

This instrument was prepared by:

Mark K. Somerstein, Esq.  
GREENSPOON MARDER LLP  
200 East Broward Boulevard, Suite 1600  
Fort Lauderdale, Florida 33301

(Space reserved for Clerk)

**AMENDED AND RESTATED COVENANT RUNNING WITH THE LAND  
IN LIEU OF UNITY OF TITLE**

This **AMENDED AND RESTATED COVENANT RUNNING WITH THE LAND IN LIEU OF UNITY OF TITLE** ("Covenant") is made and entered into this 01 day of January, 2021, by **BEP II LIMITED PARTNERSHIP**, a Nevada limited partnership ("BEP") with an address of 1391 Sawgrass Corporate Parkway, Sunrise, Florida 33323, which executes this instrument in its capacity as current "Owner" (as such term is hereafter defined).

*WHEREAS*, this Amended and Restated Covenant Running with the Land in Lieu of Unity of Title shall amend and restate the original Covenant Running with the Land in Lieu of Unity of Title dated June 11, 2019 and recorded under Official Records Book 31495, Page 4360 of the Public Records of Miami-Dade County, Florida.

*WHEREAS*, Owner holds the fee simple title to the land in the City of Doral, Florida, described in Exhibit "A" attached hereto and made a part hereof, hereinafter called the "Property."

*WHEREAS*, Owner wishes to convey a portion of the Property to Doral WD 41 LLC, a Florida limited liability company ("Doral"), the legal description of which is attached hereto and made a part hereof as Exhibit B ("Doral Parcel"). Following the conveyance of the Doral Parcel to Doral, BEP shall continue to own the real property more particularly described on Exhibit C attached hereto and made a part hereof (the "Remaining BEP Parcel").

*WHEREAS*, the Property is currently developed with commercial uses and Owner intends that additional buildings may be developed on the Property.

*WHEREAS*, Owner may wish to convey a portion of the Property from time to time, this instrument is executed in order to assure that the additional development of the Property with future multiple ownership, will not violate the City of Doral Land Development Code,

*WHEREAS*, Owner may wish to further convey portions of the Property from time to time, and may wish to develop the same in phases or stages, and are executing this instrument to assure the **CITY OF DORAL** that the development will not violate the City of Doral Land Development Code when it is so developed.

**COVENANT RUNNING WITH THE LAND IN LIEU OF UNITY OF TITLE**

Page 2

**NOW THEREFORE**, in consideration of the premises, Owner hereby freely, voluntarily, and without duress agree as follows:

1. This Covenant on the part of the Owner shall constitute a covenant running with the land and will be recorded, at the Owner's expense, in the public records of Miami-Dade County, Florida, and shall remain in full force and effect and be binding upon the heirs, successors, and assigns of the respective parties hereto, until such time as the same is released in writing as hereinafter provided.

2. The Property may be developed only in substantial conformity with the conceptual master plan/site plan entitled, "DORAL MULTI TENANT RETAIL DEVELOPMENT," as prepared by MODIS ARCHITECT dated February 28, 2019, and approved by the City of Doral on October 1, 2019 and consisting of eleven (11) sheets, and as modified from time to time, (the "Plan"). No modification shall be effected in said Plan except in accordance with paragraphs 4 and 5 of this Covenant provided the same is also approved by the Director of the CITY OF DORAL PLANNING AND ZONING DEPARTMENT or her/his successor.

3. Owner, its mortgagees, and, in the event additional ownership(s) exist or are created subsequent to the Plan approval, each of the subsequent owners, mortgagees and other parties in interest shall be bound by the terms, provisions and conditions of this Covenant. Owner further agrees that Owner will execute and mutually deliver in recordable form, an instrument to be known as an "Easement and Operating Agreement" which shall, unless waived by the City of Doral, contain, among other things:

(i) easements in the common area of each parcel for ingress to and egress from other parcels;

(ii) easements in the common area of each parcel for the passage and parking of vehicles;

(iii) easements in the common area of each parcel for the passage and accommodation of pedestrians;

