

## **LONG TERM PARKING FACILITY AGREEMENT**

This Long Term Parking Facility Agreement (“Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2025, by and between **SUNSHINE LAKE WORTH DEVELOPMENT, LLC**, a Florida limited liability company (“SLWD”) and the **CITY OF LAKE WORTH BEACH**, a Florida municipal corporation (“City”), and the **LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY**, an entity created pursuant to Florida Statutes, Chapter 163 (“CRA”).

WITNESSETH:

**WHEREAS**, SLWD is developing a museum of art with a multi-family residential component in downtown Lake Worth Beach (“WMODA Project”); and

**WHEREAS**, in furtherance of the WMODA Project, SLWD, CRA, and City have entered into a Development Agreement, dated November 20, 2024 (“Development Agreement”), requiring SLWD, CRA and City (collectively the “Parties”) to negotiate various agreements for the development of the WMODA Project and associated public/private components including a public parking garage; and

**WHEREAS**, on September 30, 2024, SLWD submitted an unsolicited proposal to the City for the construction of the public parking garage at South K Street in downtown Lake Worth Beach pursuant to section 255.065, Florida Statutes (“P3 Statute”); and

**WHEREAS**, on October 29, 2024, the City Commission pursuant to the P3 Statute determined that SLWD’s unsolicited proposal for the South K Street parking garage was in the public’s interest and approved the City, CRA, and the SLWD moving forward with preparation of the agreements necessary to implement all components of the WMODA Project including a comprehensive agreement for the South K Street parking garage as a P3 component of the WMODA Project (“Comprehensive P3 Agreement”); and

**WHEREAS**, the real property at issue under the SLWD’s unsolicited proposal for the K Street parking garage is owned by the City (with a small parcel owned by the CRA) and is generally located at 13 South K Street, 19 South K Street, and 25 South K Street (with PCNs: 38-43-44-21-15-019-0220, 38-43-44-21-15-019-0230, and 38-43-44-21-15-019-0290) (“Initial Property”); and

**WHEREAS**, in further development of the unsolicited proposal and other agreements under the approved Development Agreement, the CRA has agreed that it will contribute the vacant real property at 704 and 710 1<sup>st</sup> Avenue South (with PCNs: 38-43-44-21-15-019-0301 and 38-43-44-21-15-019-0302) to be utilized for the access to the South K Street parking garage and relocation of contributing structures (“CRA Property”) (with the Initial Property and CRA Property hereafter collectively referred to as the “Parking Garage Property”); and

**WHEREAS**, the Parties have negotiated the Comprehensive P3 Agreement, which shall be presented to the City Commission and CRA’s Board of Commissioners concurrently with this Agreement; and

**WHEREAS**, the City, CRA, and SLWD desire to enter this Agreement to set forth the Parties’ responsibilities and obligations for the operation and maintenance of the South K Street Parking Garage; and,

**WHEREAS**, the City, CRA, and SLWD find that entering this Agreement will serve a valid public purpose and is in the best interests of the City, CRA, and the WMODA Project.

**NOW THEREFORE**, in consideration of the mutual promises and covenants contained herein, the adequacy and receipt of which are hereby acknowledged, the Parties, intending to be legally bound, do hereby agree as follows:

I. Recitals and Definitions.

A. The foregoing recitals are incorporated into this Agreement as true statement of facts by the Parties.

B. The following definitions apply to all sections of this Agreement:

1. “Agreement” means this Long Term Parking Facility Agreement.
2. “Available Spaces” means fifty (50) available parking spaces for the public and patrons of the WMODA Project museum.
3. “Completion of Construction” or “Complete Construction” is defined as the time at which the Parking Garage passes all governmental inspections required by the Government Approvals, the Parking Garage and parking spaces may be used for the parking of vehicles by the public and WMODA Project museum patrons, the Parking Garage has been constructed in accordance with the specifications set forth in the Comprehensive P3 Agreement, and the final certificate(s) of occupancy has been issued for the Parking Garage.
4. “Parking Garage” means the public parking garage and all related and appurtenant fixtures, equipment, walkways, driveways, sidewalks, landscaping, monitoring, and control and tracking systems in accordance with the Parties’ Comprehensive P3 Agreement, the Development Agreement, and all Government Approvals, which shall be developed by SLWD on the Parking Garage Property.
5. “Parking Garage Property” means the parcels of land owned by the City and CRA as described in the Recitals, which SLWD is to develop the Parking Garage.
6. “Term” means the term of this Agreement which shall commence upon the latter of the first day the WMODA Project museum is open to the public or the Completion of Construction of the Parking Garage (but no later than December 1, 2027), and continue for a period of nineteen (19) years and eleven months (11).
7. “Term Commencement” means the commencement of the Term of this Agreement, which is the latter of the first day the WMODA Project museum is open to the public or the Completion of Construction of the Parking Garage (but no later than December 1, 2027).

