

RESOLUTION NO. 41-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING A WORK ORDER WITH CHEN MOORE ASSOCIATES OF WEST PALM BEACH, FLORIDA FOR ENGINEERING AND DESIGN SERVICES; THE DEVELOPMENT OF PLANS FOR BIDDING TO FACILITATE RIVIERA BEACH HEIGHTS COMMUNITY CENTER IN THE AMOUNT OF \$48,920; AUTHORIZING THE CITY MANAGER TO APPROVE CHANGE ORDERS UP TO TEN PERCENT (10%); AUTHORIZING THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO MAKE PAYMENT FOR SAME FROM ACCOUNT NUMBER 310-02023-572-0-6251 AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City Council approved on February 3, 2016 the site plan for the Riviera Beach Heights Community Center under Resolution 14-16; and

**WHEREAS**, the Community Center design will have to be completed in order to proceed with construction; and

**WHEREAS**, Chen Moore Associates is one of the City's continuing services design firms placed under contract by way of Resolution 74-15 and is capable of completing the scope of work required to meet all schedule deadlines.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA as follows:**

**SECTION 1.** That the City Council hereby approves the issuance of a work order to Chen Moore of West Palm Beach, Florida to provide engineering and design services required to develop construction documents for the Riviera Beach Heights Community Center in the amount of \$48,920.

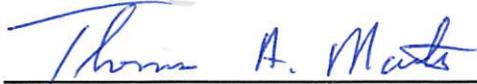
**SECTION 2.** That the Director of Finance and Administrative Services is authorized to make payment for same from Account Numbers 310-0203-572-0-6251.

**SECTION 3.** That the City Manager shall have authority to approve change orders in an amount not to exceed ten percent (10%) of the contract amount.

**SECTION 4.** That this Resolution shall take effect upon its passage and approval by City Council.

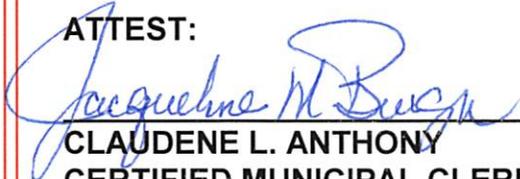
PASSED and APPROVED this 16<sup>TH</sup> day of MARCH, 2016.

APPROVED:

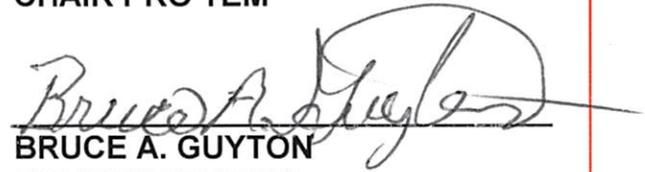
  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

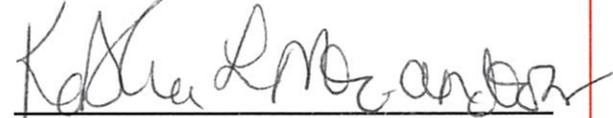
  
\_\_\_\_\_  
DAWN S. PARDO  
CHAIRPERSON

ATTEST:

  
\_\_\_\_\_  
FOR  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

  
\_\_\_\_\_  
TERENCE D. DAVIS  
CHAIR PRO TEM

  
\_\_\_\_\_  
BRUCE A. GUYTON  
COUNCILPERSON

  
\_\_\_\_\_  
KaSHAMBA L. MILLER-ANDERSON  
COUNCILPERSON

  
\_\_\_\_\_  
CEDRICK A. THOMAS  
COUNCILPERSON

MOTIONED BY: C. THOMAS

SECONDED BY: T. DAVIS

B. GUYTON AYE

K. MILLER-ANDERSON AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
PAMALA HANNA RYAN, B.C.S., CITY ATTORNEY

DATE: 3/16/16

RESOLUTION NO. 42-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING AN ADDENDUM TO THE MASTER TAX-EXEMPT LEASE/PURCHASE AGREEMENT WITH U.S. BANCORP GOVERNMENT LEASING AND FINANCE, INC. TO FINANCE THE PURCHASE OF ONE (1) RESCUE TRUCK; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE ADDENDUM; FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT WITH HALLMARK FIRE APPARATUS, FOR THE PURCHASE OF THE RESCUE TRUCK; AUTHORIZING THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO MAKE THREE (3) ANNUAL PAYMENTS IN THE AMOUNT OF \$117,199.41 TO BANCORP WITH THE FIRST PAYMENT DUE IN FISCAL YEAR 2017; AND PROVIDING AN EFFECTIVE DATE

**WHEREAS**, Riviera Beach Fire Rescue has one (1) vehicle identified in the Vehicle Replacement Plan, that is in need of replacement due to age and/or condition; and

**WHEREAS**, staff has negotiated a tax-exempt municipal Lease/Purchase Proposal with U.S. Bancorp Government Leasing and Finance, Inc. (Bancorp); and

**WHEREAS**, the parties will amend the current leasing agreement with Bancorp (currently includes the purchase of police vehicles) to allow for the lease purchase of the rescue truck; and

**WHEREAS**, the current proposal to purchase the rescue trucks is based upon Fire Rescue Vehicles on the Florida Sheriffs Association Annual Vehicle Bid; and

**WHEREAS**, staff recommends purchasing the vehicles from Hallmark Fire Apparatus.

**NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, THAT:**

**Section 1.** The City Council approves the Addendum to the Master Tax-Exempt Lease/Purchase Agreement with Bancorp.

**Section 2.** The Mayor and City Clerk are authorized to execute the Addendum.

**Section 3.** The Mayor and City Clerk are authorized to execute the Purchase Contract with Hallmark Fire Apparatus.

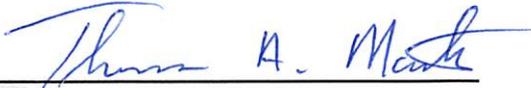
**Section 4.** The Director of Finance and Administrative Services is authorized to make three (3) annual payments in the amount of \$117,199.41 to U.S. Bancorp Government Leasing and Finance, Inc. for a total of \$351,598.23.

**Section 5.** This resolution shall take effect upon its passage and approval by City Council.

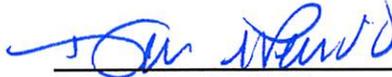
PASSED and APPROVED this 16<sup>TH</sup> day of MARCH, 2016.

**[Remainder of page left blank intentionally]**

APPROVED:



THOMAS A. MASTERS  
MAYOR



DAWN S. PARDO  
CHAIRPERSON

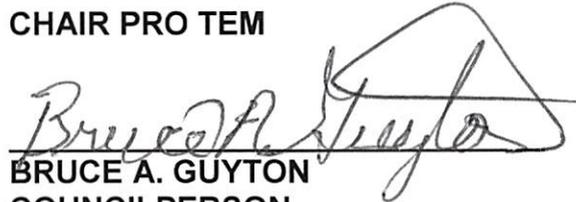
ATTEST:

 FOR

CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK



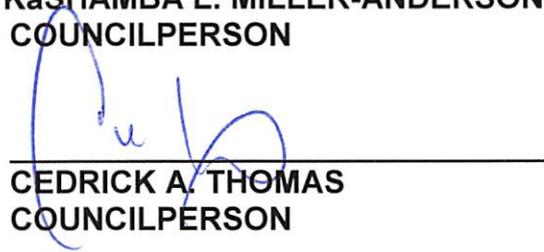
TERENCE D. DAVIS  
CHAIR PRO TEM



BRUCE A. GUYTON  
COUNCILPERSON



KASHAMBA L. MILLER-ANDERSON  
COUNCILPERSON



CEDRICK A. THOMAS  
COUNCILPERSON

MOTIONED BY: B. GUYTON

SECONDED BY: T. DAVIS

B. GUYTON AYE

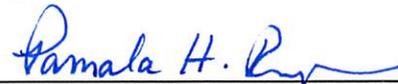
K. MILLER-ANDERSON AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY



PAMALA HANNA RYAN, B.C.S., CITY ATTORNEY

DATE: 3/16/16

**PURCHASE CONTRACT BETWEEN THE CITY OF RIVIERA BEACH AND  
HALL-MARK FIRE APPARATUS, INC.**

THIS CONTRACT made and entered into this 16th day of MARCH, 2016 by and HALL-MARK RTC, hereinafter referred to as "Independent Contractor," whose mailing address is 725 SW 46<sup>th</sup> Avenue, Ocala, Florida 34474 and the CITY OF RIVIERA BEACH, FLORIDA, a municipal corporation, hereinafter referred to as "City," whose address is 600 West Blue Heron Boulevard, Riviera Beach, Florida, 33404.

WHEREAS, the Riviera Beach Fire Rescue Department is in need of one (1) additional rescue transport unit; and

WHEREAS, staff has negotiated the purchase of one (1) custom Horton model 623 rescue transport unit, to be custom built and equipped in accordance with the requirements of the Riviera Beach Fire Department; and

WHEREAS, the current purchase proposal specifications and pricing is based on the Florida Sheriff's Association Contract #15-11-0116, specification #02.

NOW THEREFORE, in consideration of the mutual covenants and promises set forth herein, the parties to this Contract do hereby agree as follows:

1. The City agrees to purchase one (1) custom Horton model 623 rescue transport unit from the Independent Contractor. The specifications for the rescue units are more specifically set out in the Rescue Transport Proposal and the Florida Sheriff's Association Contract # 15-11-0116, specification #02, attached as Exhibit "A."

2. Independent Contractor agrees to be bound by all the terms and conditions as set forth in Exhibit "A."

3. To the extent that there exists a conflict, the terms, conditions, covenants, and/or provisions of this Contract shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

4. Work must begin within ten calendar days from the date of receipt of official notice to proceed and shall be carried on at a rate to insure the project's full completion. The apparatus and equipment being purchased hereunder shall be delivered to the City within seven (7) months from the date of official notice to proceed, the rate of progress and time of completion being essential conditions of this Contract.

5. If the contract work is not fully complete according to the terms of this Contract within eleven (11) months, the Independent Contractor shall pay the City, not as a penalty, but as liquidated damages, a sum equal to one hundred dollars (\$100) for each day elapsing between expiration of such time limit and the date of full completion, providing, however, that the time

limits herein stated are subject to extension without payment of damages, as provided in section 19, herein.

6. The City agrees to compensate the Independent Contractor in the amount of Three Hundred Forty Thousand, Three Hundred Seventy Three Dollars and Forty Four Cents (\$340,373.44), as set forth in more detail in Exhibit "A." The total and cumulative amount of this Contract shall not exceed the amount of funds annually budgeted for these services. The City shall not reimburse the Independent Contractor for any travel costs incurred as a direct result of the Independent Contractor providing deliverables to the City in pursuance of the scope of work contained in herein or in an exhibit.