(iv) easements for access roads across the common area of each parcel to public and private roadways;

(v) easements for the installation, use, operation, maintenance, repair, replacement, relocation and removal of utility facilities in appropriate areas in each such parcel;

(vi) easements on each such parcel for construction of buildings and improvements in favor of each such other parcel;

(vii) easements upon each such parcel in favor of each adjoining parcel for the installation, use, maintenance, repair, replacement and removal of common construction improvements such as footings, supports and foundations;

(viii) easements on each parcel for attachment of buildings;

(ix) easements on each such parcel for building overhangs, other overhangs and projections encroaching upon such parcel from adjoining parcel such as, by way of example, marquees, canopies, lights, lighting devices, awnings, wing walls and the like;

**COVENANT RUNNING WITH THE LAND IN LIEU OF UNITY OF TITLE**

Page 3

- (x) appropriate reservation of rights to grant easements to utility companies;
- (xi) appropriate reservation of rights to dedicate road rights-of-way and curb cuts;
- (xii) easements in favor of each such parcel for pedestrian and vehicular traffic over dedicated private ring roads and access roads; and
- (xiii) appropriate agreements between the owners of the several parcels as to the obligation to maintain and repair all private roadways, parking facilities, common areas and the like.

The above easement provisions or portions thereof may be waived by the Director of the **CITY OF DORAL PLANNING AND ZONING DEPARTMENT** or his/her successor, if they are not applicable to the subject development. When executed, the Easement and Operating Agreement shall not be amended without the prior written approval of the City Attorney of the City of Doral. Such Easement and Operating Agreement may contain such other provisions with respect to the operation, maintenance and development of the Property as to which the parties thereto may agree, all to the end that although the Property may have several owners, it will be constructed, conveyed, maintained and operated in accordance with the approved site plan.

4. The provisions of this instrument shall become effective upon their recordation in the public records of Miami-Dade County, Florida, and shall continue in effect for a period of thirty (30) years after the date of such recordation, after which time they shall be extended automatically for successive periods of ten (10) years each, unless released in writing by the then Owners of the Property, and the Director of the **CITY OF DORAL PLANNING AND ZONING DEPARTMENT**, acting for and on behalf of the City of Doral, Florida, or his/her successor, upon the demonstration and affirmative finding that the same is no longer necessary to preserve and protect the Property for the purposes herein intended.

5. The provisions of this instrument may be released, amended, or modified from time to time by recorded instrument executed by the then owners of the Property, or, failing that, the written consent of the then owners, and so long as the same is also approved by the Director of the **CITY OF DORAL PLANNING AND ZONING DEPARTMENT** or her/his successor. Should this Covenant be so released, amended or modified, the Director of the **CITY OF DORAL PLANNING AND ZONING DEPARTMENT** or her/his successor, shall forthwith execute a written instrument effectuating and acknowledging such modification, amendment or release.

Notwithstanding anything herein to the contrary, in the event that any portion of the Property is (i) submitted to a condominium or other association form of ownership (the condominium association governing such property, a "Condominium Association") or (ii) conveyed to a master association, (such association, a "Master Association"), any consent or approval required for either modification of the plan or modification amendment or release of this Covenant, by the owners of the portions of the Property which (x) have been submitted to the condominium form of ownership or (y) conveyed to a Master Association, shall be granted or withheld by the Condominium Association or Master Association, as applicable. For the avoidance of doubt, persons or entities who own units within a portion of the Property which has been submitted to the condominium or property owner form of ownership and members of a Master Association, shall not be Owners for purposes of this Covenant.

**COVENANT RUNNING WITH THE LAND IN LIEU OF UNITY OF TITLE**

Page 4

6. Enforcement shall be by action against any parties or persons violating or attempting to violate any covenants. The prevailing party to any action or suit pertaining to or arising out of this Covenant shall be entitled to recover, in addition to costs and disbursements, allowed by law, such sum as the Court may adjudge to be reasonable for the services of his attorney, including on appeal. This enforcement provision shall be in addition to any other remedies available at law, in equity or both.