II. SLWD’s Completion of Construction of the Parking Garage.

SLWD shall construct the Parking Garage on the Parking Garage Property to support the WMODA Project museum patrons and public parking. Upon Completion of Construction, SLWD’s parking requirements for the WMODA Project museum as set forth under the City’s Land Development Code shall be deemed satisfied in conjunction with the “in lieu payment” for parking spaces for the WMODA Project’s museum.

III. Availability of Parking Spaces.

Except during the City’s Special Events, routine or emergency repairs and maintenance, or other emergencies reasonably interfering with the use of the Parking Garage (e.g., significant weather event), the City agrees during the Term to make available to the public and patrons of the WMODA Project museum at least fifty (50) parking spaces (“Available Spaces”). The City shall ensure that it does not commit to long term and/or monthly parking leases for the Parking Garage’s parking spaces which prevent the Available

Spaces from being readily available to the public and patrons of the WMODA Project's museum. The City will use commercially reasonable efforts to provide WMODA Project museum executive director with advance notice of routine maintenance and repairs via email.

IV. Operation of Parking Garage.

A. Upon Completion of Construction, subject to applicable warranties as set forth in the Parties' Comprehensive P3 Agreement, the City shall have sole ownership and responsibility for the operation and maintenance, repair, and replacement of the Parking Garage.

B. One Hour Free Parking to Museum Patrons:

1. In the event the City charges for parking in the Parking Garage, during the Term, the City shall incorporate a validation technology allowing patrons who visit the WMODA Project museum to receive validation for the first one (1) hour of parking in the Parking Garage at no cost to the WMODA Project museum patrons ("One Hour Free Parking). The One Hour Free Parking shall terminate five (5) years after the Term Commencement. All other parking by the WMODA Project museum patrons shall be at the same rate as all other public users of the Parking Garage (long term, annual, or monthly lease parking rates excluded).

2. The City may revoke the One Hour Free Parking for the WMODA Project museum patrons only during the day(s) of City's Special Events, during WMODA's Museum Special Events (as outlined below), and, if necessary, during times of routine or emergency repairs and maintenance, or other emergencies reasonably interfering with the use of the Parking Garage (e.g., significant weather event). The City's Special Events are defined as the following: the Annual Street Painting Festival (2 day event), the annual Holiday Parade (one day event), annual Tree Lighting (one day event), Little Scream Halloween (two day event), 4<sup>th</sup> of July (one day event) and Easter (one day event). The City shall provide SLWD with at least thirty (30) days prior written notice of the City's Special Events, which notice shall be provided by email and hand-delivery to the WMODA Project museum executive director.

C. During the Term, the City shall establish an annual lease pass rate, not exceeding a calendar year, for residents of the WMODA Project's Residential Component, who wish to park additional vehicle(s) in the Parking Garage. Such annual leases are on a first-come, first-served basis. The City may, in its sole discretion, limit the total number of annual lease passes offered each year (including, but not limited to, not offering any annual lease passes during the Term).

D. Large Museum Events Parking Discount:

1. During the Term, SLWD may request the special reservation of spaces in the Parking Garage up to four (4) times per year to support large special events that will be held at the WMODA Project museum. At no time will SLWD's request for special reservation exceed one (1) event per quarter or four (4) events per calendar year and said events shall only be conducted during the months of January, April, July and October (excluding those dates in which the City's Easter Event and Little Scream Halloween Event occur) to ensure the same do not conflict with the City's Special Events. However, in the event of a conflict, the City's special events shall take precedence (regardless of the timing of each Parties' written notice or request to the other). SLWD shall receive a 50% discount on the cost of parking during the aforementioned four (4) large museum events. This large museum event parking discount shall terminate five (5) years after the Term Commencement, at which time SLWD's request for special reservations for large museum event parking shall be subject to the same rate as all other public users of the Parking Garage. SLWD shall reserve at a minimum fifty (50) spaces for such events and for a minimum of four (4) hours.

SLWD shall submit payment to the City at least ten (10) days prior to the event. If payment is not timely received by the City, the City reserves the right to cancel the reservation. If vehicles remain in the reserved parking area after the reserved date and time expire, the City may assess SLWD the additional amount for such remaining vehicles at the City's standard parking rates. SLWD shall pay the City for such additional amounts within thirty (30) days of the receipt of an invoice for the same by the WMODA Project museum executive director.

