

This instrument is prepared by
(and after recording)
please return this instrument to:
Iris V. Escarra
Greenberg Traurig
333 SE 2 Avenue, Suite 4400
Miami, FL 33131

Reserved for Recording

DECLARATION OF RESTRICTIVE COVENANTS RUNNING WITH THE LAND

KNOW ALL MEN BY THESE PRESENT that the undersigned the City of Miami, Florida, a Florida municipal corporation and political subdivision of the State of Florida (the “**Owner**”) hereby makes, declares and imposes on the land herein described, this Declaration of Restrictive Covenants Running with the Land (the “**Declaration**” or “**Covenant**”) running with title to the land contained herein, which shall be binding on Owner, all heirs, grantees, successors and assigns, personal representatives, mortgagees, lessees, and against all persons claiming by, through or under them.

WHEREAS, Owner is the fee simple title holder to certain property located at 400 SE 2 Avenue, all located in Miami, Florida, more particularly described on **Exhibit “A”** (the “**Property**”) attached hereto and incorporated herein, which is the subject of a Dry Run Application; and

WHEREAS, the Owner voluntarily proffers this Covenant acknowledging and accepting the presence of the existing Working Waterfront 24-hour operations, as permitted; and

WHEREAS, the Port of Miami River has a designated Federal Navigable Channel featuring numerous job generating businesses, including International Shipping Terminals, Boatyards, Marinas, Tug Boat Basins, Commercial Fishing, etc.; and

NOW, THEREFORE, Owner voluntarily covenants and agrees that the Property shall be subject to the following restrictions that are intended and shall be deemed to be a covenant running with the land and binding upon the Owner, and their heirs, successors, and assigns, as follows:

1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein as if repeated at length.

2. **Restrictions.** Owner covenants the following:

- a. The Property will be developed in accordance with the Miami River Greenway Action Plan and the Miami River Corridor Urban Infill Plan.
- b. Owner recognizes that legally permitted existing Working Waterfront 24-hour operations may currently exist proximate to the Property. Therefore, Owner agrees:
 - i. not to object or otherwise attempt to impede any legally

permitted Working Waterfront 24-hour operations;

- ii. to provide all future tenants and prospective owners of the Property notice of the existing Working Waterfront 24-hour operations and will include a provision to agree not to object to legally permitted Working Waterfront 24-hour operations in each lease and or Condominium Sale Documents;
 - iii. that it is solely the Owner's responsibility to design its structures to accommodate legally permitted Working Waterfront 24-hour operations; and
 - iv. that it will not pursue any claims for liability, loss or damage, whether through litigation or otherwise, against permittees engaging in Working Waterfront 24-hour operations, related to noise, smoke, fumes, federally regulated bridge openings, and/or other quality of life issues that might result from legally permitted Working Waterfront 24-hour operations.
- c. There shall be no net loss of the number of recreational wet-slips along the Miami River, except as required by the United States Coast Guard, the Miami-Dade County Department of Regulatory and Economic Resources, or as required by other regulating agencies with appropriate jurisdiction.
- d. Owner shall allow public access to a Riverwalk to be constructed as part of a future, new development at the Property.

3. Covenant Running with the Land. This Covenant on the part of Owner shall constitute a covenant running with the land and shall be recorded, by the Owner and at Owner's expense, in the Public Records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the undersigned Owner, and its heirs, successors, and assigns until such time as the Declaration is terminated, modified or released. These restrictions during their lifetime shall be for the benefit of, and be a limitation upon, all present and future owners of the Property and for the public welfare.

4. Term of Covenant. The provisions of this Declaration shall become effective upon its recordation in the Public Records of Miami-Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless this Covenant, pursuant to Section 5 below, is released in writing by the following: (i) then owners of the Property AND (ii) the Director of the Department of Planning of the City of Miami (the "**Director**"), subject to the approval of the City Attorney as to legal form, or their respective designees or successors.

5. **Modification, Amendment, Release.** This Covenant may be modified, amended or released as to the land herein described, or any portion thereof, by a written instrument executed by the then owner(s) of the fee simple title to the Property, or any portion thereof, provided that the same is reviewed and approved by the Director. Should this Declaration be so modified, amended, or released, the Director or the executive officer of a successor department or, in the absence of such Director or executive officer, by his or her assistant in charge of the office in his/her office, shall execute a written instrument effectuating and acknowledging such modification, amendment, or release.

6. **Inspection and Enforcement.** It is understood and agreed that any official inspector of the City of Miami may have the right at any time during normal working hours to enter upon the Property for determining whether the conditions of this Declaration and the requirements of the City's building and zoning regulations are being complied with. Enforcement shall be by action against any parties or person violating, or attempting to violate any covenant contained herein. This enforcement provision shall be in addition to any other remedies available at law or in equity or both. The violations may also be enforced by City Code, Chapter 2, Article X, entitled Code Enforcement.

7. **Election of Remedies.** All rights, remedies, and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

8. **Severability.** Invalidation of any one of these covenants by judgment of Court shall not affect any of the other provisions of this Declaration, which shall remain in full force and effect.

9. **Recording.** This Covenant shall be filed of record in the Public Records of Miami-Dade County, Florida by the Owner at the cost of the Owner within ten (10) days of acceptance by the City of Miami. Owner shall provide the Director with a copy of the recorded Declaration within thirty (30) days of recordation.

[Signature Page to Follow]

Signed, witnessed, executed and acknowledged this ____ day of _____, 2024.

the **City of Miami, Florida**, a Florida municipal corporation and political subdivision of the State of Florida

By: _____
Arthur Noriega, City Manager

ATTEST:

By: _____
Todd B. Hannon, City Clerk

APPROVED AS TO INSURANCE REQUIREMENTS:

By: _____
Ann-Marie Sharpe, Risk Management Director

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

By: _____
Victoria Méndez, City Attorney

APPROVED AS TO PLANNING REQUIREMENTS:

By: _____
David Snow, Interim Director of Planning

APPROVED AS TO LEGAL FORM AND CORRECTNESS:

By: _____
Victoria Méndez, City Attorney

Exhibit "A"
The Property

TRACT "C" RECORDED ON PLAT BOOK 119 PAGE 36 OF THE PUBLIC RECORDS OF
MIAMI DADE COUNTY, FLORIDA.