7. Independent Contractor hereby represents that it has complied and shall continue to comply with all applicable Federal and State statutes and local ordinances. Further, Independent Contractor shall be solely responsible for obtaining and complying with all necessary permits, approvals and authorizations, required for the work to be performed pursuant to the terms of this Contract from any federal, state, regional, county, or city agency.

8. The Independent Contractor represents that it has, or will secure at its own expense, all necessary personnel, equipment and materials required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the City.

9. All of the services required hereunder shall be performed by the Independent Contractor or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

10. The Independent Contractor agrees that it is fully responsible to the City for the acts and omissions of subcontractors and of persons either directly or indirectly employed by the Independent Contractor. Nothing contained herein shall create any contractual relationship between any subcontractor and the City.

11. All of the Independent Contractor's personnel (and all Subcontractors) while on City premises will comply with all City requirements governing conduct, safety and security.

12. The City is exempt from payment of Florida State Sales and Use Taxes. The City will sign an exemption certificate submitted by the Independent Contractor. The Independent Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the City, nor is the Independent Contractor authorized to use the City's Tax Exemption Number in securing such materials.

13. Prior to execution of this Contract by the City the Independent Contractor shall provide certificates evidencing insurance coverages as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Certificates shall clearly indicate that the Independent Contractor has obtained insurance of the type, amount, and classification as required for strict compliance with this ARTICLE and that no material change or cancellation of the insurance shall be effective without thirty (30) days

prior written notice to the City's representative. Compliance with the foregoing requirements shall not relieve the Independent Contractor of its liability and obligations under this Contract.

14. The Independent Contractor shall maintain, during the life of this Contract, commercial general liability, including contractual liability insurance in the amount of \$500,000 per occurrence to protect the Independent Contractor from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract, whether such operations be by the Independent Contractor or by anyone directly employed by or contracting with the Independent Contractor.

15. The Independent Contractor shall maintain, during the life of this Contract, comprehensive automobile liability insurance in the minimum amount of \$500,000 combined single limit for bodily injury and property damages liability to protect the Independent Contractor from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the ownership, use, or maintenance of owned and non-owned automobiles, including rented automobiles whether such operations be by the Independent Contractor or by anyone directly or indirectly employed by the Independent Contractor.

16. The Independent Contractor shall maintain, during the life of this Contract, adequate Workers' Compensation Insurance and Employer's Liability Insurance in at least such amounts as are required by law for all of its employees per section 440.02, Florida Statutes.

17. The Independent Contractor shall indemnify and save harmless and defend the City, its agents, servants, and employees from and against any and all claims, liability, losses, and/or causes of action which may arise from any negligent act or omission of the Independent Contractor, its agents, servants, or employees in the performance of services under this Contract.

18. The Independent Contractor further agrees to indemnify, save harmless and defend the City, its agents, servants and employees from and against any claim, demand or cause of action of whatsoever kind or nature arising out of any conduct or misconduct of the Independent Contractor not included in the paragraph above and for which the City, its agents, servants or employees are alleged to be liable. Nothing contained in this provision shall be construed or interpreted as consent by the City to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in section 768.28, Florida Statutes.

19. The Independent Contractor shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the Independent Contractor or its subcontractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions. Upon the Independent Contractor's request, the City shall consider the facts and extent of any failure to perform the work and, if the Independent Contractor's failure to perform was without it or its subcontractors fault or negligence, as determined by the City, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the City's rights

to change, terminate, or stop any or all of the work at any time. If the Independent Contractor is delayed at any time in the process of the work by any act or neglect of the City or its employees, or by any other contractor employed by the City, or by changes ordered by the City or in an unusual delay in transportation, unavoidable casualties, or any causes beyond the Independent Contractor's control, or by delay authorized by the Engineer pending negotiation or by any cause which the Engineer shall decide justifies the delay, then the time of completion shall be extended for any reasonable time the City may decide. In the case of continuing cause of delay, only one (1) claim is necessary.

20. The Independent Contractor does not have the power or authority to bind the City in any promise, Contract or representation other than as specifically provided for in this Contract.

21. The City reserves the right to make changes in the scope of work, including alterations, reductions therein or additions thereto. Upon receipt by the Independent Contractor of the City's notification of a contemplated change, the Independent Contractor shall, in writing:

(1) Provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the City of any estimated change in the completion date, and (3) advise the City if the contemplated change shall effect the Independent Contractor's ability to meet the completion dates or schedules of this Contract. If the City so instructs in writing, the Independent Contractor shall suspend work on that portion of the work affected by a contemplated change, pending the City's decision to proceed with the change. If the City elects to make the change, the City shall initiate a Contract Amendment and the Independent Contractor shall NOT commence work on any such change until such written amendment is signed by the Independent Contractor and approved and executed by the City Manager for the City.

22. All materials, apparatus, equipment and/or work to be furnished and/or installed by the Independent Contractor under this Contract shall be guaranteed and warranted by the Independent Contractor for the period of time as specified in Exhibit "A" from the date of final acceptance thereof by the City against defects in design, workmanship, or materials. The apparatus and equipment shall be tested per NFPA #1901 at Sutphen's plant site in Amlin, Ohio. Upon receipt of notice from the City of failure or defect of any part covered under such warranty/guaranty period, the affected part, parts, or materials shall be replaced promptly with new parts or materials by the Independent Contractor at no expense to the City. In the event the Independent Contractor fails to make the necessary repairs or replacements within 30 days after notification by the City, the City may accomplish the work at the expense of the Independent Contractor.

23. The Independent Contractor shall continuously maintain adequate protection of all work from damage, and shall protect such work and the City's property from injury or loss arising during the term of the Contract.

24. This Contract and any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to its execution, its validity, the obligations provided herein, performance or breach shall be governed and interpreted according to laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County.

25. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

26. All parties shall be responsible for their own attorney's fees, court costs and expenses if any legal action or other proceeding is brought for any dispute, disagreement, or issue of construction or interpretation arising hereunder whether relating to the Contract's execution, validity, the obligations provided therein, or performance of this Contract, or because of an alleged breach, default or misrepresentation in connection with any provisions of this Contract.

27. The parties agree that time is of the essence in all respects under this Contract and failure by a party to complete performance within the time specified, or within a reasonable time if no time is specified herein or in the exhibits, shall, at the option of the other party without liability, in addition to any other rights or remedies, relieve the other party of any obligation to accept such performance.

28. Failure of the City to enforce or exercise any right(s) under this Contract shall not be deemed a waiver of City's right to enforce or exercise said right(s) at any time thereafter.

29. The parties agree that this Contract and any attachments hereto or other documents as referenced in the Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein unless amended as set out in section 21 above.

30. The City and Independent Contractor shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law, and specifically section 119.0701, Florida Statutes, by agreeing to:

- (a) Keep and maintain all public records that ordinarily and necessarily would be required by the CITY to keep and maintain in order to perform the services under this Contract.
- (b) Provide the public with access to said public records on the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- (d) Meet all requirements for retaining said public records and transfer, at no cost, to the CITY all said public records in possession of the CONTRACTOR upon termination of this Contract and destroy any duplicate public records that are exempt or confidential and exempt from public record disclosure requirements. All records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY.

**SIGNATURES ON FOLLOWING PAGE**

CONTRACT WITH THE CITY OF RIVIERA BEACH

IN WITNESS WHEREOF, the parties unto this Contract have set their hands and seals on the day and date first written above.

CITY OF RIVIERA BEACH

INDEPENDENT CONTRACTOR

BY: Thomas A. Masters  
THOMAS A. MASTERS  
MAYOR

BY: William D. Alon  
HALL-MARK RTC  
TITLE: V.P. / General Manager

ATTEST:

(SEAL)

BY: Claudene L. Anthony, CMC  
CLAUDENE L. ANTHONY, CMC  
CITY CLERK

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND  
CONDITIONS

BY: Pamala H. Ryan, B.C.S.  
PAMALA H. RYAN, B.C.S.  
CITY ATTORNEY

BY: Reginald Duren  
REGINALD DUREN, FIRE CHIEF

DATE: 3/10/16

RESOLUTION NO. 43-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, REQUESTING AUTHORIZATION TO NEGOTIATE THE PURCHASE OF A PUBLIC SAFETY SOFTWARE SOLUTION FOR THE RIVIERA BEACH POLICE DEPARTMENT WITH SUNGARD; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the Police Department currently utilizes 98 applications to perform job functions without the proper associated integration between systems causing the Police Department to duplicate work in multiple areas which lowers quality and productivity, and

**WHEREAS**, the current Public Safety Solution that does not provide the Department with adequate business process and workflow which has made the Police Department search for alternate applications to perform functions, and

**WHEREAS**, the Riviera Beach Police Department is in need of a public safety and justice system that delivers information to the point of need, leverage existing data, strategize on crime patterns and promotes streamlined communication between multiple Police agencies which increases collaboration and reduces operational costs, and

**WHEREAS**, ClientFirst Consulting (ClientFirst) reviewed the Riviera Beach Police Departments' applications and recommended a replacement of the current public safety solution during the 2015 IT Strategic Master Plan, and

**WHEREAS**, ClientFirst is a Technology Consulting firm with 10+ years' experience, over 1,000 projects with over 250 public agencies focusing on government agencies, processes, protocols that ensure an efficient and practical strategic master plan, and

**WHEREAS**, ClientFirst and the City of Riviera Beach Information Technology Division identified the need to consolidate applications and research and introduce a system that leverages all their current technology and improves their processes, and

**WHEREAS**, the procurement of this public safety solution includes an extended business analysis reviewing all current workflow processes to ensure best practice is being used and productivity is increased, and

**WHEREAS**, the City's IT Department reviewed ClientFirst's three recommended vendors and introduced the top two vendors to the IT Steering Committee for consideration, and

**WHEREAS**, the IT Steering Committee and the Police Department reviewed in-depth demonstrations and voted to selected the Sungard Public Safety, and,

**WHEREAS**, the Purchasing Division went through the process of benchmarking the pricing for a Public Safety Solution providing proper comparison to the market so the City is assured the best pricing.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORDIA THAT:**

**SECTION 1.** The City Council authorizes staff to negotiate the procurement of a Public Safety Software Solution with Sungard.

