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**RESOLUTION NO. 2013 - 52**

**A RESOLUTION OF THE MAYOR AND CITY  
COMMISSION OF THE CITY OF HALLANDALE BEACH,  
FLORIDA, AUTHORIZING THE CITY MANAGER TO  
EXECUTE A RIGHT OF WAY LICENSE AGREEMENT  
FOR USE OF THE PORTION OF SURF ROAD  
LOCATED WITHIN THE CITY OF HOLLYWOOD; AND  
PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in December, 2012, the Mayor and City Commission approved a  
Operating and Management Agreement which provided for the redevelopment of the  
City's North Beach; and

**WHEREAS**, the redevelopment layout of North Beach has a portion of the  
amenities located on the public right of way known as Surf Road in the City of  
Hollywood; and

**WHEREAS**, the City Administration has met with the City Administration of the  
City of Hollywood and have negotiated a license agreement which will allow the City of  
Hallandale Beach to go forth with its redevelopment plans as presented in the original  
plans; and

**WHEREAS**, both cities have acknowledged the benefits derived by its residents  
with the redevelopment of North Beach; and

**WHEREAS**, the City Administration recommends that the Mayor and City  
Commission authorize the City Manager to execute the Right of Way License Agreement  
which will have no further fiscal impact on the City; and

**WHEREAS**, the Mayor and City Commission have determined it is in the best  
interest of the residents of the City of Hallandale Beach to enter into a right of way  
license agreement with the City of Hollywood for the use of a portion of Surf Road to  
accommodate the redevelopment of North Beach.

39 NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE  
40 CITY OF HALLANDALE BEACH, FLORIDA:

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42 **SECTION 1. City Manager's Authorization.** The Mayor and City Commission  
43 hereby authorize the City Manager to execute a Right of Way License Agreement with  
44 the City of Hollywood for the portion of Surf Road located in its jurisdiction.


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46 **SECTION 2. Effective Date.** This Resolution shall take effect immediately upon  
47 its passage and adoption.

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49 APPROVED AND ADOPTED this 5<sup>th</sup> day of June, 2013.


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JOY F. COOPER  
MAYOR

SPONSORED BY: CITY ADMINISTRATION

ATTEST:

  
SHEENA D. JAMES, CMC  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY  
FORM

  
V. LYNN WHITFIELD  
CITY ATTORNEY



Prepared By:  
V. Lynn Whitfield  
City Attorney  
City of Hallandale Beach  
400 S. Federal Highway  
Hallandale Beach, Florida 33009

## RIGHT OF WAY LICENSE AGREEMENT

THIS AGREEMENT, is made and entered into this 10<sup>th</sup> day of July, 2013, by and between the City of Hollywood, a municipal corporation of the State of Florida, (hereinafter "Licensor"), and the City of Hallandale Beach, a municipal corporation of the State of Florida, whose post office address is 400 S. Federal Highway, Hallandale Beach, FL 33009, (hereinafter "Licensee").

### WITNESSETH:

As consideration for this license agreement, the Licensee agrees that the park facilities shall be open to all residents of Licensor under the same conditions and terms as the residents of the Licensee with the exception of any discounts afforded specifically for the residents of Licensee relating to services provided at any commercial establishment in the park facility.

1. Scope and Duration of License. Licensor grants to Licensee, subject to the terms and conditions hereinafter set forth, the use of the following described -public right-of-way and parcel, to wit:

SEE ATTACHED EXHIBIT "A", (the "Licensed Premises")

to be used by Licensee for the accommodation of park facilities in the Licensee's North Beach Park which shall include, but not be limited to beach volleyball courts, landscaping, pedestrian enhancements, and vehicular driveway for restaurant facility, (hereinafter referred to collectively as the "Encroachment") on Surf Road, associated with the renovation of the North Beach Park (hereinafter referred to as the "Park") to be constructed by Licensee upon the Licensed Premises, Surf Road public right-of-way located within Licensee's city limits, and Licensee-owned property located within Licensee's city limits (the Licensee-owned property located within its city limits is described on attached Exhibit "B" and will hereinafter be referred to as the "Property"). Emergency vehicle access to the Encroachment area shall be provided to Licensor through the gated driveway that has been proposed by Licensee as of the effective date of this license agreement, together with proper provisions for emergency vehicle turnaround on the Property. Licensor has utilities located within Surf Road and will continue to have access to the utilities throughout the term of this license agreement. Licensee shall ensure that the project site plan provides uninterrupted beach access for all residents of Licensor.

2. Insurance. The Licensor acknowledges that the Licensee is a municipal corporation and is self-insured as permitted pursuant to Florida's Sovereign Immunity laws. In the event that the Licensee elects to secure insurance instead of being self insured, the Licensee



shall maintain, at its own expense, Public Liability Insurance covering the Licensed Premises and the resultant uses thereof in the amount of \$500,000, and will maintain property damage coverage for a minimum of \$500,000. Said insurance shall name the City of Hollywood, Florida as an additional insured; and shall provide that the Licensor will receive 30 days' notice of any cancellation or change in coverage. Licensee shall furnish Licensor with Certificates of Insurance. The securing of insurance does not prohibit the Licensee from electing during the term of this License Agreement to revert to a self-insured status.

