

Return recorded copy to:

Planning and Development Management Division
1 North University Drive, Suite 102A
Plantation, Florida 33324

Document prepared by:

Greenspoon Marder LLP

200 E. Broward Blvd. Suite 1800
Fort Lauderdale, FL 33301

**NOTICE: PURCHASERS, GRANTEES, HEIRS, SUCCESSORS AND
ASSIGNS OF ANY INTEREST IN THE PROPERTY SET FORTH ON EXHIBIT
"A" ARE HEREBY PUT ON NOTICE OF THE OBLIGATIONS SET FORTH
WITHIN THIS AGREEMENT WHICH SHALL RUN WITH THE PROPERTY
UNTIL FULLY PAID AND PERFORMED.**

**AGREEMENT FOR THE ISSUANCE OF BUILDING
PERMITS PRIOR TO PLAT RECORDATION**

This is an Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the state of Florida, hereinafter referred to as "COUNTY,"

AND

SOUTHEASTERN FREIGHT LINES, INC. a South Carolina corporation, its successors and assigns, hereinafter referred to as "DEVELOPER."

The CITY of Pompano Beach, a municipal corporation, created and existing under the laws of the state of Florida, hereinafter referred to as "CITY."

WHEREAS, DEVELOPER, is the owner of a certain parcel of land, described in Exhibit "A" attached hereto and known as the SEFL Plat, Plat No./Clerk's File No. 024-MP-19, hereinafter referred to as the "PLAT," which was approved by the Board of County Commissioners on _____, 20____; and

WHEREAS, DEVELOPER is now desirous of obtaining building permits so that DEVELOPER may construct the "Improvements" set forth in Exhibit "B" within the boundaries of said PLAT; and

WHEREAS, building permits may not ordinarily be issued to DEVELOPER for construction of said Improvements within the boundaries of the PLAT prior to recordation of said PLAT; and

WHEREAS, on _____, 20____, the Board of County Commissioners authorized the issuance of building permits to DEVELOPER for construction of said Improvements within the boundaries of the PLAT prior to plat recordation; and

WHEREAS, DEVELOPER shall be required to pay actual or estimated impact fees to the COUNTY for the Improvements which DEVELOPER wishes to construct prior to issuance of the building permits; and

WHEREAS, the COUNTY requested and DEVELOPER agreed that, prior to the issuance of building permits, the parties shall enter into an Agreement setting forth specific conditions applicable to the issuance of such building permits; and

WHEREAS, this Agreement will facilitate the construction of the Improvements within the boundaries of the PLAT by DEVELOPER during the time that preparation for the recordation of the PLAT of the property is proceeding; NOW, THEREFORE,

IN CONSIDERATION of the promises and mutual covenants hereinafter contained, the parties do agree as follows:

1. The above recitals and representations are true and correct and are incorporated herein.
2. The COUNTY does not object to the issuance of building permits to DEVELOPER for construction of the Improvements, within the boundaries of the PLAT prior to the recordation of said PLAT, subject to the following conditions to assure compliance with the Broward County Land Use Plan:
 - (a) No building permit shall be issued unless and until DEVELOPER shall document payment of the impact fees which are due for construction of the Improvements, pursuant to Chapter 5, Article IX, Broward County Code of Ordinances, the Land Development Code. Said impact fees may be estimated in those instances when the COUNTY is not able to determine actual impact fees at the time of issuance of the building permits; and
 - (b) No certificate of occupancy which is complementary to the building permits, shall be issued unless and until DEVELOPER records the PLAT, as

approved by the Board of County Commissioners ("Board"), in the Official Records of Broward County; and

- (c) Should the DEVELOPER fail to record the PLAT approved by the Board on _____, 20____, within eighteen (18) months of the date of approval, or otherwise allow the PLAT to expire, any building permits which have been issued by either COUNTY or CITY shall be revoked and DEVELOPER agrees that any Improvements constructed pursuant to such permits shall be removed within three (3) months of expiration of the current PLAT approval unless the PLAT is re-approved within three (3) months and recorded before expiration of the new approval. The COUNTY shall refund all impact fees paid for building permits where the Improvements are demolished.
 - (d) Conditions 2(b) and (c) shall appear on the face of the building permits. However, failure of the permits to so indicate shall not alter any terms of this Agreement or the right to enforce the terms of this Agreement.
 - (e) Nothing in this Agreement shall prejudice the COUNTY's right to impose conditions on approval of the PLAT covering the lands described herein which are required by COUNTY plat ordinances and regulations or are otherwise necessary to ensure the public health, safety, and welfare of the residents of Broward County.
- 3. If the property is located within a municipality, the CITY agrees that any building permits issued for the construction of said Improvements will be issued in accordance with paragraph 2, and the CITY reserves the right to evaluate DEVELOPER's application for building permits for compliance with all existing laws, ordinances, and regulations controlling the issuance of building permits for construction within the CITY. The issuance of building permits shall be at the discretion of the CITY. If the property is located within the unincorporated area, the COUNTY shall issue building permits in accordance with paragraph 2, and reserves the right to evaluate DEVELOPER's application for building permits for compliance with all existing laws, ordinances and regulations controlling the issuance of building permits for construction within the unincorporated area of Broward County.
 - 4. DEVELOPER agrees not to occupy the Improvements unless and until a certificate of occupancy has been issued.
 - 5. In those instances when estimated impact fees are paid, they shall be adjusted at the time of PLAT recordation and any underpayment or overpayment shall be taken into consideration.
 - 6. The DEVELOPER assumes the risks associated with constructing the Improvements prior to PLAT recordation. The issuance of the building permits