**Section 2.** This Resolution shall take effect upon its passage and approval by the City Council.

**PASSED AND APPROVED THIS 16<sup>TH</sup> DAY OF MARCH, 2016.**

APPROVED:

Thomas A. Masters  
THOMAS A. MASTERS  
MAYOR

Dawn S. Pardo  
DAWN S. PARDO  
CHAIRPERSON

ATTEST:

Jacqueline M. Duvign FOR  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

Terence D. Davis  
TERENCE D. DAVIS  
CHAIR PRO TEM

Bruce A. Guyton  
BRUCE A. GUYTON  
COUNCILPERSON

KaShamba L. Miller-Anderson  
KaSHAMBA L. MILLER-ANDERSON  
COUNCILPERSON

Cedrick A. Thomas  
CEDRICK A. THOMAS  
COUNCILPERSON

MOTIONED BY: B. GUYTON

SECONDED BY: T. DAVIS

B. GUYTON AYE

K. MILLER-ANDERSON AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

Pamala H. Ryan  
PAMALA HANNA RYAN, B.C.S., CITY ATTORNEY

DATE: 3/16/16

RESOLUTION NO. 44-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH , FLORIDA, PROVIDING A MECHANISM FOR THE FINANCING OF ENERGY CONSERVATION AND EFFICIENCY IMPROVEMENTS, RENEWABLE ENERGY IMPROVEMENTS, AND WIND RESISTANCE IMPROVEMENTS; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT WITH THE FLORIDA PACE FUNDING AGENCY ALLOWING THE AGENCY TO ADMINISTER A FINANCING PROGRAM FOR SUCH IMPROVEMENTS WITHIN THE MUNICIPAL BOUNDARIES OF THE CITY; AUTHORIZING AND DIRECTING CITY OFFICIALS, OFFICERS, EMPLOYEES AND AGENTS TO TAKE SUCH ACTIONS AS MAY BE NECESSARY OR DESIRABLE IN FURTHERANCE OF THE PURPOSES OF THIS RESOLUTION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 163.08, Florida Statutes (the "Supplemental Act"), authorizes counties, municipalities and certain separate local government entities to establish and administer financing programs pursuant to which owners of real property may obtain funding for energy conservation and efficiency, renewable energy and wind resistance improvements (the "Qualifying Improvements"), and repay such funding through voluntary special assessments, sometimes referred to as non-ad valorem assessments ("Special Assessments"), levied upon the improved property pursuant to financing agreements between the owner thereof and the local government (the "Financing Agreements"); and

**WHEREAS**, pursuant to the Supplemental Act or as otherwise provided by law, local governments may enter into a partnership with other local governments for the purpose of providing and financing Qualifying Improvements, and a Qualifying Improvement program may be administered by a third party at the discretion of the local government; and

**WHEREAS**, installing Qualifying Improvements on existing structures can reduce the burdens resulting from fossil fuel energy production, including greenhouse gas reductions; and

**WHEREAS**, increased energy conservation, and installing wind resistance improvements on existing structures can reduce repair and insurance costs, and the burdens placed on surrounding properties resulting from high wind storms and hurricanes; and

**WHEREAS**, the Florida PACE Funding Agency (the "Agency"), is a separate legal entity and unit of local government, and was established by separate interlocal

agreement for the express purpose of providing a scalable and uniform platform to facilitate the financing of Qualifying Improvements to local governments throughout Florida; and

**WHEREAS**, the mission of the Agency is to aspire to and undertake, cause and/or perform all such acts as are necessary to provide a uniform, efficient, and scalable statewide platform in Florida, so that, when and if embraced by individual local governments and interested property owners, the Agency can facilitate the provision, funding and financing of energy conservation, renewable energy, and wind-resistance improvements to Florida properties; and

**WHEREAS**, the Agency has provided evidence to the City of Riviera Beach that: (1) the Agency's Program has assembled, at the Agency's sole cost and expense, and not that of the taxpayers of Riviera Beach, open public governance and oversight, staffing in the form of qualified third-party administration, active funding provider servicing oversight, dedicated Program counsel, and an independent institutional trustee, (2) the Agency is immediately ready to commence origination of Special Assessments for Qualifying Improvements in the City of Riviera Beach, and (3) the Agency presently has large scale funding in place and available under an executed bond purchase agreement and trust indenture; and

**WHEREAS**, the availability of the non-exclusive Program offered by the Agency (without cost to, assumption of liability by or demand upon the credit of the City of Riviera Beach) and the voluntary participation in the Program by property owners will provide a heretofore unavailable and alternative financing option to finance and repay the costs to provide and install Qualifying Improvements to property owners desiring them in Riviera Beach; and

**WHEREAS**, the Agency now, by an through its funding provider, employs a second and redundant Qualifying Improvement review process to avoid fraud, Program misuse, or improvident funding - this additional review process is required and not only serves the risk concerns of the funding provider, but serves to accomplish more careful, sober and proper use of this financing alternative in achieving the purposes of the Property Owner, the Agency, the City, and the compelling State interests involved, while at the same time better protecting the interests of mortgage or other lien holders not on parity with taxes and assessments; and

**WHEREAS**, the statewide platform offered by the Agency does not require exclusivity, has in fact attracted immediately available capital that does not require any City financial back-up, is fundamentally designed to be the most market competitive program available in terms and rates, offers significant advantages over any other imitator program or individualized local approaches including, but not limited to, limited liability for local government subscribers to a platform uniform throughout Florida, can presently demonstrate the successful attraction of financial resources to begin funding immediately and to also fund growing demand, cost savings resulting from efficiencies of scale and reduced startup and implementation expenditures, presents a higher quality and more competitive set of program

attributes and review processes, and a greater ability to foster locally advantageous statewide partnerships with commercial and industrial groups, educators, energy auditors, contractors, suppliers and installers; and

**WHEREAS**, the City is presently without adequate, currently available and recurring funds to establish a program similar to the Agency's Program; and recognizes that if it does initiate its own program it may be necessary that it commit significant time, staffing and monetary resources derived from all taxpayers, and that if it borrows the moneys necessary for such purpose and secures repayment thereof by the proceeds derived from non-ad valorem assessments it imposes, it will likely face a demand from credit markets for an additional pledge of other City revenues; however, as an alternative or supplement to any other program or approach chosen by the City, the City can concurrently and presently authorize and approve the Agency to separately make the Agency's non-exclusive Program and funding for Qualified Improvements immediately available to Property Owners and the local economy in the City of Riviera Beach; and

**WHEREAS**, the City finds that local needs and conditions reasonably warrant the establishment of the Agency's non-exclusive Program within the jurisdiction of the City as a direct and immediate means to non-exclusively implement and advance positive local economic activity, job creation, energy efficiency, renewable energy and wind resistant activities; and

**WHEREAS**, it is reasonable and in the interest of the health, safety, and welfare of the City and its inhabitants and taxpayers that the City subscribe to and authorize the availability of the Agency's Program within Riviera Beach in the manner authorized herein by law; and

**WHEREAS**, the Subscription Agreement is for a term of three years with renewal options and provides an alternative, supplemental and non-exclusive means to achieve, *inter alia*, immediate and careful local economic development, commerce and job creation, as well as the compelling State interests and public purposes described in the Supplemental Act.

**NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA, AS FOLLOWS:**

**SECTION 1.** The foregoing recitals are incorporated in this Resolution as if fully set forth herein and are approved and adopted.

**SECTION 2.** The Non-Exclusive Interlocal Subscription Agreement ("Subscription Agreement") between the City of Riviera Beach and Florida PACE Funding Agency, a copy of which is attached hereto as Exhibit "A," and incorporated herein, is hereby approved.

**SECTION 3.** The Mayor and City Clerk are authorized to execute the Subscription Agreement on behalf of the City. The City hereby delegates to the City Manager or designee, the discretion and authority to allow the Agency to use and

display the City logo for communicative purposes associated with the Program. The City Manager or the City Manager's designee, City Attorney, City staff, officials and agents are hereby authorized and directed to take such actions and execute and deliver such other documents as may be necessary or desirable in furtherance of the purposes set forth herein and in the Subscription Agreement.

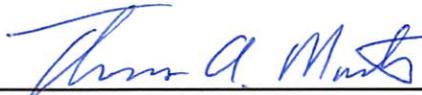
**SECTION 4.** Through approval of this Resolution and execution of the Subscription Agreement as provided hereunder, the City of Riviera Beach is expressly authorizing the Agency to provide its services, as set forth in the Agency's charter, within the City pursuant to the Subscription Agreement. This Resolution is and shall be deemed to constitute a resolution of the City authorizing the transfer of the function or power to provide the Agency's services and conduct its affairs within the City to the Agency in conformance with Article VIII, Section 4 of the Florida Constitution. Adoption of this Resolution evidences the express authority and concurrent transfer of all necessary powers to the Agency, if required, and the covenant to cooperate by the City, so that the Agency may facilitate, administer, implement and assist in providing Qualifying Improvements, facilitate Financing Agreements and non-ad valorem assessments only on properties subjected to same by the record owners thereof, develop markets, structures and procedures to finance same, and to take any actions associated therewith or necessarily resulting from the mission of the Agency, as contemplated by the Supplemental Act as the same may be amended from time to time. All power and authority available to the Agency under its Charter and general law, including without limitation, Chapters 163, 189 and 197, Florida Statutes, shall be deemed to be authorized and may be implemented by the Agency within the boundaries of the City.

**SECTION 5.** All resolutions or parts of resolutions on in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

**SECTION 6.** If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

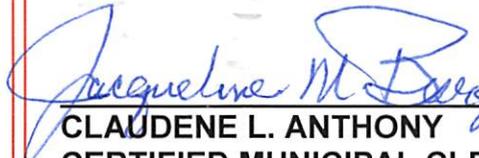
**SECTION 7.** This Resolution shall become effective immediately upon its passage and approval.

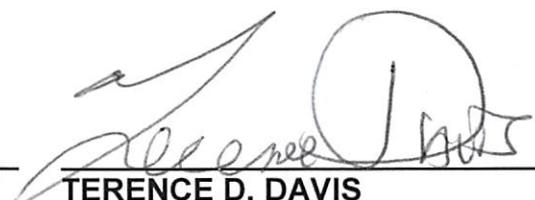
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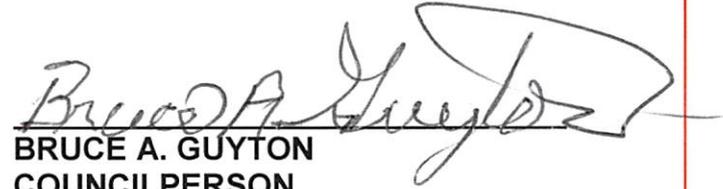
  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

  
\_\_\_\_\_  
DAWN S. PARDO  
CHAIRPERSON

ATTEST:

  
\_\_\_\_\_  
FOR  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

  
\_\_\_\_\_  
TERENCE D. DAVIS  
CHAIR PRO TEM

  
\_\_\_\_\_  
BRUCE A. GUYTON  
COUNCILPERSON

  
\_\_\_\_\_  
KaSHAMBA L. MILLER-ANDERSON  
COUNCILPERSON

  
\_\_\_\_\_  
CEDRICK A. THOMAS  
COUNCILPERSON

MOTIONED BY: B. GUYTON

SECONDED BY: T. DAVIS

B. GUYTON AYE

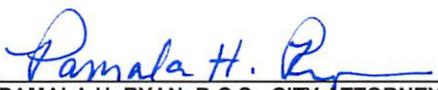
K. MILLER-ANDERSON NAY

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
PAMALA H. RYAN, B.C.S., CITY ATTORNEY

DATE: 3/16/14

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**NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT  
RELATING TO THE FUNDING AND FINANCING  
OF QUALIFYING IMPROVEMENTS BY THE  
FLORIDA PACE FUNDING AGENCY**

**Between**

**THE CITY OF RIVIERA BEACH, FLORIDA,**

**and**

**THE FLORIDA PACE FUNDING AGENCY**

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**NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT  
RELATING TO THE FUNDING AND FINANCING  
OF QUALIFYING IMPROVEMENTS BY THE  
FLORIDA PACE FUNDING AGENCY**

**THIS NON-EXCLUSIVE INTERLOCAL SUBSCRIPTION AGREEMENT** is made and entered into as of MARCH 16, \_\_\_\_\_ 2016 (the "Subscription Agreement"), by and between the City of Riviera Beach, Florida (the "Subscriber"), and the Florida PACE Funding Agency, a separate legal entity and public body and unit of local government, established pursuant to Section 163.01(7)(g), Florida Statutes, (the "Agency"), by and through their respective governing bodies. The purpose of the Subscription Agreement is to secure, in an efficient and uniform manner, for the Property Owners (as hereinafter defined) within the jurisdiction and boundaries of the Subscriber the privileges, benefits, powers and terms provided for herein and by law, and particularly by Section 163.08, Florida Statutes, as amended (the "Supplemental Act"), relating to the voluntary determination by affected property owners to obtain and finance certain improvements to property for energy efficiency, renewable energy or wind resistance.

