

**INTERLOCAL AND LICENSE AGREEMENT
FOR RENOVATION AND USE OF THE
TERRA MAR DRIVE BRIDGE**

THIS AGREEMENT, made this 25 day of JULY, 2018, by and
between:

CITY OF POMPANO BEACH, a municipal corporation of the
State of Florida, hereinafter referred to as "LICENSEE,"

and

TOWN OF LAUDERDALE-BY-THE-SEA, a municipal
corporation of the State of Florida, hereinafter referred to as
"TOWN."

WITNESSETH:

WHEREAS, one-half of the public right-of-way known as the Terra Mar Drive Bridge,
(the "Bridge") is owned by the City of Pompano Beach and one-half is owned by the Town of
Lauderdale-By-The-Sea; and

WHEREAS, LICENSEE desires to obtain from TOWN a license to utilize the TOWN's
one-half of the Bridge for the purpose of construction and equipment improvements to the entire
Bridge with said renovations funded by tax-exempt General Obligation Bond proceeds; and

WHEREAS, inasmuch as the use of said TOWN property by LICENSEE for this restricted
purpose will not interfere with the rights enjoyed by the public and will be without cost to the
public either directly or indirectly.

NOW, THEREFORE, in consideration of the foregoing and mutual covenants and
conditions hereinafter contained, it is agreed by the parties hereto as follows:

1. TOWN hereby grants to LICENSEE and LICENSEE hereby accepts from TOWN a license to access by the LICENSEE and its Contractors, its one-half portion of the Bridge for construction of and improvements to the Bridge including repair and replacement of the deck, superstructure and substructure as depicted in the attachment hereto, designated as Exhibit "A" and incorporated herein. All work shall be done to the satisfaction of the TOWN, and with an effort to minimize disruption to the surrounding area.

2. TOWN acknowledges that LICENSEE will expend proceeds of LICENSEE's General Obligation Bond (the "Bonds") to improve the Bridge. TOWN agrees that:

a. The Bridge shall be, and remain, part of a public roadway improvement open to the general public, and for use by the general public; and

b. TOWN shall take no action that would adversely impact the tax-exempt status of the Bonds for purposes of the Internal Revenue Code of 1986, as amended, and the regulations promulgated thereunder while the Bonds (and any bonds issued to refund or otherwise refinance the Bonds) are outstanding.

3. This License shall continue from day to day commencing on the date of execution hereof by all parties for thirty (30) years from the initial date of issuance of the Bonds or until terminated by written agreement of all parties. Continuation of said License shall be for completion of construction, warranty repairs by LICENSEE's Contractor, and maintenance. In that regard, LICENSEE shall obtain and enforce the same warranty from its Contractor that it obtains for the same work performed for itself by Contractor for the project, for all work performed in the TOWN pursuant to this Agreement.

4. TOWN agrees that any and all amounts spent by the LICENSEE to reconstruct the Bridge currently estimated to be \$1,400,825.00 shall constitute compensation for this License.

5. LICENSEE specifically agrees that it will use the TOWN's right-of-way pursuant to this License only for the purpose of construction and equipment replacement including repairs and replacement of the deck, superstructure and substructure as described in the attached diagram Exhibit "A". Further, LICENSEE will not suffer or permit the premises or any part thereof to be used for any other purpose without the express written consent of TOWN.

6. It is expressly understood and agreed that no real or personal property is leased to LICENSEE; that it is a License, not Lease; that the LICENSEE'S right to occupy the right-of-way is subordinate to TOWN'S (or any franchisee of TOWN) use of said licensed premises.

7. During the term of this License and any subsequent renewal, LICENSEE and its Contractors assume all risks in the repair and replacement of the described Bridge, the term of this License and any renewal located along and under the licensed premises and shall be solely responsible and answerable in damages for all accidents or injuries to person or property arising out of or caused in the performance of any of the work done pursuant to the Agreement, or arising out of the repair and replacement, to the extent permitted under Section 768.28. F.S. LICENSEE and its Contractors further covenant and agree to indemnify and keep harmless TOWN and its officers and employees from any and all claims (which shall include, but not be limited to, the defense of any claim and any and all costs in any judicial or quasi-judicial proceedings and for any and all damages or penalties of any kind or nature), suits, losses, damage or injury to person or property of whatsoever kind and nature, whether direct or indirect, arising out of the repair and replacement of the subject Bridge or the carelessness, negligence or improper conduct of LICENSEE or any servant, agent or employee of LICENSEE.

