple title air rights to the portion of the Master Tenant's leasehold interest as described on Exhibit B attached hereto and made part hereof ("CDD Air Rights Parcel") for the purpose of the construction of the parking garage for the Public Parking and other uses.

2.2. As a condition precedent to the conveyance of the fee simple title air rights contemplated in Section 2.1 above, (i) the City and Master Tenant shall execute the Amendment No. 2 to the Master Lease Agreement (substantially in the form as attached hereto and made a part hereof as Exhibit C), and after (i) above, (ii) the City and Master Tenant shall execute and the City shall authorize the Master Tenant to record the Amended and Restated Declaration of Covenants & Restrictions of the Bahia Mar Master Association, Inc. (substantially in the form as attached hereto and made a part hereof as Exhibit D).

2.3. Simultaneous with the conveyance of fee simple title air rights contemplated in Section 2.1 above, the Parties shall execute the Declaration of Restrictive Covenants ("Restrictive Covenants"), in substantially the form attached hereto and made part hereof as Exhibit E.

2.4. The order of recording shall be as follows: (1) the Declaration of Restrictive Covenants, followed by (2) the Amended and Restated Declaration of Covenants & Restrictions of the Bahia Mar Master Association, Inc, followed by (3) the Quit Claim Deed.

3. Improvements

3.1. CDD shall finance the following Improvements and subject to securing the necessary permits and securing additional funding, if required, the City shall construct the following Improvements within the timeframes set forth below;

Improvements	Timeframe
Install at least two (2) pickleball courts south of the Bahia Mar pedestrian bridge on the existing basketball court	Completed within 3 years from the Effective Date of this Agreement
New fitness equipment within Fort Lauderdale Beach Park	Completed within 3 years from the Effective Date of this Agreement

Relocation of storage/maintenance yard located under the Bahia Mar pedestrian bridge	Completed within <u>2</u> years from the Effective Date of this Agreement
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3.2 The CDD's funding commitment for the Improvements referred to in Section 3.1 above shall not exceed one million dollars (\$1,000,000.00). The CDD and the City shall set forth a construction timetable and payment schedule which shall be mutually agreed to within ninety (90) days from the date the City has provided the notice that the City shall commence proceeding with the design and permitting of the Improvements.

3.3 The City possesses the authority to substitute and replace certain Improvements, as may be reasonably necessary, based upon certain costs, permitting and other factors. Any substitution or replacement of Improvements requires consent of the CDD, which shall not be unreasonably withheld.

4. **Term.** This Agreement begins on the date it is fully executed by the Parties ("Effective Date") and continues for one (1) year after completion of the off-site public improvements specified in Section 3 above.
5. **Remedies.** In the event of a breach or default under this Agreement, the Parties shall be entitled to seek any and all available contractual or other remedies available at law or in equity.
6. **Liability.**
 - a. The Parties are considered state agencies, political subdivisions or municipalities under Section 768.28, Florida Statutes, and shall be fully responsible for acts and omissions of its agents or employees to the extent permitted by law. Subject to the limitations of F.S. 768.28, Florida Statutes the, Parties shall at all times hereafter indemnify, hold harmless, and defend each other and all of the Parties' officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including reasonable 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 a Party, its current or former officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement. In the event any Claim is brought against a Party, which arose from or is caused by an act or omission of the other Party, the other Party shall, upon written notice from Indemnified Party, defend each Indemnified Party against each such Claim by counsel satisfactory to the Indemnified Party or, at the Indemnified Party's option, pay for an attorney selected

by the Indemnified Party's attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

- b. 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 a state agency, municipality or political subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement or any other contract.
- c. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

7. **Assignment.** The respective obligations of the parties shall not be assigned, in whole or in part without the written consent of the other party, except that the City shall be permitted to hire third party vendors to install some or all of the improvements described in Section 3.1.

8. **Notices.** In order for notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall become effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change.

Notice to CDD:

District Manager
GMS – South Florida
5385 N. Nob Hill Road Sunrise, Florida 33351
Email: rhans@gmssf.com

With a copy to:

District Counsel
Dennis E. Lyles, Esquire
515 E. Las Olas Blvd., Suite 600
Fort Lauderdale, Florida 33301
Email: dlyles@bclmr.com

Notice to City:

City Manager
City of Fort Lauderdale
101 NE Third Avenue, 14th Floor
Fort Lauderdale, FL 33301
Email: gchavarria@fortlauderdale.gov

With a copy to:

City Attorney
City of Fort Lauderdale
1 East Broward Blvd, Suite 1605
Fort Lauderdale, FL 33301
Email:

9. **Public Records.** The Parties shall comply with all applicable requirements of Chapter 119, Florida Statutes, including the requirements of Section 119.0701.