before final PLAT recordation shall not be considered as a grant to DEVELOPER of any vested right whatsoever for the use, occupancy or completion of the construction of Improvements within the boundaries of the PLAT nor shall the COUNTY or the CITY (if the property is in a city) be deemed estopped from enforcing the terms of this Agreement because of the issuance of the building permits or construction completed pursuant to such permits. Furthermore, if the presently approved PLAT expires without the PLAT being recorded, the DEVELOPER shall be required to meet all land development regulations in effect at the time the new plat is submitted and, in addition, said new plat shall be subject to the concurrency determinations in effect at the time of submittal of the new plat.

7. SECURITY - LETTER OF CREDIT.

- (a) DEVELOPER is obligated to maintain with BROWARD COUNTY adequate security in the form of an irrevocable letter of credit in the amount of \$32,500.00 which is acceptable to the COUNTY and which will guarantee the DEVELOPER's removal and demolition of all Improvements if DEVELOPER fails to record the PLAT within eighteen (18) months of the date of approval by the Board of County Commissioners.
- (b) In the event DEVELOPER defaults under the terms of this Agreement or the COUNTY receives notice that the security will be canceled by the issuing institution, COUNTY shall be entitled to draw against the security for the amount set forth above, plus costs and interest as set out herein. If COUNTY draws against the security and the amount recovered is less than the amount due, COUNTY may maintain an action against DEVELOPER in a court of competent jurisdiction for the difference between any sums obtained and the amount due, plus costs and interest accrued from the due date at the rate of twelve (12) per cent per annum; or, at the option of the COUNTY, the COUNTY may record a document entitled "Notice of Lien" which shall constitute a lien on the property described in Exhibit "A" in the amount stated above. To the extent that the failed security is attributable to an identified parcel or portion of the PLAT, the Notice of Lien, as set forth above, shall be recorded against and apply only to such parcel or portion of the PLAT. The above provisions shall control such lien, except that the provision regarding subordination of mortgages shall not apply. Such lien may be foreclosed or otherwise enforced by the COUNTY by action or suit in equity as for the foreclosure of a mortgage on real property.
- (c) DEVELOPER shall ensure that the security remains valid and in full force and effect until DEVELOPER's obligations are fully satisfied. Expiration of the security prior to DEVELOPER's satisfaction of such obligations, or notice to Broward County that the security will expire or be canceled prior to DEVELOPER's satisfaction of all obligations hereunder, shall constitute a default of this Agreement.

- (d) In the event the COUNTY determines that the security has been canceled or disaffirmed by the issuing institution, COUNTY may record a document entitled "Notice of Lien" which shall constitute a lien on the property described in Exhibit "A" for the outstanding balance or stated portion thereof. To the extent that the disaffirmed security is attributable to an identified parcel or portion of the PLAT, the Notice of Lien, as set forth above, shall be recorded against and apply only to such parcel or portion of the PLAT. The above provisions shall control such lien, except that the provision regarding subordination of mortgages shall not apply. If the DEVELOPER provides substitute security in a form acceptable to COUNTY, COUNTY shall release the lien.
- (e) In the event COUNTY draws on the security in accordance with the provisions of this Agreement, DEVELOPER shall be responsible for COUNTY's reasonable costs incurred in drawing against the security.
8. NOTICES. Whenever any of the parties desire to give notice to the other, such notice must be in writing, sent by U.S. Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving of notice shall remain such until it is changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving notice:
- For the COUNTY:
- Broward County Planning and Development Management Division
1 North University Drive, Suite 102A
Plantation, Florida 33324
- For the DEVELOPER:
- Southeastern Freight Lines, Inc.
420 Davega Road
Lexington, SC 29073
9. RECORDATION. This Agreement shall be recorded in the Public Records of Broward County, Florida, at the DEVELOPER's expense. Recordation of the PLAT shall be an automatic release of the obligations of DEVELOPER set forth herein. COUNTY shall release the security if the PLAT is not recorded when the Improvements are demolished.
10. VENUE; CHOICE OF LAW. Any controversies or legal issues arising out of this Agreement and any action involving the enforcement or interpretation of any rights

hereunder shall be submitted to the jurisdiction of the State Courts of the Seventeenth Judicial Circuit of Broward County, Florida, the venue situs, and shall be governed by the laws of the state of Florida.