2. SLWD's reservation request must be made by written notice to the City at least thirty (30) days prior to the date of the large event. If more than fifty (50) spaces are requested by SLWD for the large event, SLWD shall make its request at least sixty (60) days in advance of the event. The City will promptly notify SLWD (not less than three (3) business days after receipt of SLWD's request) if there is a conflict with a City Special Event. The City will use its best efforts to reserve more than fifty (50) spaces if requested by SLWD but more than fifty (50) spaces may not be guaranteed. No other discount to WMODA Project's museum patrons will apply during such large special museum events (e.g., no One Hour Free Parking). The City will designate an area in the Parking Garage for the WMODA Project's museum large event; however SLWD or its designee will be responsible for providing personnel to ensure only WMODA Project museum patrons utilize the designated area. The City reserves the right to utilize all Available Spaces for SLWD's large museum events.

3. Notices under this provision shall be made to the City's City Manager via email and hand-delivered written notice and by email and hand-delivery to the WMODA Project's museum executive director.

4. The City reserves the right to revoke the reserved parking for large museum events under this provision in whole or in part if the City reasonably needs to do so to address an emergency which reasonably interfering with the use of the Parking Garage (e.g., emergency repair or significant weather event). The City will provide a refund to SLWD on a pro rata basis if the City revokes the reserved parking after SLWD has paid the City for the same.

V. Term.

Upon expiration of the Term, this Agreement shall expire and be of no further force and effect.

VI. Default and Termination.

A. An Event of Default shall occur if a party hereto fails to abide by the terms and conditions of this Agreement. Upon the occurrence of an Event of Default, which Event of Default shall continue unremedied for twenty (20) calendar days after written notice thereof from the non-defaulting party; provided, however, that if such failure is capable of cure but cannot reasonably be cured within twenty (20) calendar days, such failure shall not constitute an Event of Default, so long as the defaulting party provides the non-defaulting party with written notice within five (5) calendar days of receipt of the default notice advising the non-defaulting party that the default cannot be reasonably cured within twenty (20) calendar days and specifying the reasons therefore and, within the twenty (20) calendar day period, commences and thereafter is in good faith proceeding diligently and continuously to remedy such failure, but in no event shall any additional time to cure granted hereunder exceed ninety (90) calendar days in the aggregate after receipt of the original written default notice, the non-defaulting party shall have the right to require specific performance of this Agreement in addition to any other lawful remedies. If the non-defaulting party commences litigation for specific performance and prevails, the non-defaulting party shall be entitled to all of its reasonable costs and attorney's fees in seeking such specific performance.

B. If the City has an Event of Default, which is due to a lack of appropriation, the City shall utilize its best efforts to obtain the funding necessary to cure its Event of Default as soon as reasonably possible.

C. In no event shall either Party be liable to the other for any indirect, incidental, consequential, special, or punitive damages, including but not limited to loss of profits, revenue, or business opportunities, arising out of or relating to this Agreement, regardless of the form of action, whether in contract, tort (including negligence), strict liability, or otherwise, even if such Party has been advised of the possibility of such damages.

D. Termination. This Agreement shall automatically terminate upon the occurrence of the earlier of the following events:

1. Failure of the Parking Garage to be constructed.
2. Failure of the WMODA Project to obtain the Entitlements or Permits as defined in the Development Agreement necessary to develop the WMODA Project.
3. Failure of SLWD to design, construct, and open the WMODA Project museum to the public.

VII. Miscellaneous.

A. **NOTICES.** Except as otherwise provided herein, all notices under this Agreement shall be mailed to the parties at the following respective addresses:

If to the CITY:

City of Lake Worth Beach, Florida  
Jaime Brown, Interim City Manager  
1749 3<sup>rd</sup> Avenue South  
Lake Worth Beach, Florida 33460

With copies to:

Torcivia, Donlon, Goddeau, and Rubin, PA  
Attn: Christy Goddeau, Esq.  
701 Northpoint Parkway, 209  
West Palm Beach, FL 33407  
[Christy@torcivialaw.com](mailto:Christy@torcivialaw.com)

If to the CRA:

Lake Worth Beach Community  
Redevelopment Agency  
Joan Oliva, Executive Director  
1121 Lucerne Avenue  
Lake Worth Beach, FL 33460

With copies to:

Weiss, Serota, Helfman, Cole, and Bierman  
Attn: David N. Tolces, Esq.  
2255 Glades Road, Suite 200 E  
Boca Raton, FL 33431

If to SLWD:

Sunshine Lake Worth Development, LLC

c/o: United Management Corporation  
166 Montague Street  
Brooklyn, New York 11201