**WITNESSETH:**

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained and for other good and valuable consideration each to the other, receipt of which is hereby acknowledged by each party, the Subscriber and the Agency hereby agree, stipulate and covenant as follows:

**ARTICLE I  
DEFINITIONS AND CONSTRUCTION**

**SECTION 1.01. DEFINITIONS.** As used in this Agreement, the following terms shall have the meanings as defined unless the context requires otherwise:

**"Board of Directors"** means the governing body of the Agency.

**"Agency"** means the Florida PACE Funding Agency, a separate legal entity and public body and unit of local government. The name or acronym PACE is derived from the concept commonly referred to as 'property assessed clean energy' and relates hereto to the provisions of general law related to energy efficiency, renewable energy and wind resistance improvements encouraged by Section 163.08, Florida Statutes.

**"Agency Charter Agreement"** or **"Charter"** means, unless the context otherwise requires, the separate interlocal agreement which created and established the Agency, including any amendments and supplements hereto executed and delivered in accordance with the terms thereof.

**"Financing Agreement"** means the agreement authorized hereunder and by the Act (specifically including section 163.08(4) thereof) between the Agency and a Property Owner providing for the funding to finance Qualifying Improvements and the imposition of a non-ad valorem Special Assessment against the Property Owner's assessed property.

**"Financing Documents"** shall mean the resolution or resolutions duly adopted by the Agency, as well as any indenture of trust, trust agreement, interlocal agreement or other instrument relating to the issuance or security of any bond or Obligations of the Agency and any agreement between the Agency and the Subscriber, pursuant to which the Subscriber and Property Owners obtain access to funds provided by the Agency.

**"Obligations"** shall mean a series of bonds, obligations or other evidence of indebtedness, including, but not limited to, notes, commercial paper, certificates or any other obligations of the Agency issued hereunder or pursuant hereto, or under any general law provisions, and pursuant to the Financing Documents. The term shall also include any lawful obligation committed to by the Agency or pursuant to an interlocal agreement with another governmental body or agency and/or warrants issued for services rendered or administrative expenses.

**"Pledged Funds"** shall mean (A) the revenues derived from Special Assessments and other moneys received by the Agency or its designee relating to some portion thereof, (B) until applied in accordance with the terms of the Financing Documents, all moneys in the funds, accounts and sub-accounts established thereby, including investments therein, and (C) such other property, assets and moneys of the Agency as shall be pledged pursuant to the Financing Documents; in each case to the extent provided by the Board of Directors pursuant to the Financing Documents. The Pledged Funds pledged to one series of Obligations may be different than the Pledged Funds pledged to other series of Obligations. Pledged Funds shall not include any general or performance assurance fund or account of the Agency.

**"Program"** means the program operated by the Agency to provide financing for Qualifying Improvements undertaken within the jurisdiction of the Subscriber. Unless determined otherwise by the Subscriber, the Agency's Program will be non-exclusive; and, the Subscriber may embrace or authorize any similar program under the Act as the Subscriber sees fit and in the interest of the public.

**"Property Owner"** means, collectively, all of the record owners of real property subject to a Financing Agreement.

**"Qualifying Improvements"** means those improvements for energy efficiency, renewable energy, or wind resistance described in the Supplemental Act authorized to be affixed and/or installed by the record owner of an affected property. The term does not include similar improvements underwritten or financed by local, state or federal programs including, but not limited to State Housing Initiatives Partnership or SHIP Program, which are not secured by a special or non-ad valorem assessment.

**"Special Assessments"** means the non-ad valorem assessments authorized by the Supplemental Act and levied by the Agency on property owned by participating property

owner who has entered into a Financing Agreement with the Agency to fund the costs of Qualifying Improvements.

**"Subscriber"** means the City of Riviera Beach, Florida, a municipal corporation and general purpose local government duly organized and existing under and by virtue of the laws of the State of Florida.

**"Subscription Agreement"** means this interlocal agreement, or if the context requires a similar interlocal agreement between the Agency and any municipality, county or other government or separate legal entity permitted by the Supplemental Act to enter into Financing Agreements as provided for therein. At a minimum, each such Subscription Agreement shall provide for (1) the authority of the Agency to act, provide its services, and conduct its affairs within the subscribing government's jurisdiction; (2) the Agency to facilitate the voluntary acquisition, delivery, installation or any other manner of provision of Qualifying Improvements to record owners desiring such improvements who are willing to enter into Financing Agreements as provided for in the Supplemental Act and agree to the imposition of non-ad valorem assessments which shall run with the land on their respective properties; (3) the Agency to levy, impose and collect non-ad valorem assessments pursuant to such Financing Agreements; (4) the issuance of Obligations of the Agency to fund and finance the Qualifying Improvements; (5) for the proceeds of such non-ad valorem assessments to be timely and faithfully paid to the Agency; (6) the withdrawal from, discontinuance of or termination of the Subscription Agreement by either party upon reasonable notice in a manner not detrimental to the holders of any Obligations of the Agency or inconsistent with any Financing Documents; (7) and such other covenants or provisions deemed necessary and mutually agreed to by the parties to carry out the purpose and mission of the Agency.

**"Supplemental Act"** means the provisions of, and additional and supplemental authority described in, Section 168.08, Florida Statutes, as amended.

#### **SECTION 1.02        CONSTRUCTION.**

(A) Words importing the singular number shall include the plural in each case and vice versa, and words importing persons shall include firms and corporations. The terms "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms, shall refer to this Subscription Agreement; the term "heretofore" shall mean before the date this Subscription Agreement is executed; and the term "hereafter" shall mean after the date this Subscription Agreement is executed.

(B) Each recital, covenant, agreement, representation and warranty made by a party herein shall be deemed to have been material and to have been relied on by the other party to this Subscription Agreement. Both parties have independently reviewed this Subscription Agreement with their own counsel and covenant that the provisions hereof shall not be construed for or against either the Subscriber or the Agency by reason of authorship.

**SECTION 1.03.        SECTION HEADINGS.** Any headings preceding the texts of the several Articles and Sections of this Interlocal Agreement and any table of contents or

marginal notes appended to copies hereof shall be solely for convenience of reference and shall neither constitute a part of this Subscription Agreement nor affect its meaning, construction or effect.

**SECTION 1.04. FINDINGS.** It is hereby ascertained, determined and declared that:

(A) The State has declared it the public policy of the State to develop energy management programs aimed at promoting energy conservation and wind resistance or 'hardening' programs achieving hurricane and wind damage mitigation.

(B) Home and business energy consumption accounts for approximately 70% of the overall usage of electric energy. The State of Florida has adopted a schedule for increasing the energy performance of buildings subject to the Florida Energy Efficiency Code for Building Construction Chapter 553, Florida Statutes.

(C) A significant contributor to statewide and local greenhouse gas emissions is the inefficient use of energy by existing building stock. Installing energy efficiency and renewable energy improvements on existing structures can reduce the burdens resulting from fossil fuel energy production, including greenhouse gas reductions and increased energy conservation.

(D) Reductions in greenhouse gas emissions will in all reasonable likelihood contribute to improved air quality, lower fossil fuels use, energy independence and security, promote the creation of jobs and economic development by stimulating "green industries" and save consumers money by reducing energy consumption.

(E) Hardening improvements on properties by advancing resistance to wind damage is smart and proactive hurricane mitigation and attracts sustainable long term employment and uniquely local commerce. Such actions serve to avoid huge unbudgeted expenditures in reacting to climatic disasters such as hurricanes and storms, reduce insurance claims, reduce insurance rates, reduce risk and liability, and protect persons, and property, and improvements to real property.

(F) There exists a vast quantity of existing structures with many years of remaining life before replacement, and these structures are not nearly as energy efficient as typical newly constructed buildings, nor do many existing buildings have renewable energy systems installed to provide some or all of their electric energy needs, nor are these structures as well protected from wind and storm damage as they could be.

(G) The State Legislature has determined there is a compelling state interest in enabling property owners to voluntarily finance Qualifying Improvements with local government assistance. The actions authorized by the Supplemental Act, including the financing of Qualifying Improvements through the execution of Financing Agreements and the related imposition of a Special Assessment, are reasonable and are necessary for the prosperity and welfare of the State, the Subscriber and its property owners and inhabitants.

(H) The expected life of energy efficiency, renewable energy, and wind resistance Qualifying Improvements may require a longer-term cost recovery period than offered by traditional equity financing may afford, necessitating an alternative financing option to pay the costs to install the Qualifying Improvements while sharing the costs of the Qualifying Improvements over the useful life of the Qualifying Improvements.

(I) Existing homeowners and business property owners may find it not cost effective to refinance their properties to install Qualifying Improvements and/or the lending markets may effectively discourage property owners from financing Qualifying Improvements with traditional equity financing options.

(J) Facilitating the provision of Qualifying Improvements, the funding, and the repayment by participating property owners through the use of Special Assessments not only will relieve burdens emanating from and provide benefits to assessed property in terms of increased value, use and enjoyment, but will serve the public interest by preserving and protecting the environment, implementing hurricane mitigation, and promoting reasonable, smart and local economic activity.

(K) The Agency has secured a binding final judgment, binding and only advantageous to the Agency, which has statewide effect. Such judgment carefully relieves the Subscriber from cost and liability associated with implementation of the Agency's Program.

(L) The Agency has provided evidence to the Subscriber that: (1) the Agency's Program has assembled, at the Agency's sole cost and expense, open public governance and oversight, staffing in the form of qualified third-party administration, active funding provider servicing oversight, dedicated Program counsel, and an independent institutional trustee, (2) that the Agency is immediately ready to commence origination of Special Assessments for Qualifying Improvements, and (3) that the Agency presently has large scale funding in place and available under an executed bond purchase agreement and trust indenture.