11. CHANGES TO FORM AGREEMENT. DEVELOPER represents and warrants that there have been no amendments or revisions whatsoever to the form Agreement without the prior written consent of the County Attorney's Office. Any unapproved changes shall be deemed a default of this Agreement and of no legal effect.
12. CAPTIONS AND PARAGRAPH HEADINGS. Captions and paragraph headings contained in this Agreement are for convenience and reference only and in no way define, describe, extend or limit the scope or intent of this Agreement, nor the intent of any provisions hereof.
13. NO WAIVER. No waiver of any provision of this Agreement shall be effective unless it is in writing, signed by the party against whom it is asserted, and any such written waiver shall only be applicable to the specific instance to which it relates and shall not be deemed to be a continuing or future waiver.
14. EXHIBITS. All Exhibits attached hereto contain additional terms of this Agreement and are incorporated herein by reference.
15. FURTHER ASSURANCES. The parties hereby agree to execute, acknowledge and deliver and cause to be done, executed, acknowledged and delivered all further assurances and to perform such acts as shall reasonably be requested of them in order to carry out this Agreement.
16. ASSIGNMENT AND ASSUMPTION. DEVELOPER may assign all or any portion of its obligations pursuant to this Agreement to a grantee of the fee title to all or any portion of the property described in Exhibit "A." DEVELOPER agrees that any assignment shall contain a provision which clearly states that such assignment is subject to the obligations of this Agreement and recorded in the public records of Broward County, Florida.
17. AMENDMENTS. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the parties to the Agreement.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature: 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____, DEVELOPER, signing by and through its _____, duly authorized to execute same, and the CITY, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

County Administrator, as Ex-
Officio Clerk of the Board of
County Commissioners of Broward
County, Florida

By _____ Mayor
____ day of _____, 20____

Approved as to form
Office of County Attorney
Broward County, Florida
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-6968

By _____
Assistant County Attorney
____ day of _____, 20____

OWNER-CORPORATION/PARTNERSHIP

Signed, sealed and delivered
in the presence of:

SOUTHEASTERN
FREIGHT LINES, INC., a South Carolina
corporation

By: Ryan Smigiel

By: _____

Print Name: Paul J. Murry, Jr.

Name: Ryan Smigiel
Title: Director of Real Estate

Print Name: Belinda Polk
Belinda Polk

STATE OF Louisiana)
Parish of) SS:
COUNTY OF St. Charles

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by Ryan Smigiel as Director of Real Estate of SOUTHEASTERN FREIGHT LINES, INC. He is personally known to me or has produced driver's license as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 21st day of November, 2019.

Joel T. Chaisson II
Notary Public

Typed, printed or stamped name of Notary Public

My Commission Expires:

At Death

OFFICIAL SEAL
JOEL T. CHAISSON II
NOTARY PUBLIC - LOUISIANA
NOTARY #45385
PARISH OF ST. CHARLES
My Commission Is For Life

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

Witnesses:

CITY OF POMPAÑO BEACH

By: _____
REX HARDIN, MAYOR

By: _____
GREGORY P. HARRISON, CITY MANAGER

Attest:

ASCELETA HAMMOND, CITY CLERK

(SEAL)

APPROVED AS TO FORM:

MARK E. BERMAN, CITY ATTORNEY

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by **REX HARDIN** 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

MORTGAGEE (INDIVIDUAL)

Mortgagee, being the holder of a mortgage relating to the parcel(s) described in Exhibit "A" hereby consents and joins in for the purpose of agreeing that its mortgage shall be subordinated to the foregoing Agreement.

Witnesses:

(Signature)
Print name: _____

Name of Mortgagee (Individual)

(Signature)
Print name:

(Signature) _____
 Print name: _____
 Print address: _____

_____ day of _____, 20____

ACKNOWLEDGMENT - INDIVIDUAL

STATE OF)
) SS.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____ who is _____

☐ personally known to me, or
☐ produced identification. Type of identification produced _____

NOTARY PUBLIC:

(Seal)

Print name:

My commission expires:

MORTGAGEE-CORPORATION/PARTNERSHIP

Mortgagee, being the holder of a mortgage relating to the parcel(s) described in Exhibit "A" hereby consents and joins in for the purpose of agreeing that its mortgage shall be subordinated to the foregoing Agreement.