With copies to:

R. Miller Consulting Group  
ATTN: Renee Miller  
[reneem@rmcglc.com](mailto:reneem@rmcglc.com)  
Phone: 786-253-8436

Goren, Cherof, Doody and Ezrol, PA  
3099 East Commercial Boulevard, Suite 200  
Fort Lauderdale, FL 33308  
Attn: Donald J. Doody, Esq.  
Email: [ddoody@gorencherof.com](mailto:ddoody@gorencherof.com)

All notices, consents or other instruments or communications provided for under this notice provision shall be in writing, signed by the party giving the same, and shall be deemed properly given and received (a) when actually delivered and received personally, by messenger service, or by fax or telecopy delivery; (b) on the next business day after deposited to delivery in an overnight courier service such as Federal Express; or (c) three (3) business days after deposit in the United States mail, by registered or certified mail with return receipt requested. All notices or other instruments shall be transmitted with delivery or postage charges prepaid, addressed to the parties at the address above for the party(s) or to such other address as such party(s) may designate by written notice to the other party (s).

**B. LACK OF APPROPRIATIONS.** Based upon the timeframes set forth in this Agreement, the City agrees to propose in each applicable fiscal year budget an amount to cover the City's obligations as stated herein commencing with the Fiscal Year 2026-2027 budget; however, the City's funding of its obligations as stated herein are all subject to the City's annual budgeting and appropriation process. SLWD understands and agrees that the City's funding of its obligations hereunder are payable exclusively from duly appropriated or otherwise legally available funds and shall not be construed to be debt, liability or obligation within the meaning of any applicable constitutional or statutory limitation or requirement.

**C. WAIVER OF TRIAL BY JURY. IT IS MUTUALLY AGREED BY AND BETWEEN CITY, CRA, AND SLWD THAT THE RESPECTIVE PARTIES HERETO SHALL, AND THEY HEREBY DO, WAIVE TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM BROUGHT BY ONE OF THE PARTIES AGAINST THE OTHER(S) ON ANY MATTER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT, THE RELATIONSHIP OF CITY, CRA, AND SLWD HEREUNDER, OR BY ANY COURSE OF CONDUCT OR COURSE OF DEALING.**

**D. GOVERNMENTAL FUNCTIONS.** Nothing in this Agreement shall be deemed or treated as a waiver by the City or CRA of any immunity to which it is entitled by law, including but not limited to, sovereign immunity as set forth in Section 768.28, Florida Statutes. Each Party shall be responsible for its own employees' negligence under this Agreement. The City shall not be responsible for any third party acts or omissions within the Parking Garage, including but not limited to, theft, vandalism, or property damage.

E. **GOVERNING LAW AND VENUE:** This Agreement shall be interpreted and construed in accordance and governed by the laws of the State of Florida. Any litigation concerning this Agreement shall be exclusively in Palm Beach County, Florida.

F. **PUBLIC RECORDS:** SLWD shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, to the extent applicable to any public records related to or arising from this Agreement.

G. **ASSIGNMENT:** This Agreement or any interest herein, shall not be assigned, transferred, or otherwise encumbered under any circumstances by any party without the prior written consent of the remaining Parties, and only by the execution of a document of equal dignity herewith.

H. **AMENDMENT & EFFECTIVE DATE:** This Agreement or any modification, amendment or alteration thereto, shall not be effective or binding upon any of the parties hereto until it is approved and executed by SLWD and approved by the governing boards of the City and CRA and executed by the City's Mayor or designee and the CRA's Executive Director or designee. Upon all parties approval and execution, this Agreement shall become effective.

I. **COOPERATION:** The Parties agree that each shall cooperate with the other in good faith and shall correct any mathematical errors, execute such further documents, and perform such further acts as may be reasonably necessary or appropriate to carry out the purpose and intent of this Agreement.

J. **CONFLICT OF INTEREST.** SLWD represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with its performance required hereunder, as provided for in Chapter 112, Part III, Florida Statutes, and Palm Beach County's Code of Ethics. SLWD further represents that no person having any such conflicting interest shall be employed for said performance. SLWD shall promptly notify the City, in writing, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence SLWD's judgment or quality of performance being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that SLWD may undertake and request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City and CRA, constitute a conflict of interest if entered into by SLWD. The City and CRA agree to notify SLWD of their opinion(s) within thirty (30) days of receipt of notification by SLWD. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by SLWD, the City shall so state in the notification and SLWD may, at its option, enter into said association, interest or circumstance.

