

ADDENDUM

This is an addendum to that certain Lease Agreement between the City of Hollywood, a political subdivision of the State of Florida (City or Lessee) and the State of Florida Department of Transportation (Department or Lessor) dated the ____ day of _____, 2016. In addition to the provisions contained in said Lease, the following terms and conditions shall be deemed to be part of thereof pursuant to **Paragraph 9(d) of said Lease**:

1. The Department acknowledges and agrees that the City may issue sidewalk café and valet parking permits pursuant to City's local codes and ordinances and subject to any rules, regulations and/or procedures of the Department.
2. City shall clearly delineate and mark the subject premises so that any third party user shall not encroach beyond the property that is the subject of this lease. For public safety and aesthetics, the third party user's maintenance responsibilities must encompass its specific delineated area, any spillover to adjacent areas and the curbside.
3. City shall install bollards or similar safety feature where front-in parking spaces are adjacent to sidewalk café tables and chairs. City shall ensure that conditions are safe for pedestrians in areas where front-in parking spaces are adjacent to sidewalk café tables and chairs. In the event that the City issues permits or enters into an agreement for the premises that are the subject of this agreement, such third party user shall be required in any such permit or agreement to indemnify the Department and provide public liability, food products liability, liquor liability, and property damage insurance with limits of not less than the amount as stated **in Section 7 of the Lease (Insurance)**. Any such insurance or certificate shall also name the Department as an additional insured with 30 days' notice to be given to the City and the Department in the event of any intended cancellation of such policy. A copy of the insurance certificate shall be provided to the Department within ten (10) days of issuance of a permit or agreement.
4. Consideration for the first five (5) year term shall be **\$3.00** per square foot, per year, for each permitted sidewalk café and valet parking queue on Young Circle, paid semiannually in the amount of \$5,090, beginning **December 15, 2016**, for the rental period beginning **December 15, 2016**, for a total of **\$10,180.00 annually**, unless adjusted per paragraph 7, herein. All other terms under Section 3 of the Lease Agreement remain.
5. As part of this Agreement, City shall reimburse the **\$7,950.00** appraisal fee incurred by the Department. This amount may be paid in lump sum at any time or in annual installments of **\$1,590.00**, which would be included with the consideration in item 4 above if installment payments are chosen. If this lease terminates for any reason prior to the expiration of the lease, any remaining balance of the appraisal fee shall be due to the Department.
 - a. The City is required, and does hereby agree, to assume the responsibility for performing periodic inspections of the leased premises for compliance with the terms of the Lease and with necessary clearance and setback requirements as set forth in the following:
 - b. Design Standards for Design, Construction, Maintenance and Utility Operations on the State Highway System – Topic No. 625-010-003 (Department Procedure);
 - c. Plans Preparation Manual (PPM) – Topic No. 625-000-007 (Department Procedure); and
 - d. Facilities Access for Persons with Disabilities (ADA Compliance) – Topic No. 625-020-015 (Department Procedure).
6. City is required to submit a semiannual report by April 15th and October 15th of each year that contains the following:
 - a. Current insurance certificates from each permittee with the Department named as an additional insured;
 - b. A statement that the premises have been inspected and are in compliance with necessary Department clearance and setback requirements (e.g. design standards, landscaping, maintenance, ADA compliance) as of the date of the inspection. A list of current permittees/licensees;
 - c. A statement that the public purpose stated in the resolution continues to exist and justifies the commercial end-use; and
 - d. A sketch of each location where a sidewalk café or valet queue has been permitted or where there is the potential to issue a permit for a sidewalk café or valet queue. Each sketch must include a delineation of the permitted area with dimensions and square footage shown.

- e. The Department must approve the semiannual report. The City agrees to promptly correct any deficiencies identified by the Department.
 - f. List of any new or cancelled permits since the last semiannual report.
7. The parties acknowledge that the rental amount referred to in Paragraph 4 herein is contingent upon the number of sidewalk café and valet parking permits issued by the City in a semiannual period beginning December 15th. The City shall notify the Department of any new or cancelled permits by April 15th and October 15th of each year. The rental amount will be adjusted accordingly, depending upon the number of permits that were issued or cancelled during the semiannual period. If new permits are issued during a period, the lease payment for the following semiannual period will reflect an adjustment of rent based on the area used by the businesses for which permits were issued the previous semiannual period. If a business ceases to operate during the semiannual period, future semiannual payments to the Department will reflect the adjustment. However, there will not be any rental credit or refund provided to the City for these businesses related to the previous semiannual payment.
 8. All semiannual payments and reports will be submitted in accordance with the attached Exhibit "A".
 9. Any modifications to the size, configuration or use of the lease area must be pre-approved by the Department in writing after the City provides appropriate documentation of its proposed plans.
 10. There is no inherent right of extension or renewal of the Lease. Any termination or expiration of the Lease will automatically terminate any sidewalk café or valet parking queue permits issued by the City at which time all items must be removed from the lease area.
 11. The use of the Department's right-of-way is subject to any and all utility permits and access permits that have been issued or may be issued by the Department in the future.
 12. Section 6 of the Lease is hereby amended as follows: The City acknowledges the limited waiver of sovereign immunity for liability in tort contained in Section 768.28, Florida Statutes, and agrees to be fully responsible for any losses, costs, damages, claims, or suits to the extent permitted by such statute. Nothing herein is intended to serve as a waiver of sovereign immunity by the City, nor shall anything included herein be construed as consent to be sued by third parties in any matter arising out of this Lease Agreement.
 13. The Department recognizes that the City is self-insured. Section 7 of the lease shall remain in force, where applicable.
 14. There are no third party beneficiaries to the Lease Agreement.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first written above.

**STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION (LESSOR)**

Date: _____

By: _____
Gerry O'Reilly, P.E., District Four Secretary

APPROVED AS TO FORM:

By: _____

Attest: _____
Alia E. Chanel, Executive Secretary
Laurice Mayes, Senior Attorney

CITY OF HOLLYWOOD (LESSEE)

ATTEST:

Patricia A. Cerny, MMC
City Clerk

By: _____
Josh Levy, Mayor

APPROVED AS TO FORM AND LEGALITY FOR
THE USE AND RELIANCE OF THE CITY OF
HOLLYWOOD, ONLY.

Approved by: _____
George Keller, Assistant City Manager, Finance and Administration

By: _____
Jeffrey P. Sheffel, City Attorney

Attest: _____
Patricia Cerny, City Clerk

Exhibit "A"

Semiannual Payment Due Date	Semiannual Report Due Date
December 15, 2016	April 15, 2017
June 15, 2017	October 15, 2017
December 15, 2017	April 15, 2018
June 15, 2018	October 15, 2018
December 15, 2018	April 15, 2019
June 15, 2019	October 15, 2019
December 15, 2019	April 15, 2020
June 15, 2020	October 15, 2020
December 15, 2020	April 15, 2021
June 15, 2021	October 15, 2021
December 15, 2021	April 15, 2022
June 15, 2022	October 15, 2022