(M) The availability of the non-exclusive Program offered by the Agency (without cost to, assumption of liability by or demand upon the credit of the City of Riviera Beach) and the voluntary participation in the Program by Property Owners will provide a heretofore unavailable or alternative financing option to finance and repay the costs to provide and install Qualifying Improvements in the City of Riviera Beach .

(N) The provision of financing to a Property Owner who decides to participate in the Program requires by law using non-ad valorem assessments levied by the Agency on the property pursuant to the Supplemental Act which must be collected pursuant to Chapter 197, Florida Statutes. Such collection method minimizes risk of failure for non-payment and provides a more efficient, fair and cost effective means of enforcement of any Special Assessment to both the Property Owner and the Agency's funding providers. In addition, the Agency now, by an through its funding provider, employs a second and redundant Qualifying Improvement review process to avoid fraud, Program misuse, or improvident funding. This

additional review process is required by and not only serves the risk concerns of the funding provider, but serves to accomplish more careful, sober and proper use of this financing alternative in achieving the purposes of the Property Owner, the Agency, the Subscriber and the compelling State interests involved.

(O) Given other priorities, the Subscriber does not wish to deploy currently available and recurring funds or to incur debt to establish a program similar to the Agency's Program; and recognizes that if it does initiate its own program it may be necessary that it commit time, staffing and monetary resources and that it may be necessary to borrow the moneys necessary for such purpose and secure repayment thereof by the proceeds derived from non-ad valorem assessments it imposes and likely also pledge other sources of revenue. However, regardless of any other approach which could be chosen by the Subscriber, the Subscriber can concurrently and presently authorize and approve the Agency to separately make the Agency's non-exclusive Program and independent funding for Qualified Improvements immediately available to Property Owners and the local economy of the City.

(P) The Subscriber finds that local needs and conditions warrant the establishment of the Agency's non-exclusive Program within the jurisdiction of the Subscriber as a direct and immediate means to non-exclusively implement and advance positive local economic activity, job creation, energy efficiency, renewable energy and wind resistant activities.

(Q) It is reasonable and in the interest of the health, safety, and welfare of the Subscriber and its inhabitants that the Subscriber subscribe to the availability of the Program within the Subscriber's jurisdiction. The Agency is authorized hereby, by law and pursuant to the provisions of the Supplemental Act to undertake the Program.

(R) This Agreement provides an alternative, supplemental and non-exclusive means to achieve, *inter alia*, immediate and careful local economic development, commerce and job creation, as well as the compelling State interests and public purposes described in the Supplemental Act.

(S) City also requests and encourages that the Palm Beach Board of County Commissioner's to also adopt a similar resolution immediately approving the availability of the Agency's non-exclusive and scalable program county-wide. Such action would be without cost or liability and make these storm hardening, environmental, economic development and job-creating benefits uniformly available to businesses, property owners and constituents throughout our entire County.

[Remainder of page intentionally left blank.]

**ARTICLE II  
SUBSCRIPTION**

**SECTION 2.01. AUTHORITY.**

(A) The execution hereof has been duly authorized by the resolution of the governing bodies of each party hereto.

(B) The Agency by this Subscription Agreement is hereby authorized to act to provide its services, and conduct its affairs, within the boundaries of the Subscriber's jurisdiction.

(C) The execution of this Subscription Agreement evidences the express authority and concurrent transfer of all necessary powers to the Agency, and the covenant to reasonably cooperate by the Subscriber, so that the Agency may facilitate, administer, implement and provide Qualifying Improvements, facilitate Financing Agreements and non-ad valorem assessments only on properties subjected to same by the record owners thereof, develop markets, structures and procedures to finance same, and to take any actions associated therewith or necessarily resulting there from, as contemplated by the Supplemental Act as the same may be amended from time to time.

(D) By resolution of the governing bodies of each of the parties and as implemented pursuant by this Subscription Agreement, all power and authority available to the Agency under its Charter and general law, including without limitation, Chapters 163, 189 and 197, Florida Statutes, shall be deemed to be authorized and may be implemented by the Agency within the boundaries of the Subscriber.

(E) This Subscription Agreement may be amended only by written amendment hereto.

**SECTION 2.02. CREATION OF STATE, COUNTY OR MUNICIPAL DEBTS PROHIBITED.**

The Agency shall not be empowered or authorized in any manner to create a debt as against the State, county, or any municipality, and may not pledge the full faith and credit of the State, any county, or any municipality. All revenue bonds or debt obligations of the Agency shall contain on the face thereof a statement to the effect that the State, county or any municipality shall not be obligated to pay the same or the interest and that they are only payable from Agency revenues or the portion thereof for which they are issued and that neither the full faith and credit nor the taxing power of the State or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue or refunding bonds under the provisions of law, the Charter Agreement, or this Subscription Agreement shall not directly or indirectly or contingently obligate the State, or any county or municipality to levy or to pledge any form of ad valorem taxation whatever therefore or to make any appropriation for their payment.

**SECTION 2.03. ADOPTION OF RATES, FEES AND CHARGES.**

(A) The Board of Directors may adopt from time to time by resolution such rates, fees or other charges for the provision of the services of the Agency to be paid by the record owner of any property, pursuant to a Financing Agreement described in the Supplemental Act.

(B) Such rates, fees and charges shall be adopted and revised so as to provide moneys, which, with other funds available for such purposes, shall be at least sufficient at all times to pay the expenses of administering, managing, and providing for the services and administration of the activities of the Agency, to pay costs and expenses provided for by law or the Charter Agreement and the Financing Documents, and to pay the principal and interest on the Obligations as the same shall become due and reserves therefore, and to provide for necessary administration and reasonable margin of safety over and above the total amount of such payments. Notwithstanding any other provision in the Charter Agreement or this Subscription Agreement, such rates, fees and charges shall always be sufficient to comply fully with any covenants contained in the Financing Documents.

(C) Such rates, fees and charges may vary from jurisdiction to jurisdiction, but shall be just and equitable and uniform at the time of imposition for the record owners in the same class of or within each subscribing local governmental jurisdiction electing to enter into any Financing Agreement described in the Supplemental Act and may be based upon or computed upon any factor (including, by way of example and not limitation, competitive or market conditions, distinguishing between residential and non-residential properties or uses, distinguishing between variable costs of administrative services over time) or combination of factors affecting the demand or cost of the services furnished or provided to administer the services and affairs of the Agency as may be determined by the Board of Directors from time to time.

(D) Notwithstanding anything in this Subscription Agreement to the contrary, the Agency may establish a general fund and/or performance assurance account into which moneys may be deposited from an annual surcharge upon the Special Assessments imposed, pledged to or collected by the Agency. Any moneys deposited to such general fund account from such a surcharge shall be considered legally available for any lawful purpose approved by the Board of Directors. Moneys in such general fund and/or performance assurance account may be used to pay for or reimburse initial costs and expenses advanced or associated with start-up costs, feasibility studies, economic analysis, financial advisory services, program development or implementation costs or enhancements, public education, energy audits, administration, quality control, vendor procurement, and any other purpose associated with the purpose or mission of the Agency approved by the Board of Directors.

**SECTION 2.04. FINANCING AGREEMENTS.**

(A) The Agency shall prepare and provide to each participating property owner the form of the Financing Agreement which complies with the Supplemental Act and is in accordance with the Financing Documents as designated by the Board of Directors from time to time.

(B) The Agency, not the Subscriber, shall be solely responsible for all matters associated with origination, funding, financing, collection and administration of each of the Agency's authorized non-ad valorem assessments.

**SECTION 2.05. IMPOSITION OF SPECIAL ASSESSMENTS PURSUANT TO FINANCING AGREEMENTS.**

(A) Upon execution by the record owners and the Agency, the Financing Agreement or a summary or memorandum thereof shall be recorded by the Agency within five (5) days of execution as required by Section 163.08(8), Florida Statutes. The recorded Financing Agreement, or summary or memorandum thereof, provides constructive notice that the non-ad valorem assessment to be levied on the subject property constitutes a lien of equal dignity to ad valorem taxes and assessments from the date of recordation.

(B) In a reasonably cooperative and uniform manner the Agency is authorized to and shall provide a digital copy to the property appraiser or tax collector of the recorded Financing Agreement or summary thereof, the most recent property identification number and annual amount of the non-ad valorem assessment along with such other efficient and reasonable information necessary for the tax collector to collect such amounts on behalf of the Agency pursuant to Sections 197.3632 and 163.08, Florida Statutes, as a non-ad valorem assessment.

**SECTION 2.06. COLLECTION OF SPECIAL ASSESSMENTS.**

(A) The Agency shall be solely responsible for professionally coordinating all interface with the tax collector or property appraiser, and minimize to the greatest extent reasonably possible the time, effort and attention of these public officials to accomplish the public purposes and direction of the Supplemental Act subscribed to by the City. Subscriber hereby respectfully requests and encourages the tax collector or property appraiser to only impose, charge, or deduct the minimum amount allowed by general law for the collection or handling of the Special Assessments which are the subject of this Subscription Agreement.

(B) To advance Program acceptance and to minimize Program participation costs, and because each Property Owner is voluntarily undertaking to achieve and underwrite the unique and compelling State interests described in the Supplemental Act, the Subscriber urges either the waiver of such fees by the tax collector and property appraiser or a flat five dollar (\$5) fee per year per tax parcel for such purposes which shall be paid by the Agency via deduction, by the institutional trustee required by the Financing Documents, or as otherwise reasonably agreed to by the Agency and these parties.

**SECTION 2.07. PLEDGE OF PROCEEDS FROM NON AD VALOREM ASSESSMENTS.**

(A) The Agency will take such actions as are necessary for the lawful levy of the Special Assessments against all lands and properties specially benefitted by the acquisition, construction and financing of Qualifying Improvements. If any assessment made with respect

to any property shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Agency or Subscriber shall be satisfied that any such assessment is so irregular or defective that the same cannot be enforced or collected, the Agency is authorized to take all necessary steps to cause a new assessment to be made for the whole or any part of any Qualifying Improvements or against any property specially benefitted by such improvement, to the extent and in the manner provided by law.

(B) Pursuant to the Financing Documents and this Subscription Agreement, the Agency shall irrevocably pledge and, to the fullest extent permitted by law, pledge and assign any and all revenues derived from Special Assessments to the repayment of any debt obligation issued by the Agency pursuant to the Financing Documents.

(C) The Subscriber shall not incur or ever be requested to authorize any obligations secured by Special Assessments associated with Qualifying Improvements imposed by the Agency.