3. Indemnification. To the extent permitted by law, in consideration for use of Licensor's right-of-way and parcel, the entering of this License Agreement by Licensor and other good and valuable consideration, Licensee shall indemnify and hold harmless Licensor from and against all claims, suits, action, damages, and causes of action arising during the term of this Agreement for any personal injury, loss of life or damage to property sustained by reason of or as a result of the actions of its agents, employees, and/or invitees, and from and against all costs, expenses and liabilities incurred by reason of the defense of any such claim, suit or action, and the investigation thereof. Such obligation to indemnify and hold harmless shall be enforceable against Licensee and shall include all costs, expenses and liabilities incurred by Licensor in connection with any such claim, suit, action or cause of action, including the investigation thereof and the defense of any action or proceeding brought thereon and any order, judgment or decree which may be entered in any such action or proceeding or as a result thereof. These provisions shall survive the expiration or earlier termination of this Agreement. Nothing in this Agreement shall be construed to affect in any way Licensor's rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in Section 768.28, Florida Statutes.

4. Payment of Taxes. Licensee is a governmental entity and exempted from the payment of property taxes and sales taxes. In the event taxes are levied against the Licensed Premises based on this Agreement, Licensee shall pay all such taxes, subject to its right, with the full cooperation of Licensor, to defend Licensor in any appeal or cause of action to have the taxes rescinded.

5. Maintenance of Encroachment. Licensee shall be responsible for maintaining and repairing the Encroachment during the term of this License Agreement. Licensee shall also be responsible for maintaining in good, clean, safe and operable condition any improvements to the Encroachment during the term of this License Agreement. Licensee shall comply with all applicable state, county and local laws. Licensee shall not use the Licensed Premises for anything other than their intended purpose.

6. Termination of Agreement. If Licensor at any time shall have a need for the Licensed Premises, or any part thereof, for any public right-of-way purposes, including but not limited to utility purposes or for constructing improvements, Licensor may terminate this License Agreement upon one hundred eighty (180) days' written notice to Licensee. Notice shall be sent by certified mail, return receipt requested, to the address listed in Paragraph 9 below.

7. Removal of Encroachment. Licensee or its successors in interest shall remove, at its expense, the Encroachment and shall restore the Licensed Premises to the condition they were in on the effective date of this License Agreement, ordinary wear and tear excepted, to the satisfaction of Licensor's City Engineer, within thirty (30) days of the expiration or termination of this License Agreement unless a new License Agreement is entered into with Licensor. If

Licensee fails to comply with this condition, Licensors shall have the right to remove the Encroachment without notice, and charges for removal and restoration of the Licensed Premises shall be borne by Licensee.

8. Agreement Runs with Land. The easements, rights, obligations and other provisions of this License Agreement shall run to the benefit of and bind the Property and the owners from time to time of the Property, or any portion thereof, and their respective heirs, successors, grantees and assigns. Except as provided herein, Licensee shall not assign or sublet this Agreement without Licensors' prior written consent.

9. Breach and Notice. In the case of a breach of any term of this Agreement by Licensee and/or persons under its supervision or control, the Licensors may give Licensee 60 days notice to cure the breach. If Licensee fails to cure the breach within such 60 day period, Licensors may terminate this Agreement effective immediately. Any notice to Licensee under this Agreement shall be sent by certified mail, return receipt requested, to:

City of Hallandale Beach  
Attn: City Manager  
400 S. Federal Highway  
Hallandale Beach, Florida 33009

With copy to: City Attorney  
City of Hallandale Beach  
400 S. Federal Highway  
Hallandale Beach, Florida 33009

Any notice to Licensors under this Agreement shall be sent by certified mail, return receipt requested, to:

Director of Real Estate  
City of Hollywood  
2600 Hollywood Boulevard  
Hollywood, Florida 33020

With a copy to: City Attorney  
2600 Hollywood Boulevard, Suite 407  
Hollywood, Florida 33020

10. Recordation. This Agreement shall be recorded in the Public Records of Broward County, with Licensee paying the costs of such recordation.



IN WITNESS WHEREOF, the parties hereto set their hands and seals the day and year first above written.

ATTEST:

  
SHEENA JAMES  
CITY CLERK

APPROVED AS TO FORM & LEGALITY  
for the use and reliance of the  
City of Hallandale Beach, Florida only:

  
V. LYNN WHITFIELD, CITY ATTORNEY

CITY OF HALLANDALE BEACH

BY:   
for JOY F. COOPER MAYOR

ATTESTED:

  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY AND  
FORM FOR THE CITY OF HOLLYWOOD, FLA

  
JEFFREY SHEFFEL  
CITY ATTORNEY

CITY OF HOLLYWOOD

BY:   
PETER BOBER, MAYOR

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

BY:   
CITY ATTORNEY

**EXHIBIT "A"**  
LEGAL DESCRIPTION  
CITY OF HOLLYWOOD PARCEL AND RIGHT-OF-WAY  
KNOWN AS "SURF ROAD

LICENSED PREMISES:

Portions of the right-of-way of Atlantic Boulevard (Surf Road) lying in the City of Hollywood and more particularly described as follows:

The right-of-way of said Atlantic Boulevard, as dedicated by and shown on the plat of "Gateway Hollywood Plat", according to the plat thereof, as recorded in Plat Book 178 at Page 33 of the Public Records of Broward County, Florida

Together with:

The platted right-of-way of said Atlantic Boulevard lying north of the westerly projection of the north lines of Lot 1, Block 3, and lying south of the westerly projection of the south line of Lot 10, Block 2, as shown on the plat of "Amended Plat of Seminole Beach", according to the plat thereof, as recorded in Plat Book 1 at Page 15 of the Public Records of Broward County, Florida

EXHIBIT "B"