8. LICENSEE'S Contractors shall procure at their own cost and expense Comprehensive General Liability Insurance coverage in an amount not less than One Million

(\$1,000,000.00) Dollars combined single limit in addition to any other insurance or bond TOWN may require, which insurance will protect LICENSEE, TOWN, and their officers and employees from any claims for damages to property and for personal injuries, including death, which may arise on said property during the term of this agreement and any renewals. The insurance policy shall contain a thirty (30) day cancellation clause period and a Certificate of Insurance shall be furnished the TOWN, naming the Town of Lauderdale-By-The-Sea as an additional insured pursuant to this Agreement. A copy of said certificate confirming the above insurance requirements shall be provided to TOWN prior to commencement of any work under this Agreement.

9. Neither party may assign, transfer, convey or otherwise dispose of this license to any other person or corporation without the previous written consent of the other party. In the event of an attempt to assign, transfer, convey or otherwise dispose of this license to any person not specifically a party to this Agreement and license, then this license shall be null and void and terminated without notice to the party attempting such.

10. Any notice required under the terms of this Interlocal and License Agreement must be in writing and must be sent by certified mail to the address of the party to whom the notice is to be given.

Addresses of the parties are as follows:

FOR TOWN: Bud Bentley, Town Manager
Town of Lauderdale-By-The-Sea
4501 N. Ocean Drive
Lauderdale-By-The-Sea, Florida 33308-3610

FOR LICENSEE: Gregory P. Harrison, City Manager
City of Pompano Beach
Post Office Box 1300
Pompano Beach, Florida 33061-1300

11. This Interlocal and License 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 License Agreement, or the application of the remainder of the provisions, shall not be affected. Rather, this License Agreement is to be enforced to the extent permitted by law. The captions, headings and title of this License Agreement are solely for the convenience of reference and are not to affect its interpretation. Each covenant, term, condition, obligation or other provision of the Revocable License is to be construed as a separate and independent covenant of the party who is bound by or who undertakes it, and each is independent of any other provision of this License, unless otherwise expressly provided. All terms and words used in this License 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. Jurisdiction for any litigation arising out of the provisions of this Agreement shall be in courts of competent jurisdiction in Broward County, Florida.

12. This Interlocal and License Agreement shall be binding on and inure to the benefit of the parties, their successors and assigns.

13. Nothing contained in this Interlocal and License Agreement is intended to serve as a waiver of sovereign immunity by the TOWN or LICENSEE as provided for in Fla. Stat. 768.28.

14. Each party shall maintain its own respective records and documents associated with this Interlocal and License 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 Section 119.07, Florida Statutes, and any resultant award of attorney's fees of non-compliance with the law.

15. The parties acknowledge that they have sought and obtained whatever competent advice and counsel as was necessary for them to form a full and complete understanding of all rights and obligation herein and that the preparation of this License has been their joint effort.

IN WITNESS WHEREOF, the parties to this License Agreement have set their hands and seals on the day and year first above written.

"LICENSEE":

Witnesses:

CITY OF POMPANO BEACH

By: _____
LAMAR FISHER, MAYOR

By: _____
GREGORY P. HARRISON, CITY MANAGER

Attest:

ASCELETA HAMMOND, CITY CLERK (SEAL)

Approved by:

MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 2018, by **LAMAR FISHER** as Mayor, **GREGORY P. HARRISON** as City Manager, and **ASCELETA HAMMOND** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:

NOTARY PUBLIC, STATE OF FLORIDA

(Name of Acknowledger Typed, Printed or Stamped)

Commission Number

"TOWN":

Witnesses:





Attest:


TEDRA ALLEN, TOWN CLERK

TOWN OF LAUDERDALE-BY-THE-SEA

By: 
CHRIS VINCENT, MAYOR

By: 
BUD BENTLEY, TOWN MANAGER


Approved by:


SUSAN L. TREVARTHEN
TOWN ATTORNEY

MEB/jm
6/20/18
L:agr/mgr2018-924

Exhibit A

Western half of bridge owned by
Lauderdale by the Sea



TERRAMAR DR

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