



This instrument prepared by:  
Daniel E. Taylor, Esq.  
Tripp Scott, P.A.  
110 SE 6<sup>th</sup> Street, 15<sup>th</sup> Floor  
Fort Lauderdale, FL 33301

## DECLARATION OF RESTRICTIVE COVENANT

THIS DECLARATION OF RESTRICTIVE COVENANT (hereinafter "Declaration") is made by the City of Hollywood, Florida (hereinafter "GRANTOR"), and the Florida Department of Environmental Protection (hereinafter "FDEP").

### RECITALS

A. GRANTOR is the fee simple owner of that certain real property situated in the County of Broward, State of Florida, more particularly described as follows (hereinafter the "Property"):

**A portion of the right-of-way of N. 19<sup>th</sup> Avenue, being east half of said right-of-way bound by the north and south line of Lot 1, Block 42 extended to the centerline of said right-of-way, "Hollywood", according to the Plat thereof, as recorded in Plat Book 1, Page 21, of the Public Records of Broward County, Florida.**

Attached as Exhibit "A" is a survey of the Property which this Declaration encumbers.

B. The FDEP Facility Identification Number for the Property is 069813634. The Property is located adjacent to a property located at 1847 Tyler Street, Hollywood, Florida (“Adjacent Property”) that is owned by Icon Office Building, LLC, a Delaware limited liability company (“ICON”), currently known as the facility name ICON Office Building, LLC. This Declaration addresses the discharge that was reported to the FDEP on March 26, 2013.

C. The discharge of petroleum products on the Property is documented in the following reports that are incorporated by reference:

1. Site Assessment Report dated September 19, 2013, submitted by Nutting Environmental of Florida, Inc. (“NEF”);
2. Site Assessment Report Addendum dated November 22, 2013, submitted by NEF;
3. Natural Attenuation Monitoring Report dated March 22, 2018, submitted by NEF; and
4. Source Removal Report and No Further Action with Controls Proposal dated May 14, 2018, submitted by NEF.

D. The reports noted in Recital C set forth the nature and extent of the contamination described in Recital C that is located on the Property. These reports confirm that contaminated groundwater as defined by Chapter 62-780, Florida Administrative Code (F.A.C.), exists on the Property. These reports document that the groundwater contamination extends beyond the boundaries of the Property into the Adjacent Property, that the extent of the groundwater contamination does not exceed 1/4 acre, and that the groundwater contamination is not migrating. A separate Declaration of Restrictive Covenant is being recorded for the Adjacent Property owned by Icon (the “Adjacent Property Declaration”).

E. It is the intent that the restrictions in this Declaration reduce or eliminate the risk of exposure of users or occupants of the Property and the environment to the contaminants and to reduce or eliminate the threat of migration of the contaminants.

F. FDEP has agreed to issue a Site Rehabilitation Completion Order with Conditions (hereinafter “Order”) upon recordation of this Declaration and the recordation of the Adjacent Property Declaration. FDEP can unilaterally revoke the Order if the conditions of this Declaration or of the Order are not met. Additionally, if concentrations of petroleum products increase above the levels approved in the Order, or if a subsequent discharge occurs at the Property, FDEP may require site rehabilitation to reduce concentrations of contamination to the levels allowed by the applicable FDEP rules. The Order relating to FDEP Facility No. 069813634 can be obtained by contacting the appropriate FDEP district office or Tallahassee program area.

G. GRANTOR deems it desirable and in the best interest of all present and future owners of the Property that an Order be obtained and that the Property be held subject to certain restrictions, all of which are more particularly hereinafter set forth.

NOW, THEREFORE, to induce FDEP to issue the Order and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the undersigned parties, GRANTOR agrees as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.

2. GRANTOR hereby imposes the following restrictions and requirements:

a. There shall be no use of the groundwater under the Property. There shall be no drilling for water conducted on the Property, nor shall any wells be installed on the Property, other than monitoring or other wells pre-approved in writing by Broward County Environmental Engineering and Permitting Division (EPPF) or FDEP's Division of Waste Management (DWM), in addition to any authorizations required by the Division of Water Resource Management (DWRM) and the Water Management Districts (WMD). For any dewatering activities, a plan approved by EPPD or FDEP's DWM must be in place to address and ensure the appropriate handling, treatment, and disposal of any extracted groundwater that may be contaminated.

b. The size and location of existing stormwater swales, stormwater detention or retention facilities, and ditches on the Property are identified on the survey attached hereto as Exhibit "A". Such existing stormwater features shall not be altered, modified or expanded, and there shall be no construction of new stormwater swales, stormwater detention or retention facilities or ditches on the Property without prior written approval from FDEP's DWM in addition to any authorizations required by the DWRM and the WMD. A revised exhibit must be recorded when any stormwater feature is altered, modified, expanded, or constructed.