Witnesses (if partnership):

(Signature)

Print name: _____

(Signature)

Print name: _____

Name of Mortgagee (corporation/partnership)

By _____

(Signature)

Print name: _____

Title: _____

Address: _____

____ day of _____, 20____

ATTEST (if corporation):

(CORPORATE SEAL)

(Secretary Signature)

Print Name of Secretary: _____

ACKNOWLEDGMENT - CORPORATION/PARTNERSHIP

STATE OF _____)
) SS.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, as _____ of _____, a _____ corporation/partnership, on behalf of the corporation/ partnership. He or she is:

☐ personally known to me, or

☐ produced identification. Type of identification produced _____.

NOTARY PUBLIC:

(Seal)

My commission expires:

Print name:

EXHIBIT "A"

LEGAL DESCRIPTION

A PORTION OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 3 IN TOWNSHIP 49 SOUTH, RANGE 42 EAST, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SAID SECTION 3; THENCE DUE WEST, ON THE SAID NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 3, A DISTANCE OF 233.30 FEET TO THE POINT OF BEGINNING; THENCE DUE SOUTH, A DISTANCE OF 50.00 FEET; THENCE SOUTH 03°17'00" EAST, A DISTANCE OF 500.81 FEET; THENCE DUE WEST, ON A LINE 550 FEET SOUTH OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL TO THE SAID NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 3, A DISTANCE OF 1230.87 FEET; THENCE DUE NORTH, A DISTANCE OF 50.00 FEET; THENCE DUE WEST, A DISTANCE OF 44.40 FEET TO A REFERENCE POINT "A"; THENCE DUE NORTH, A DISTANCE OF 500.00 FEET TO A POINT ON SAID NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 3; THENCE DUE EAST, ON THE SAID NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 3, A DISTANCE OF 1246.59 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH:

BEGINNING AT THE AFOREMENTIONED REFERENCE POINT "A"; THENCE DUE WEST, ALONG A LINE 500 FEET SOUTH OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL TO THE SAID NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 3, A DISTANCE OF 553.92 FEET, TO A POINT ON A CURVE; THENCE NORTHWESTERLY ALONG SAID CURVE TO THE RIGHT, WHOSE TANGENT BEARS NORTH 67°24'48" WEST, WITH A RADIUS 323.62 FEET, A CENTRAL ANGLE OF 38°59'04", AN ARC DISTANCE OF 220.19 FEET TO A POINT OF TANGENCY; THENCE NORTH 28°25'44" WEST, A DISTANCE OF 64.00 FEET TO A POINT OF CURVE; THENCE NORTHWESTERLY ALONG SAID CURVE TO THE RIGHT, WITH A RADIUS OF 378.40 FEET, A CENTRAL ANGLE OF 09°23'16" AN ARC DISTANCE OF 62.00 FEET TO A POINT ON THE EAST RIGHT-OF-WAY LINE OF THE SEABOARD COASTLINE RAILROAD; THENCE NORTH 09°07'00" EAST ALONG SAID EAST RIGHT-OF-WAY LINE, A DISTANCE OF 116.36 FEET; THENCE SOUTH 06°05'16" EAST, A DISTANCE OF 84.94 FEET; THENCE SOUTH 25°36'51" EAST, A DISTANCE OF 75.51 FEET; THENCE SOUTH 28°25'44" EAST, A DISTANCE OF 64.00 FEET TO A POINT OF CURVE; THENCE SOUTHEASTERLY ON SAID CURVE TO THE LEFT, WITH A RADIUS OF 283.62 FEET, A CENTRAL ANGLE OF 37°25'18", AN ARC DISTANCE OF 185.24 FEET; THENCE DUE EAST, ALONG A LINE 460.00 FEET SOUTH OF (AS MEASURED AT RIGHT ANGLES) AND PARALLEL WITH THE SAID NORTH LINE OF THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 3, A DISTANCE OF 545.66 FEET; THENCE DUE SOUTH A DISTANCE OF 40.00 FEET TO SAID REFERENCE POINT "A", AND THE POINT OF BEGINNING.

SAID LANDS SITUATE, LYING AND BEING IN THE CITY OF POMPANO BEACH, BROWARD COUNTY, FLORIDA AND CONTAINING 727,221 SQUARE FEET OR 16.6947 ACRES MORE OR LESS.

EXHIBIT "B"

LIST OF IMPROVEMENTS

12,000 square foot industrial shop building