(D) Each series of Financing Documents shall be secured forthwith equally and ratably by a pledge of and lien upon the Special Assessments. The obligations of the Agency under and pursuant to the Financing Documents shall not be or constitute general obligations or an indebtedness of the Subscriber as "bonds" within the meaning of the Constitution of Florida, but shall be payable from and secured solely by a lien upon and pledge of the Special Assessments as provided herein. Neither the Agency nor any holder of any debt obligation issued by the Agency pursuant to the Financing Documents shall ever have the right to compel the exercise of the ad valorem taxing power of the Subscriber or taxation in any form of property therein to pay any amount due under any Financing Documents or any Special Assessment. The Financing Documents shall not constitute a lien upon any property of or in the Subscriber except as to the respective Special Assessments in the manner provided herein and by law.

**SECTION 2.08. CARBON OR SIMILAR CREDITS.** The form of Financing Agreement in each instance shall provide for the transfer of any carbon or similar mitigation credits derived from Qualifying Improvements to the Agency, with such revenues therefrom, if any ever materialize, to be used by the Agency to underwrite generally its operation, mission and purpose. The Financing Agreement, in each instance, shall separately and expressly confirm that consideration therefore is in the form and substance of economies of scale provided by the Agency and its programs and \$1 and other good and valuable consideration provided to and received by the Property Owner, or such other statement of consideration as shall be appropriate under the circumstances. By execution hereof any such interest in mitigation credits shall be assigned by the Subscriber to the Agency without any future action by the parties. Provided, however, the Subscriber shall upon request from time to time execute and deliver all such documents as may be reasonably required to further evidence the assignment and transfer of such interests to the Agency. Such credits expressly exclude investment tax credits available under the Internal Revenue Code or monetary rebates available to the Property Owner.

**ARTICLE III  
GENERAL PROVISIONS**

**SECTION 3.01. INTERLOCAL AGREEMENT PROVISIONS.** This Subscription Agreement constitutes a joint exercise of power, privilege or authority by and between the Subscriber and the Agency and shall be deemed to be an "interlocal agreement" within the meaning of the Florida Interlocal Cooperation Act of 1969, as amended. This Interlocal Agreement shall be filed by the Agency with the Clerk of the Circuit Court of the county in which the Subscriber is located.

**SECTION 3.02. DISCLOSURE.**

(A) The Agency has provided a copy of (1) the Supplemental Act, (2) the Agency's Charter Agreement, (3) the Final Judgment in *Fla. PACE Funding Agency v. State*, No. 2011-CA-1824 (Fla. 2d Cir. Ct. 2011), and (4) other relevant disclosure information and background materials to the Subscriber prior to execution hereof. Subscriber, through its own staff and advisors, has independently reviewed and considered the foregoing and other relevant information of its choosing.

(B) The objective of the Agency's mission is to offer a uniform, standardized and scalable approach that provides efficiencies and economies of scale intended to attract voluntary financing of Qualifying Improvements and stimulate a substantial and meaningful flow of private sector economic activity and new job creation. In doing so, each subscribing local government by entering into a subscription agreement of this nature authorizes the availability of the Agency's uniform program to property owners in the subscribing jurisdiction. Accordingly, the Agency has engaged, and may engage in the future, various advisors, consultants, attorneys or other professionals or firms with recognized expertise necessary to accomplish the Agency's mission.

(C) Each of the various advisors, consultants, attorneys or other professionals engaged by the Agency has been, and shall in the future be, disclosed to the Subscriber. The Subscriber and Agency recognize, consider and acknowledge the fact or possibility that one or more of the various professionals or firms may serve as the advisor to the Agency in its mission, and to the Subscriber or another client in providing other similar professional services, outside of the provision, funding and financing of Qualifying Improvements. Such circumstance is acceptable and will not be construed as a conflict, be objected to unreasonably, nor be used as the basis for its disqualification of such professionals or firms from any continued or future representation of either party hereto which can otherwise be resolved by a reasonable waiver.

**SECTION 3.03. TERM OF AGREEMENT; DURATION OF AGREEMENT; EXCLUSIVITY.**

(A) The term of this Interlocal Agreement shall commence as of the date first above written, and initially continue for the next three (3) full fiscal years (ending September 30) following execution hereof. The term of this Agreement shall then be renewed for successive three-year periods, unless either party provides notice to the other in writing of intent to terminate not later than 180 days prior to the end of any three-year term, or as otherwise agreed to by the parties in writing. Provided, however either party may unilaterally terminate this Agreement prior to any Financing Agreements being executed or, if earlier, the issuance of any Obligations of the Agency secured by Pledged Revenues derived from within the jurisdiction or boundaries of the Subscriber.

(B) In the event of any termination hereunder, and so long as the Agency has Obligations outstanding which are secured by Pledged Revenues derived from Financing Agreements relating to any properties within the jurisdiction or boundaries of the Subscriber, or the Agency has projects for Qualified Improvements underway therein, the applicable provisions, authority and responsibility under this Agreement reasonably necessary to carry out the remaining aspects of the Program and responsibilities of Agency then underway, shall remain in effect and survive such termination until such time as those obligations and all associated remaining Program responsibilities are fulfilled (including, but not limited to the collection of assessments in due course).

(C) In light of the unique nature of the Agency's program and in recognition of the capital investment made by the Agency and its contracting parties, and in order to maximize the benefits of a uniform implementation of a program under the Supplemental Act, the Subscriber covenants that it will not terminate this Agreement without cause. Provided, however, the Agency's powers to be employed and exercised hereunder shall be non-exclusive, and the Subscriber is free to and reserves the right to enter into or otherwise commence another program for financing Qualified Improvements using non-ad valorem assessments either under the Supplemental Act or pursuant to its home rule powers upon written notice to the Agency of its decision to do so.

**SECTION 3.04. AMENDMENTS AND WAIVERS.**

(A) Except as otherwise provided herein, no amendment, supplement, modification or waiver of this Subscription Agreement shall be binding unless executed in writing by the Subscriber and Agency.

(B) To the extent the Agency has no outstanding bonds, Obligations or other evidence of indebtedness, this Subscription Agreement may be amended or modified or provisions hereto waived upon the written consent of all parties hereto.

(C) To the extent the Agency has outstanding bonds, Obligations or other evidence of indebtedness arising from Financing Agreements relating to properties within the jurisdiction or boundaries of the Subscriber, this Subscription Agreement may not be amended or modified in any way that is materially adverse to holders of such bonds, Obligations or other

evidence of indebtedness without the consent in writing of the holders of at least two-thirds (2/3) or more in principal amount of such bonds, Obligations or other evidence of indebtedness (exclusive of any warrants issued by the Agency) then outstanding, or any insurer duly authorized to provide such consent on behalf of such holders.

**SECTION 3.05. NOTICES.**

(A) All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when hand delivered (or confirmed electronic facsimile transmission) or mailed by registered or certified mail, postage prepaid, or sent by nationally recognized overnight courier (with delivery instructions for "next business day" service) to the parties at the following addresses:

Subscriber:           The City of Riviera Beach  
                          ATTN: City Manager  
                          600 Blue Heron Blvd. West (P.O. Drawer 10682)  
                          Riviera Beach, Florida 33404-4311 (33404)

With a copy to:       The City of Riviera Beach  
                          ATTN: City Attorney  
                          600 Blue Heron Blvd. West (P.O. Drawer 10682)  
                          Riviera Beach, Florida 33404-4311 (33404)

Agency:             Executive Director  
                          Florida PACE Funding Agency  
                          c/o City of Kissimmee  
                          101 North Church Street, Fifth Floor  
                          Kissimmee, Florida 34741

With a copy to:       Program Counsel for the Florida PACE Funding Agency  
                          P.O. Box 14043  
                          Tallahassee, Florida 32317-4043

(B) Any of the parties may, by notice in writing given to the other, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice shall be deemed given on the date such notice is delivered by hand (or confirmed electronic facsimile transmission) or three days after the date mailed.

**SECTION 3.06. QUALITY CONTROL AND COMMUNICATION.** For quality control purposes the Agency and Subscriber desire, and the Agency covenants to develop, implement and employ policies, systems and procedures which are within industry standards; with such standards being reasonably expected to change and evolve over time. An ongoing positive and informal line of communication between staff and agents for the parties is encouraged. At any time, notwithstanding lack of default or lack of material breach hereunder, the Subscriber is encouraged to objectively and specifically communicate to the Agency in

writing as provided for herein any concerns, suggestions or disapproval with performance, policies, systems or procedures being employed by the Agency. The Agency through its administrator, Executive Director, or a duly authorized designee, will promptly respond in writing to all such communications (reasonably within fifteen (15) days of receipt of any such written communication, but sooner if necessary) and follow-up accordingly; and, also promptly communicate any such response, follow-up, and all related communication to the Board of Directors for review.

**SECTION 3.07. IMMUNITY; LIMITED LIABILITY.**

(A) All of the privileges and immunities from liability and exemptions from laws, ordinances and rules which apply to the activity of officials, officers, agents or employees of the parties shall apply to the officials, officers, agents or employees thereof when performing their respective functions and duties under the provisions of this Subscription Agreement.

(B) The Subscriber and Agency are and shall be subject to Sections 768.28 and 163.01(9)(c), Florida Statutes, and any other provisions of Florida law governing sovereign immunity. Pursuant to Section 163.01(5)(o), Florida Statutes, and this covenant of the parties hereto, the local governments who are either or both the incorporators or members of the Agency shall not be held jointly liable for the torts of the officers or employees of the Agency, or any other tort attributable to the Agency, and that the Agency alone shall be liable for any torts attributable to it or for torts of its officers, employees or agents, and then only to the extent of the waiver of sovereign immunity or limitation of liability as specified in Section 768.28, Florida Statutes. The Subscriber and Agency acknowledge and agree that the Agency shall have all of the privileges and immunities from liability and exemptions from laws, ordinances, rules and common law which apply to the municipalities and counties of the State. Nothing in this Subscription Agreement is intended to inure to the benefit of any third-party for the purpose of allowing any claim, which would otherwise be barred under the doctrine of sovereign immunity or by operation of law.

(C) Neither the Subscriber, nor the local governments who are either or both the incorporators or members of the Agency, nor any subsequently subscribing or participating local government in the affairs of the Agency shall in any manner be obligated to pay any debts, obligations or liabilities arising as a result of any actions of the Agency, the Board of Directors or any other agents, employees, officers or officials of the Agency, except to the extent otherwise mutually and expressly agreed upon, and neither the Agency, the Board of Directors or any other agents, employees, officers or officials of the Agency have any authority or power to otherwise obligate either the Subscriber, the local governments who are either or both the incorporators or members of the Agency, nor any subsequently subscribing or participating local government in the affairs of the Agency in any manner.

**SECTION 3.08. BINDING EFFECT.** This Subscription Agreement shall be binding upon the parties, their respective successors and assigns and shall inure to the benefit of the parties, their respective successors and assigns.

**SECTION 3.09. SEVERABILITY** In the event any provision of this Subscription Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**SECTION 3.10. EXECUTION IN COUNTERPARTS.** This Subscription Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**SECTION 3.11. APPLICABLE LAW.** The exclusive venue of any legal or equitable action that arises out of or relates to this Subscription Agreement shall be the appropriate state court in Leon County. In any such action, Florida law shall apply and the parties waive any right to jury trial.

