

Prepared by: RETURN:

City Attorney's Office
100 N.W. 1st Avenue
Delray Beach, FL 33444

PCN: 12-43-46-28-06-002-0150
Address: 2001 S. Federal Highway

**HOLD HARMLESS AGREEMENT FOR
IMPROVEMENTS PLACED ATOP UTILITY**

THIS HOLD HARMLESS AGREEMENT is entered into this ____ day of _____
_____ 2024 by and between the City of Delray Beach, a Florida municipal corporation of
the State of Florida (the "**CITY**"), whose address is 100 NW 1st Avenue, Delray Beach, Florida
33444, and MDR Motors, LLC (the "**OWNER**"), a Florida limited liability company, whose
address is 2001 S. Federal Highway, Delray Beach, Florida 33483.

W I T N E S S E T H:

WHEREAS, OWNER is the fee simple owner of a parcel of land located at 2001 S.
Federal Highway, Delray Beach, Florida 33483 (the "Property"), more particularly described in
Exhibit "A", attached hereto and incorporated herein; and

WHEREAS, the Property is bisected by **CITY** right-of-way; and

WHEREAS, there is an existing 18" storm drainpipe running through the **CITY** right-of-
way; and

WHEREAS, OWNER was previously permitted to install improvements in the right-of-
way area bisecting the Property, including, but not limited to, parking spaces and a portion of a
building (the "Improvements"); and

WHEREAS, OWNER submitted an application for the **CITY** to abandon the right-of-way bisecting the Property; and

WHEREAS, in the event the abandonment is granted, **OWNER** will be required to execute a Drainage Easement Agreement in favor of the **CITY** encompassing the location of the 18" storm drainpipe (the "Easement Area"), more particularly described in Exhibit "B", attached hereto and incorporated herein ; and

WHEREAS, OWNER seeks to leave in place the Improvements atop the Easement Area as depicted in Exhibit "C", attached hereto and incorporated herein; and

WHEREAS, OWNER agrees to hold **CITY** harmless for any damage which might be caused to the Improvements as a result of maintenance, repair, improvements, upgrades, or removal of the 18" storm drainpipe within the Easement Area or any action brought against the **CITY** as a result of the 18" storm drainpipe within the Easement Area.

NOW, THEREFORE, for the mutual covenants and matters set forth herein, as of the date set forth above, the parties hereby agree as follows:

1. The recitations set forth above are incorporated herein.
2. **OWNER** acknowledges that the **CITY** shall assume no responsibility or maintenance for the Improvements, whether existing or new, which **OWNER** places or placed within or adjacent to the Easement Area and that **OWNER** shall be responsible for the upkeep and maintenance of such Improvements in accordance with the Code of Ordinances of the **CITY**. **OWNER** acknowledges that no modifications to the Improvements within the Easement Area may be completed without the express written consent of **CITY**. The parties agreed that the issuance of a permit by the **CITY** shall not constitute written consent as required herein.

3. The **CITY** or its officers, agents, servants, employees, contractors, or representatives shall be allowed to access the enclosed portion, if any, of the Easement Area at any time for any purpose.

4. **OWNER** agrees to hold the **CITY**, its officers, agents, employees, servants, designees, and appointees harmless for any damage to the Improvements within the Easement Area. It is understood that any cost for replacement or repair of the Improvements shall be the **OWNER'S** responsibility, and the **CITY** will not be held liable for any damage to the Improvements as a result of any maintenance or construction within the Easement Area by the **CITY**.

5. **OWNER** shall at all times hereafter indemnify, hold harmless and, at the **CITY** Attorney's option, defend or pay for an attorney selected by the City Attorney to defend **CITY**, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney's fees and costs, court costs, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, or omission of, **OWNER**, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against **CITY** by reason of any such claim, cause of action, or demand, **OWNER** shall, upon written notice from **CITY**, resist and defend such lawsuit or proceeding by counsel satisfactory to **CITY** or, at **CITY's** option, pay for an attorney selected by the City Attorney to defend **City**. The obligations of this section shall survive the expiration or earlier termination of this Agreement.

6. The **CITY** may request, in its sole discretion, that the 18” storm drainpipe be removed from the public easement. In the event of such request, **OWNER** agrees to remove the 18” storm drainpipe from the public easement within 30 days of the **CITY** mailing written notice to the **OWNER**. If **OWNER** fails to remove the 18” storm drainpipe from the public easement within 30 days of the **CITY** mailing the written notice to **OWNER**, the **CITY** may remove the 18” storm drainpipe and bill the **OWNER** for such removal costs.