10. **Binding Effect:** Each person executing this Agreement represents that he or she has been empowered by his or her respective Party to enter into this Agreement and to bind such Party to the commitments and undertakings contained herein. The provisions, conditions, terms, and covenants contained herein shall be of a binding effect. The benefits and advantages hereof shall inure to the respective Parties and the respective successors and assigns.

11. **Force Majeure.** If the performance of this Agreement, or any obligation hereunder is prevented by reason of: hurricane, earthquake, other casualty caused by nature, labor strike, war, pandemic, other matters outside such Parties ability to perform, or a law, order, proclamation, regulation, ordinance of any governmental agency, the Party so affected, upon giving prompt notice to the other Party, shall be excused from such performance to the extent of such prevention, provided that the Party so affected shall first have taken reasonable steps to avoid and remove such cause of non-performance and shall continue to take reasonable steps to avoid and remove such cause, and shall promptly notify the other Party in writing and resume performance hereunder whenever such causes are removed.

12. **Joint Preparation:** This Agreement has been jointly prepared by the Parties hereto and shall not be construed more strictly against either party.

13. **Counterparts:** This Agreement may be executed in any number of counterparts, whether signed physically or electronically, each of which, when executed and delivered, shall constitute an original, but such counterparts shall together constitute one and the same instrument.

14. **Further Assurances:** The Parties shall execute all such instruments, and agree to take all such further actions, that may be reasonably required by any Party to

fully effectuate the terms and provisions of this Agreement. The City Manager of the City and the authorized representative of the CDD are further authorized to execute and record any documents or instruments as may be reasonably required by any Party to fully effectuate the terms and provisions of this Agreement.

15. **Modification:** No change or modification of this Agreement shall be valid unless in writing and signed by all Parties hereto. No purported waiver of any of the provisions of the Agreement shall be valid unless in writing and signed by the Party allegedly waiving the applicable provision.

16. **Independent Contractor.** The Parties are independent contractors under this Agreement and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing any work, services, or activities under this Agreement, neither Party nor its agents shall act as officers, employees, or agents of the other Party. Neither Party shall have the right to bind the other Party to any obligation not expressly undertaken by that Party under this Agreement.

17. **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. Either 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. To be effective, any waiver must be in writing signed by an authorized signatory of the waiving Party.

18. **Compliance with Laws.** Each Party shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations.

19. **Severability.** In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

20. **Interpretation.** The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include 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 or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a

particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated.

21. **Law, Jurisdiction, Venue, Waiver of Jury Trial.** This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit 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 exclusive venue for any 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, CITY AND CDD HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

22. **Incorporation by Reference.** Any and all recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached exhibits are incorporated into and made a part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: CITY OF FORT LAUDERDALE, signing by and through its Mayor, authorized to execute same by Commission action on the 29 day of January, 2024, (Agenda Item No. 24-0109), and BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT, signing by and through its Chair, duly authorized to execute same.

CITY OF FORT LAUDERDALE

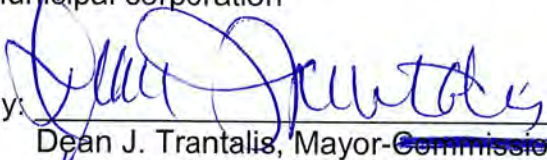
ATTEST:

By: 
David R.. Soloman, City Clerk

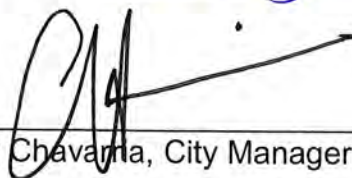
(SEAL)



CITY OF FORT LAUDERDALE, a Florida municipal corporation

By: 
Dean J. Trantalis, Mayor-Commissioner

29 day of January, 2024

By: 
Greg Chavarria, City Manager

29th day of January, 2024

APPROVED AS TO FORM AND
CORRECTNESS:

Thomas J. Ansbro, City Attorney

By: _____

Lynn Solomon

Assistant City Attorney

29th day of January, 2024

CDD Signatures

Exhibit A – Form of Quit Claim Deed

Exhibit B – Air Rights Parcel

Exhibit C – Form of Amendment No. 2 to Master Lease Agreement

Exhibit D – Form of Amended and Restated Declaration of Covenants & Restrictions of Bahia Mar Master Association, Inc.

Exhibit E – Form of Declaration of Restrictive Covenants

BAHIA MAR COMMUNITY DEVELOPMENT DISTRICT

ATTEST:

BAHIA MAR COMMUNITY
DEVELOPMENT DISTRICT

By:  Assistant Secretary
Secretary/Assistant Secretary

By: 
Chair/Vice-Chair

23rd day of January, 2024

CDD Signatures

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Exhibit B – Air Rights Parcel

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