

Prepared by: RETURN:

Lynn Gelin, Esq.  
City Attorney's Office  
200 N.W. 1st Avenue  
Delray Beach, FL 33444

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### **BICYCLE PARKING MAINTENANCE AGREEMENT**

THIS AGREEMENT is made this \_\_\_\_\_ day of \_\_\_\_\_, 2020 by and between the **City of Delray Beach**, Florida ("City") and **PIERRE DELRAY ONE LLC** with a mailing address of 2000 Avenue of the Stars, 11<sup>th</sup> floor, Los Angeles, California 90067 and hereinafter referred to as ("Owner").

#### **W I T N E S S E T H:**

WHEREAS, the property "Owner" is installing two (2) bicycle parking racks in the curb zone along Atlantic Avenue adjacent to the subject property located at Lot 1, of Block 93 of the Re-Subdivision of Block 93, as recorded in Plat Book 10, page 53, of the public records of Palm Beach County, Florida, with physical address 302 E. Atlantic Avenue; and

WHEREAS, in order to provide bicycle racks in the City, the City Commission has adopted ordinances, setting forth requirements for bicycle parking; and

WHEREAS, in order to comply with the City's zoning regulations within the Central Business District, the Owner shall be allowed to install bicycle parking racks in the right-of-way of Atlantic Avenue, pursuant to the terms of this Agreement; and

WHEREAS, this Agreement shall in no way be deemed an actual, constructive, or any other type of abandonment by the City of the public right-of-way of Atlantic Avenue; and

WHEREAS, the City reserves the right at any time to utilize the right-of-way for right-of-way purposes; and

WHEREAS, the public will benefit from the access to bicycle parking areas along its streets by the addition of the bicycle racks; and

WHEREAS, the parties hereto mutually recognize the need for entering into an Agreement designating and setting forth the responsibilities of each party.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. The Parties hereby represent and warrant that the above recitals are accurate and correct and hereby incorporate them in this Agreement.

2. The Owner shall perform all conditions as required by the City or any Board of the City in conjunction with the site plan and review process for the required installation and maintenance of the bicycle racks. The subject property shall have an approved site plan, further described in Exhibit "A", attached hereto and incorporated herein by reference.

3. The Owner shall be responsible for purchasing and installing of the bicycle racks or any other material as required by the Owner's approved site plan. Owner shall further be responsible for obtaining all permits and approvals from all applicable governmental agencies.

4. The Owner hereby agrees to maintain the bicycle racks in the right-of-way in accordance with the City's Ordinances and the terms and conditions of this Agreement. The Owner shall be responsible to maintain bicycle racks, which means that bicycle racks are always in working condition, not bent, and that color and finishes always remain intact. To maintain means to keep the curb zone area where the bicycle racks are located free of litter. To maintain means that the bicycle are placed in accordance with the property regulatory standards which prevent bicycles from infringing in the pedestrian clear zone. If the bicycle racks are ever damaged, or defaced, it is the Owner's responsibility to replace the bicycle racks with the same style and color as approved on the site plan.

5. If at any time after the execution of this Agreement by the Owner, it shall come to the attention of the City that the bicycle racks are not properly maintained pursuant to the terms and conditions of this Agreement then the City may at its option issue a written notice that a deficiency or deficiencies exist, by sending a certified letter to the Owner. Thereafter, the Owner shall have a period of sixty (60) calendar days within which to correct the cited deficiencies. If said deficiencies are not corrected within this time period, the City may at its option, proceed as follows:

(a) Maintain the bicycle racks or part thereof, and invoice the Owner for expenses incurred.

(b) Terminate this Agreement and require the Owner to comply with the City's current Ordinances on bicycle parking.

(c) Cite the Owner for failure to comply with the City's Ordinances.

6. At all times hereto, the Owner shall own and maintain all bicycle racks installed in the right-of-way by the Owner.

7 Upon conveyance of the subject property to any future owner, this Agreement shall be deemed automatically assigned by the Owner to any such future owner of the subject property, and such future owner shall be deemed to have assumed all the owners obligations hereunder.

8. This Agreement shall be binding on the Parties, their respective heirs, successors, legal representatives, and permitted assigns and shall be recorded in the Public Records of Palm Beach County and shall run with the land.

9. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on their behalf this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

ATTEST:

\_\_\_\_\_  
Katerri Johnson, City Clerk

**CITY OF DELRAY BEACH, FLORIDA**

By: \_\_\_\_\_  
Shelly Petrolia, Mayor

Approved as to legal form  
and sufficiency:

\_\_\_\_\_  
Lynn Gelin, Esq, City Attorney

WITNESSES:

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(Print or Type Name)

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(Print or Type Name)

**OWNER: PIERRE DELRAY ONE, LLC**

By: 

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(Print or Type Name)

(SEAL)

STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of  physical presence  
or  online notarization, this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by  
\_\_\_\_\_  
(name of person acknowledging).

Personally known \_\_\_\_ OR Produced Identification  
Type of Identification Produced \_\_\_\_\_

\_\_\_\_\_  
Notary Public – State of \_\_\_\_\_

**EXHIBIT A**  
*Site Plan*

**Exhibit “A”**  
**IMPROVEMENTS**