7. All notice required or allowed by this Agreement shall be delivered in person or mailed to the party at the following address:

CITY: City Manager
City of Delray Beach
100 NW 1st Avenue
Delray Beach, FL 33444

Utilities Director
City of Delray Beach
434 South Swinton Avenue
Delray Beach, FL 33444

OWNER: MDR Motors, LLC
2001 S. Federal Highway
Delray Beach, FL 33483

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. Any proceeding initiated to enforce the provisions of this agreement shall be brought in the State or Federal courts located in Palm Beach County, Florida. It is hereby understood and agreed that in the event any lawsuit in the judicial system, federal or state, is brought to enforce compliance with this Agreement, each party shall bear their own attorney’s fees

and costs, including appellate fees and costs. **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

10. The **CITY** hereby reserves the right to enforce this Agreement by pursuing any and all remedies provided by law or in equity. All of the remedies available to the **CITY** shall be cumulative, and the **CITY'S** election to pursue any remedy shall not preclude the **CITY** for then or later pursuing any one or more other remedies.

11. This Agreement shall constitute the entire agreement of the parties with respect to the subject matter of it.

12. This Agreement may not be amended, modified, altered, or changed in any respect, except by a further agreement in writing duly executed by each of the parties hereto with the same formality of this Agreement.

IN WITNESS WHEREOF, the parties hereto have entered into this agreement the day and year first written above.

ATTEST:

CITY OF DELRAY BEACH, FLORIDA

By: _____
City Clerk

By: _____
Mayor

Approved as to Form:

By: _____
City Attorney

WITNESSES:

Kneola
Kayla Stabile

(Print or Type Name)
85 Douglas Pike Smithfield RI
(Address)

Jed PFA
Jed PFA

(Print or Type Name)
85 Douglas Pike Smithfield RI
(Address)

OWNER:

By: _____

Print Name: Michael Grieco

Title: Member

Date: 5-9-2024

STATE OF RI

COUNTY OF Providence

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 9 day of May, 2024 by Michael Grieco (name of person), as member (type of authority) for MDR MOTORS LLC (name of party on behalf of whom instrument was executed).

Personally known OR Produced Identification
Type of Identification Produced _____

Jeanne St. Germain
Notary Public - State of RI

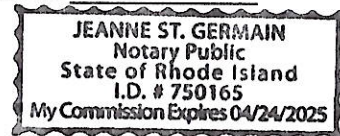


Exhibit "A"

Legal Description of the Property

Parcel I

Lots 1 to 13 inclusive, Block 38, DEL-RATON PARK, according to the plat thereof as recorded in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, in Plat Book 14, Pages 9 and 10; Excepting therefrom the following described parcel of land: A portion of Lots 1 to 6, inclusive, Block 38, DEL-RATON PARK more particularly described as follows:

From the Southwest corner of Lot 6 of said Block 38 run Northerly along the Westerly line of Lots 6, 5, 4, 3, 2, and 1 of Block 38 for a distance of 156.25 feet to the Northwest corner of said Lot 1; thence run Easterly along the North line of said Lot 1 for a distance of 45.44 feet to a point in the arc of a curve concave to the West and having a radius of 2942.93 feet; thence run Southerly along the arc of said curve for a distance of 154.72 feet more or less to a point on the South line of said Lot 6; thence run Westerly along the South line of said Lot 6 for a distance of 21.92 feet to the Southwest corner of said Lot 6. All according to the plat of said DEL-RATON PARK as recorded in Plat Book 14, Pages 9 and 10, Palm Beach County Public Records.

Parcel II

That portion of Avenue "A" as shown on the plat of Del-Raton Park in Plat Book 14, Pages 9 and 10 of the Public Records of Palm Beach County, Florida, described as follows:

Commencing at the Southwest corner of Lot 13, Block 38 of said Plat, said point being in the West boundary of Tropic Isle, Plat Book 24, Page 235 of the Public Records of Palm Beach County, Florida; thence Westerly along the South line of said Lot 13, a distance of 25.04 feet to the Point of Beginning; thence Southerly, forming an angle of 93 04' 25" from West to South, along the Northerly extension of Florida Boulevard as shown on said plats, a distance of 50.08 feet to the Northeast corner of Lot 46, Block 37, as shown on the said plat of Del-Raton Park; thence Westerly, forming an included angle of 86 55' 35", along the South right of way line of Avenue "A" and extension thereof, a distance of 252.71 feet to a point lying on the East right of way line of Federal Highway (U.S. No. 1); thence Northerly along said East right of way line with a curve to the left, whose initial tangent forms an included angle of 86 37' 47", having a radius of 2942.93 feet and an arc length of 50.07 feet to a point lying on the North right of way line of Avenue "A"; thence Easterly, along said North right of way line of Avenue "A", a distance of 247.50 feet, more or less, to the Point of Beginning.

Parcel III

Lots 15 through 28, inclusive, Lot 30 and that parcel designated as "Parking Area", all in Tract B of Gateway Shopping Center, according to the plat thereof as recorded in Plat Book 25, at Page 76 of the Public Records of Palm Beach County, Florida; together with that part of the 20 foot alley right of way lying South of and adjacent to Lots 22 through 28, inclusive of said Tract B, lying East of the East right of way line of State Road No. 5 and lying West of the Southerly prolongation of the East line of said Lot 22, as shown on said Plat of Gateway Shopping Center.

PCN 12-43-46-28-06-002-0150

Exhibit "B"

Sketch and Legal Description of the Easement Area

Exhibit “C”

Improvements located within the City Right-of-Way and/or Easement Area