**SECTION 3.12. ENTIRE AGREEMENT.** This Subscription Agreement constitutes the entire agreement among the parties pertaining to the subject matter hereof, and supersedes all prior and contemporaneous agreements, understandings, negotiations and discussions of the parties, whether oral or written, and there are no warranties, representations or other agreements among the parties in connection with the subject matter hereof, except as specifically set forth herein.

[Remainder of page intentionally left blank.]

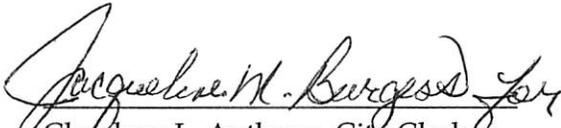
IN WITNESS WHEREOF, the undersigned have caused this Non-Exclusive Subscription Agreement to be duly executed and entered into as of the date first above written.

**THE CITY OF RIVIERA BEACH**

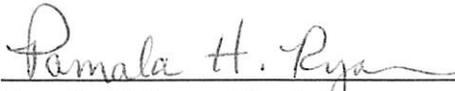
(SEAL)

By:   
Thomas A. Masters, Mayor  
Ex-Officio Chairman of the City Council

Attest:

  
Claudene L. Anthony, City Clerk

Approved as to form:

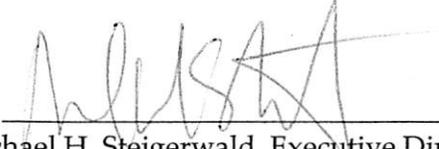
  
Pamala H. Ryan, City Attorney

IN WITNESS WHEREOF, the undersigned have caused this Interlocal Agreement to be duly executed and entered into as of the date first above written.

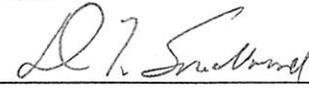
**THE FLORIDA PACE FUNDING AGENCY**

(SEAL)



By:   
Michael H. Steigerwald, Executive Director

ATTEST:

  
\_\_\_\_\_  
Donald T. Smallwood, Assistant Secretary

RESOLUTION NO. 45-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA; APPROVING A TOWER LEASE AGREEMENT WITH T-MOBILE SOUTH LLC, A DELAWARE, LIMITED LIABILITY COMPANY, 12920 SE 38<sup>th</sup> STREET, BELLEVUE, WA 98006, TO LEASE A PORTION OF THE TOWER LOCATED AT THE CITY OF RIVIERA BEACH'S POLICE DEPARTMENT; APPROVING A MEMORANDUM OF TOWER LEASE AGREEMENT WITH T-MOBILE SOUTH LLC; AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE TOWER LEASE AGREEMENT AND MEMORANDUM OF TOWER LEASE AGREEMENT WITH T-MOBILE SOUTH LLC; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, T-Mobile South LLC, a Delaware, limited liability company, desires to enter into a lease agreement with the City to utilize a portion of the tower located at the Riviera Beach Police Department; and

**WHEREAS**, T-Mobile South LLC agrees to lease a portion of the tower located at the Riviera Beach Police Department for a total annual rental of \$31,000 for a 5 year period with an annual rental increase on each anniversary of the commencement date by 3 percent. The Agreement shall automatically be extended for one (1) additional five (5) year term and one (1) additional extension term thereafter through December 31, 2029, unless the LESSEE terminates it at the end of the then-current term by giving the LESSOR written notice of the intent to terminate at least sixty (60) days prior to the end of the then current term.; and

**WHEREAS**, the City desires to enter into a lease agreement and memorandum of tower lease with T-Mobile South LLC to lease a portion of space on the tower located at the Riviera Beach Police Department; and

**WHEREAS**, the T-Mobile South LLC Lease Agreement at the Riviera Beach Police Department Tower, Memorandum of Tower Lease Agreement, are attached hereto as Exhibit "1", and "2".

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AS FOLLOWS:**

**RESOLUTION NO. 45-16**  
**PAGE 2 of 3**

**SECTION 1.** The City Council hereby approves the Tower Lease Agreement and Memorandum of Tower Lease Agreement with T-Mobile South LLC, a Delaware, limited liability company, to use a portion of the tower located at the Riviera Beach Police Department.

**SECTION 2.** The City Council hereby authorizes the Mayor and City Clerk to execute the Tower Lease Agreement and Memorandum of Tower Lease Agreement with T-Mobile South LLC, a Delaware, limited liability company, to use a portion of the tower located at the Riviera Beach Police Department.

**SECTION 3.** The associated T-Mobile South LLC Tower Lease Agreement and Memorandum of Tower Lease Agreement are attached hereto and made a part of this resolution as Exhibit "1 and "2".

**SECTION 4.** Should any one or more of the provisions or element of this Resolution be held invalid, such provision or element shall be null and void, and shall be deemed separate from the remaining provisions or elements and shall in no way affect the validity of any of the remaining provisions or elements of this resolution.

**SECTION 5.** This Resolution shall take effect immediately upon approval.

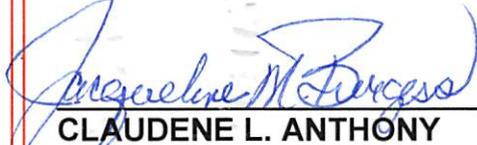
**PASSED and APPROVED this 16<sup>TH</sup> day of MARCH, 2016.**

APPROVED:

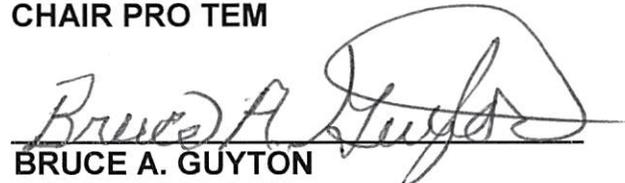
  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

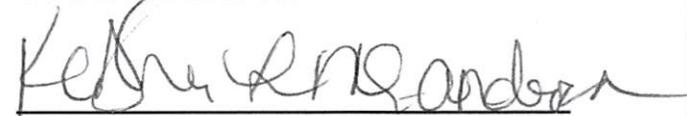
  
\_\_\_\_\_  
DAWN S. PARDO  
CHAIRPERSON

ATTEST:

  
\_\_\_\_\_  
for  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

  
\_\_\_\_\_  
TERENCE D. DAVIS  
CHAIR PRO TEM

  
\_\_\_\_\_  
BRUCE A. GUYTON  
COUNCILPERSON

  
\_\_\_\_\_  
KaSHAMBA L. MILLER-ANDERSON  
COUNCILPERSON

  
\_\_\_\_\_  
CEDRICK A. THOMAS  
COUNCILPERSON

MOTIONED BY: B. GUYTON

SECONDED BY: T. DAVIS

B. GUYTON AYE

K. MILLER-ANDERSON AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
PAMALA H. RYAN, B.C.S., CITY ATTORNEY

DATE: 3/16/16

## TOWER LEASE AGREEMENT

This Tower Lease Agreement (“Agreement”), made this 16th day of MARCH, 2016, between City of Riviera Beach, Florida, a Florida municipal corporation, with its principal mail address at 600 West Blue Heron Boulevard, Riviera Beach, Florida 33404, hereinafter designated LESSOR and T-Mobile South LLC, a Delaware, limited liability company, 12920 SE 38<sup>th</sup> Street, Bellevue, WA 98006 (telephone number 954-514-8056), hereinafter designated LESSEE. The LESSOR and LESSEE are at times collectively referred to hereinafter as the “Parties” or individually as the “Party”.

### WITNESSETH

In consideration of the mutual covenants contained herein and intending to be legally bound hereby, the Parties hereto agree as follows:

1. **PREMISES.** LESSOR hereby leases to the LESSEE a portion of that certain space (the “Tower Space”) on the LESSOR’s tower, hereinafter referred to as the “Tower”, located at 600 West Blue Heron Boulevard, Riviera Beach, Palm Beach County, Florida 33404, as being further described in Exhibit “A” attached hereto and made a part hereof (the entirety of LESSOR’s property is referred to hereinafter as the “Property”), together with a parcel of land (the “Land Space”) sufficient for the installation of LESSEE’s equipment building or cabinets; together with the non-exclusive right (the “Right of Way”) for ingress and egress, seven (7) days a week, twenty-four (24) hours a day, on foot or motor vehicle, including trucks, and for the installation and maintenance of utility wires, poles, cables, conduits, and pipes over, under, or along a right-of-way extending from the nearest public right-of-way, West 28<sup>th</sup> Street, to the Land Space; and together with any further rights of way (the “Further Rights of Way”) over and through the Property between the Land Space and the Tower Space for the installation and maintenance of utility wires, poles, cables, conduits, and pipes. The Tower Space, Land Space, Right of Way and Further Rights of Way, if any, are substantially described in Exhibit “A” attached hereto and made a part hereof and are collectively referred to hereinafter as the “Premises”.

In the event any public utility is unable to use the Right of Way or Further Rights of Way, the LESSOR hereby agrees to grant an additional right-of-way(s) either to the LESSEE or to the public utility at no cost to the LESSEE.

LESSOR hereby grants permission to LESSEE to install, maintain and operate the radio communications equipment, antennas and appurtenances described in Exhibit “B” attached hereto.

LESSEE reserves the right to replace the aforementioned equipment with similar and comparable equipment provided said replacement does not increase tower loading of the Tower.

Except for (i) LESSOR’s responsibility to maintain the Tower under Paragraph 14, (ii) LESSOR’s representation regarding hazardous substances in Paragraph 9, and (iii) and LESSOR’s obligations of compliance with any and all environmental and industrial hygiene laws under Paragraph 31, LESSOR assumes no liability or obligation to LESSEE with reference to the condition of the Premises or the suitability of the Premises for any improvements. The Premises

are leased to LESSEE in an "as is" condition, with LESSOR assuming no responsibility for bidding, contracting, permitting, construction, and the care, repair, maintenance or improvement of the Premises for the benefit of LESSEE.

2. SURVEY. LESSOR also hereby grants to LESSEE the right to survey the Property and Premises, and said survey shall then become Exhibit "C" which shall be attached hereto and made a part hereof, and shall control in the event of boundary and access discrepancies between it and Exhibit "A". Cost for such work shall be borne by the LESSEE.