3. In the remaining paragraphs, all references to "GRANTOR" and "FDEP" shall also mean and refer to their respective successors and assigns.

4. For the purpose of monitoring the restrictions contained herein, FDEP is hereby granted a right of entry upon, over and through and access to the Property at reasonable times and with reasonable notice to GRANTOR.

5. It is the intention of GRANTOR that this Declaration shall touch and concern the Property, run with the land and with the title to the Property, and shall apply to and be binding upon and inure to the benefit of GRANTOR and FDEP, and to any and all parties hereafter having any right, title or interest in the Property or any part thereof. FDEP may enforce the terms and conditions of this Declaration by injunctive relief and other appropriate available legal remedies. Any forbearance on behalf of FDEP to exercise its right in the event of the failure of GRANTOR to comply with the provisions of this Declaration shall not be deemed or construed to be a waiver of FDEP's rights hereunder. This Declaration shall continue in perpetuity, unless otherwise modified in

writing by GRANTOR and FDEP as provided in paragraph 7 hereof. These restrictions may also be enforced in a court of competent jurisdiction by any other person, firm, corporation, or governmental agency that is substantially benefited by these restrictions. If GRANTOR does not or will not be able to comply with any or all of the provisions of this Declaration, GRANTOR shall notify FDEP in writing within three (3) calendar days. Additionally, GRANTOR shall notify FDEP thirty (30) days prior to any conveyance or sale, granting or transferring the Property or portion thereof, to any heirs, successors, assigns or grantees, including, without limitation, the conveyance of any security interest in said Property.

6. In order to ensure the perpetual nature of this Declaration, GRANTOR shall record this declaration, and reference these restrictions in any subsequent lease or deed of conveyance, including the recording book and page of record of this Declaration. Furthermore, prior to the entry into a landlord-tenant relationship with respect to the Property, GRANTOR agrees to notify in writing all proposed tenants of the Property of the existence and contents of this Declaration of Restrictive Covenant.

7. This Declaration is binding until a release of covenant is executed by the FDEP Secretary (or designee) and is recorded in the public records of the county in which the land is located. To receive prior approval from FDEP to remove any requirement herein, cleanup target levels established pursuant to Florida Statutes and FDEP rules must be achieved. This Declaration may be modified in writing only. Any subsequent amendment must be executed by both GRANTOR and FDEP and be recorded by GRANTOR as an amendment hereto.

8. If any provision of this Declaration is held to be invalid by any court of competent jurisdiction, the invalidity of that provision shall not affect the validity of any other provisions of the Declaration. All such other provisions shall continue unimpaired in full force and effect.

9. GRANTOR covenants and represents that on the date of execution of this Declaration that GRANTOR is seized of the Property in fee simple and has good right to create, establish, and impose this restrictive covenant on the use of the Property. GRANTOR also covenants and warrants that the Property is free and clear of any and all liens, mortgages, or encumbrances that could impair GRANTOR'S rights to impose the restrictive covenant described in this Declaration.

IN WITNESS WHEREOF, the City of Hollywood has executed this instrument, this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

GRANTOR:  
City of Hollywood, Florida,  
a Florida municipality

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Full Mailing Address: 2600 Hollywood Boulevard  
Hollywood, FL 33020-4807

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Witness  
Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_  
Witness  
Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

STATE OF FLORIDA)

COUNTY OF BROWARD)

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_, by \_\_\_\_\_, as \_\_\_\_\_ of the City of Hollywood, Florida.

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_.  
Type of Identification Produced \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public

Approved as to form by the Florida Department of Environmental Protection, Office of General Counsel \_\_\_\_\_.

IN WITNESS WHEREOF, the Florida Department of Environmental Protection has executed this instrument, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Name: Natasha Lampkin  
Title: Administrator  
Petroleum Restoration Program  
2600 Blair Stone Road  
Tallahassee, FL 32399

Signed, sealed and delivered in the presence of:

Witness: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_

Witness: \_\_\_\_\_ Date: \_\_\_\_\_  
Print Name: \_\_\_\_\_

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

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_ as representative for the Florida Department of Environmental Protection.

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_.  
Type of Identification Produced \_\_\_\_\_.

\_\_\_\_\_  
Signature of Notary Public  
\_\_\_\_\_  
Print Name of Notary Public  
Commission No. \_\_\_\_\_  
Commission Expires: \_\_\_\_\_

Exhibit "A"  
Survey of Property