7. Invalidation of any of these covenants by judgment of Court shall not affect any of the other provisions, which shall remain in full force and effect.

8. All rights, remedies and privileges granted herein shall be deemed to be cumulative and the exercise of any one or more shall neither be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same from exercising such other additional rights, remedies or privileges.

9. In the event of a violation of this Covenant, in addition to any other remedies available, the City of Doral is hereby authorized to withhold any future permits, and refuse to make any inspections or grant any approval, until such time as this Covenant is complied with.

10. As used in this instrument "Owner" shall mean at any point in time the then owner of all or any portion of the Property. Upon any conveyance or transfer, the transferor shall cease to be Owner and the transferee shall become Owner as to the parcel conveyed or transferred.

**[THIS SPACE IS INTENTIONALLY LEFT BLANK]**

**CONSENT OF CITY OF DORAL**

The foregoing Amended and Restated Covenant Running with the Land in Lieu of Unity of Title is accepted by the **CITY OF DORAL**.

Signed, witnessed, executed and acknowledged at Doral, Florida, on this 5<sup>th</sup> day of January, 2021.

**WITNESSES:**

**CITY OF DORAL PLANNING & ZONING DEPT.**

Elizabeth Alvarez  
Signature

Elizabeth Alvarez  
Print Name:

M Mercedes De La O  
Signature

Mercedes De La O  
Print Name:

By: Javier Gonzalez  
**PLANNING AND ZONING DIRECTOR**

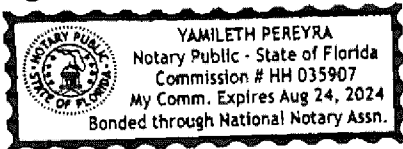
**APPROVED AS TO LEGAL SUFFICIENCY:**

[Signature]  
**CITY ATTORNEY**

STATE OF FLORIDA )  
                                  ) SS:  
COUNTY OF MIAMI-DADE )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, by Javier Gonzalez, as Director of the **CITY OF DORAL PLANNING AND ZONING DEPARTMENT**, who is personally known to me or who has produced Personally known as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 5<sup>th</sup> day of January, 2021.



[Signature]  
Notary Public  
Yamileth Pereyra  
Typed, printed or stamped name of Notary Public

My Commission Expires:

**CONSENT OF CITY OF DORAL SIGNATURE PAGE**

IN WITNESS whereof, the parties have signed this Covenant as of the day and year first above written.

WITNESSES:

OWNER:

**BEP II LIMITED PARTNERSHIP**, a Nevada limited partnership

By: **BEP II, INC.**, General Partner

Alex Balogh  
Signature

Alexandra Balogh  
Print Name

[Signature]  
Signature

Alexandra Balogh  
Print Name

By: [Signature]  
**ORLI TEITELBAUM**, Treasurer

STATE OF Florida )  
                                  Miami ) SS:  
COUNTY OF Dade )

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, the foregoing instrument was acknowledged before me by means of  physical presence or  online notarization, by **ORLI TEITELBAUM**, as Treasurer of **BEP II, INC.**, as General Partner of BEP II LIMITED PARTNERSHIP, a Nevada limited partnership, who is personally known to me or who has produced \_\_\_\_\_ as identification.

WITNESS my hand and official seal in the County and State last aforesaid this 29<sup>th</sup> day of December, 2021.

[Signature]

Notary Public

Laura Ellingsworth  
Typed, printed, or stamped name of Notary Public

My Commission Expires:



OWNER(S) SIGNATURE PAGE

**JOINDER OF MORTGAGEE**

**NOT APPLICABLE**

**JOINDER OF MORTGAGEE**

34725.0004  
45721606.1

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF SUBJECT PROPERTY**

**TRACT A OF DORAL MARKETPLACE, A SUBDIVISION, ACCORDING TO THE  
PLAT THEREOF, AS RECORDED IN PLAT BOOK 153, PAGE 17, OF THE  
PUBLIC RECORDS OF MIAMI-DADE COUNTY, FLORIDA.**

**EXHIBIT A**

**34725.0004  
45721606.1**