K. **PUBLIC ENTITY CRIMES, SCRUTINIZED COMPANIES, E-VERIFY AND HUMAN TRAFFICKING.**

1. As provided in Sections 287.132-133, Florida Statutes, as amended from time to time, by entering into this Agreement, SLWD certifies that it, its affiliates, suppliers, subcontractor and any other contractors who will perform hereunder, have not been placed on the convicted contractor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof.

2. As provided in Section 287.135, Florida Statutes, as amended from time to time, by entering into this Agreement, SLWD certifies that it is not participating in a boycott of Israel. SLWD agrees that the City will have the right to terminate this Agreement is found to have been placed on the Scrutinized Companies that Boycott Israel List or as otherwise set forth in Section 287.135, Florida Statutes.

3. To the extent applicable, SLWD shall comply with the E-Verify requirements of section 448.095, Florida Statutes.

4. By signing this Agreement as set forth below, SLWD's authorized representative swears or affirms under penalty of perjury that SLWD does not use coercion for labor or services as defined in section 787.06, Florida Statutes.

L. **PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL.** Palm Beach County has established the Office of Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes, but is not limited to, the power to review past, present and proposed City contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the City and its agents in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a breach of this Agreement and may result in termination of this Agreement or other sanctions or penalties as set forth in the Palm Beach County Code.

M. **COUNTERPARTS.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute one and the same instrument.

N. **ENTIRE AGREEMENT AND CONFLCITS:** This Agreement incorporates and includes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the long term parking agreement for the Parking Garage, and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms of hereof shall be predicated upon any prior representations or agreements whether oral or written. If there are any conflicts between this Agreement and the Development Agreement regarding the long term parking agreement for the Parking Garage, this Agreement shall take precedence.

O. **NO PERMIT.** This Agreement is not and shall not be construed as a development agreement under Chapter 163, Florida Statutes, nor a development permit, Government Approval or authorization to commence development.

P. **THIRD PARTY RIGHTS.** The provisions of this Agreement are for the exclusive benefit of the Parties to this Agreement and no other party (including without limitation, any creditor of the City, CRA, or SLWD) shall have any right or claim against the City, CRA, or SLWD by reason of those provisions or be entitled to enforce any of those provisions against the City, CRA, or SLWD.

Q. **NO WAIVER.** One or more waivers of the breach of any provision of this Agreement by any party shall not be construed as a waiver of a subsequent breach of the same or any other provision, nor shall any delay or omission by a non-defaulting party to seek a remedy for any breach of this Agreement or to exercise the rights accruing to a non-defaulting party of its remedies and rights with respect to such breach.

R. **CONFIDENTIAL INFORMATION.** If during the term of this Agreement, any party is provided access to any records or other information that is confidential or proprietary in nature, the other party shall maintain the confidentiality of such information consistent with Florida's Public Records laws including, but not limited to, any building plans or GIS information provided to or by SLWD's Representatives. SLWD shall ensure SLWD's Representatives are also contractually required to maintain the confidentiality of such information.



IN WITNESS WHEREOF, the parties hereto have hereunto set their hand and seals on this Long Term Parking Facility Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

ATTEST:

**CITY OF LAKE WORTH BEACH, FLORIDA**

By: \_\_\_\_\_  
Melissa Coyne, MMC, City Clerk

By: \_\_\_\_\_  
Betty Resch, Mayor

Approved as to form and legal sufficiency:

Approved for financial sufficiency:

By: \_\_\_\_\_  
Glen J. Torcivia, City Attorney

By: \_\_\_\_\_  
Yannick Ngendahayo, Financial Services Director

**SLWD:**

SUNSHINE LAKE WORTH DEVELOPMENT, LLC,  
a Florida limited liability company

By: \_\_\_\_\_  
Arthur Wiener, Manager  
**Date:** \_\_\_\_\_, 2025

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

THE FOREGOING instrument was acknowledged before me by means of \_\_\_ physical presence or \_\_\_ online notarization on this \_\_\_\_ day of \_\_\_\_\_ 2025, by \_\_\_\_\_, as the \_\_\_\_\_ [title] of Sunshine Lake Worth Development, LLC, who is personally known to me or who has produced \_\_\_\_\_ as identification, and who did take an oath that the facts stated with regard to section 787.09, Florida Statutes, are true and correct, and he or she is duly authorized to execute the foregoing instrument and bind Sunshine Lake Worth Development, LLC, to the same.

Notary Seal:

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

**LAKE WORTH BEACH COMMUNITY REDEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Carla Blockson, Chair

By: \_\_\_\_\_  
Joan Oliva, Executive Director

Date: \_\_\_\_\_

Approved as to form and legal sufficiency:

By: \_\_\_\_\_  
David N. Tolces, CRA Attorney