3. TERM; RENTAL; ELECTRICAL.

a. This Agreement shall be effective as of the date of execution by both Parties, provided, however, the initial term shall be for five (5) years and shall commence on the Commencement Date (as hereinafter defined) at which time rental payments shall commence and be due at a total annual rental of THIRTY-ONE THOUSAND AND NO/100 DOLLARS (\$31,000.00) to be paid annually in advance, to City of Riviera Beach, Florida, a Florida municipal corporation, or to such other person, firm or place as LESSOR may, from time to time, designate in writing at least thirty (30) days in advance of any rental payment date by notice given in accordance with Paragraph 25 below. This Agreement shall commence based upon the date LESSEE is granted a building permit by the governmental agency charged with issuing such permits, or the date of full execution of the Agreement by the Parties, whichever is later. In the event the date at which LESSEE is granted a building permit or the date of execution of this Agreement, whichever is applicable, falls between the 1<sup>st</sup> and 15<sup>th</sup> of the month, this Agreement shall commence on the 1<sup>st</sup> of that month, and if such date falls between the 16<sup>th</sup> and 31<sup>st</sup> of the month, then this Agreement shall commence on the 1<sup>st</sup> day of the following month (either the "Commencement Date"). LESSOR and LESSEE acknowledge and agree that initial rental payment shall not actually be sent by LESSEE until thirty (30) days after the Commencement Date, and subsequent rental payments will be due annually on or before each anniversary of the Commencement Date.

Upon agreement of the Parties, LESSEE may pay rent by electronic funds transfer and in such event, LESSOR agrees to provide to LESSEE bank routing information for such purpose upon request of LESSEE.

b. LESSOR hereby agrees to provide to LESSEE certain documentation (the "Rental Documentation") evidencing LESSOR's interest in, and right to receive payments under, this Agreement, including without limitation: (i) documentation, acceptable to LESSEE in LESSEE's reasonable discretion, evidencing LESSOR's good and sufficient title to and/or interest in the Property and right to receive rental payments and other benefits hereunder; (ii) a complete and fully executed Internal Revenue Service Form W-9, and/or other state equivalent as required by LESSEE, for any party to whom rental payments are to be made pursuant to this Agreement; and (iii) other documentation requested by LESSEE in LESSEE's reasonable discretion. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LESSEE, LESSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LESSEE. The Rental Documentation shall be provided to LESSEE in accordance with the provisions of and at the address given in Paragraph 25. The Parties agree and acknowledge that LESSEE shall be responsible for payments due under this

Agreement commencing on the Commencement Date and thereafter throughout the term of this Agreement (except as otherwise provided herein), but that LESSEE will be unable to process any payments until the Rental Documentation has been supplied to LESSEE as provided herein.

Within fifteen (15) days of obtaining an interest in the Property or this Agreement, any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall provide to LESSEE Rental Documentation in the manner set forth in the preceding paragraph. From time to time during the Term of this Agreement and within thirty (30) days of a written request from LESSEE, any assignee(s) or transferee(s) of LESSOR agrees to provide updated Rental Documentation in a form reasonably acceptable to LESSEE. Delivery of Rental Documentation to LESSEE by any assignee(s), transferee(s) or other successor(s) in interest of LESSOR shall be a prerequisite for the payment of any rent by LESSEE to such party and notwithstanding anything to the contrary herein, LESSEE shall have no obligation to make any rental payments to any assignee(s), transferee(s) or other successor(s) in interest of LESSOR until Rental Documentation has been supplied to LESSEE as provided herein.

c. LESSOR shall, at all times during the Term, provide electrical service and telephone service access within the Premises. If permitted by the local utility company servicing the Premises, LESSEE shall furnish and install an electrical meter at the Premises for the measurement of electrical power used by LESSEE's installation. In the alternative, if permitted by the local utility company servicing the Premises, LESSEE shall furnish and install an electrical sub-meter at the Premises for the measurement of electrical power used by LESSEE's installation. In the event such sub-meter is installed, the LESSEE shall pay the utility directly for its power consumption, if billed by the utility, and if not billed by the utility, then the LESSEE shall pay the LESSOR thirty (30) days after receipt of an invoice from LESSOR indicating the usage amount based upon LESSOR's reading of the sub-meter. All invoices for power consumption shall be sent by LESSOR to LESSEE via U.S. Mail at: T-Mobile USA, Inc., 12920 SE 38<sup>th</sup> Street, Bellevue, WA 98006 and must show "Location Code 6WP2023A" on the face of the invoice. LESSEE shall be permitted at any time during the Term, to install, maintain and/or provide access to and use of, as necessary (during any power interruption at the Premises), a temporary power source, and all related equipment and appurtenances within the Premises, or elsewhere on the Property in such locations as reasonably approved by LESSOR. LESSEE shall have the right to install conduits connecting the temporary power source and related appurtenances to the Premises.

4. EXTENSIONS. Subject to the terms and conditions herein, this Agreement shall automatically be extended for one (1) additional five (5) year term and one (1) additional extension term thereafter through December 31, 2029, unless the LESSEE terminates it at the end of the then-current term by giving the LESSOR written notice of the intent to terminate at least sixty (60) days prior to the end of the then current term. The initial term and all extensions shall be collectively referred to herein as the "Term."

5. RENT ESCALATION. The annual rental shall increase on each anniversary of the Commencement Date by an amount equal to three percent (3%) of the rental for the previous lease year.

6. INTENTIONALLY OMITTED.

7. TAXES. LESSEE shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property which LESSOR demonstrates is the result of LESSEE's use of the Premises and/or the installation, maintenance, and operation of the LESSEE's improvements, and any sales tax imposed on the rent (except to the extent that LESSEE is or may become exempt from the payment of sales tax in the jurisdiction in which the Property is located), including any increase in real estate taxes at the Property which LESSOR demonstrates arises from the LESSEE's improvements and/or LESSEE's use of the Premises. LESSOR and LESSEE shall each be responsible for the payment of any taxes, levies, assessments and other charges imposed including franchise and similar taxes imposed upon the business conducted by LESSOR or LESSEE at the Property. Notwithstanding the foregoing, LESSEE shall not have the obligation to pay any tax, assessment, or charge that LESSEE is disputing in good faith in appropriate proceedings prior to a final determination that such tax is properly assessed provided that no lien attaches to the Property. Nothing in this Paragraph shall be construed as making LESSEE liable for any portion of LESSOR's income taxes in connection with any Property or otherwise. Except as set forth in this Paragraph, LESSOR shall have the responsibility to pay any personal property, real estate taxes, assessments, or charges owed on the Property and shall do so prior to the imposition of any lien on the Property.

LESSEE shall have the right, at its sole option and at its sole cost and expense, to appeal, challenge or seek modification of any tax assessment or billing for which LESSEE is wholly or partly responsible for payment. LESSOR shall reasonably cooperate with LESSEE at LESSEE's expense in filing, prosecuting and perfecting any appeal or challenge to taxes as set forth in the preceding sentence, including but not limited to, executing any consent, appeal or other similar document. In the event that as a result of any appeal or challenge by LESSEE, there is a reduction, credit or repayment received by the LESSOR for any taxes previously paid by LESSEE, LESSOR agrees to promptly reimburse to LESSEE the amount of said reduction, credit or repayment. In the event that LESSEE does not have the standing rights to pursue a good faith and reasonable dispute of any taxes under this paragraph, LESSOR will pursue such dispute at LESSEE's sole cost and expense upon written request of LESSEE.

8. USE; GOVERNMENTAL APPROVALS. LESSEE shall use the Premises only for the purpose of transmitting and receiving wireless communications signals and constructing, installing, maintaining, replacing, upgrading, repairing and operating a communications antennae facility, and uses incidental thereto for providing communications services which LESSEE is legally authorized to provide to the public. All improvements, equipment, antennas and conduits shall be at LESSEE's expense and their installation shall be at the discretion and option of LESSEE. LESSEE shall have the right to replace, repair, add or otherwise modify its utilities, equipment, antennas and/or conduits or any portion thereof and the frequencies over which the equipment operates, whether the equipment, antennas, and/or conduits or any portion thereof and the frequencies are specified or not on any exhibit attached hereto, during the Term. It is understood and agreed that LESSEE's ability to use the Premises is contingent upon its obtaining after the execution date of this Agreement all of the certificates, permits and other approvals (collectively the "Governmental Approvals") that may be required by any Federal, State or Local authorities as well as satisfactory soil boring tests and structural analysis which will permit LESSEE use of the Premises as set forth above. LESSOR shall cooperate with LESSEE in its effort to obtain such approvals and shall take no action which would adversely affect the status of the Property with respect to the proposed use thereof by LESSEE. In the event that (i) any of

such applications for such Governmental Approvals should be finally rejected; (ii) any Governmental Approval issued to LESSEE is canceled, expires, lapses, or is otherwise withdrawn or terminated by governmental authority; (iii) LESSEE determines that such Governmental Approvals may not be obtained in a timely manner; or (iv) LESSEE determines that any soil boring tests or structural analysis is unsatisfactory, LESSEE shall have the immediate right to terminate this Agreement upon notice to LESSOR. Notice of LESSEE's exercise of its right to terminate shall be given to LESSOR in writing by certified mail, return receipt requested, and shall be effective upon the mailing of such notice by LESSEE, or upon such later date as designated by LESSEE. All rentals paid to said termination date shall be retained by LESSOR. Upon such termination, this Agreement shall be of no further force or effect except to the extent of the representations, warranties and indemnities made by each Party to the other hereunder. Otherwise, the LESSEE shall have no further obligations for the payment of rent to LESSOR.

LESSEE's use of the Tower and Property are non-exclusive (other than the Premises), and LESSOR specifically reserves the right to allow portions of the Property and the Tower (other than the Premises) to be used by other parties and to make additions, deletions, or modifications to its own facilities on the Property and the Tower.

Except for LESSOR's obligation to maintain the Tower under Paragraph 14, it is understood and agreed that the LESSEE has the primary authority, possession and control over the Premises according to the terms and conditions of this Agreement. Specifically, the LESSEE is solely responsible for maintaining its facilities within the Premises in a safe condition and in compliance with applicable safety laws.

#### 9. INDEMNIFICATION.

a. LESSEE agrees to defend, indemnify and hold harmless LESSOR and its elected officials, officers, employees, agents, and representatives, from and against any and all third party claims, costs, losses, expenses, demands, actions, causes of action, injuries, damages, or liability (including reasonable attorneys' fees and court costs) to the extent arising directly from the negligence of LESSEE or its employees, agents or independent contractors under the terms of this Agreement, except to the extent attributable to the negligence or willful misconduct of LESSOR, its elected officials, officers, employees, agents and representatives.

b. LESSOR agrees to defend, indemnify and hold harmless LESSEE and its officers, employees, agents, and representatives, from and against any and all third party claims, costs, losses, expenses, demands, actions, causes of action, injuries, damages or liability (including reasonable attorneys' fees and court costs), to the extent arising directly from the negligence of the LESSOR or its employees, agents or independent contractors under the terms of this Agreement, except to the extent attributable to the negligence or willful misconduct of LESSEE, its employees, agents or independent contractors.

c. Without limiting the scope of Subparagraph 9(a) above, LESSEE will be responsible for and will defend, indemnify, and hold LESSOR, its elected officials, officers, employees, agents, and representatives harmless from and against any and all claims, costs, and liabilities (including reasonable attorneys' fees and court costs) to the extent arising out of or

related to: (i) the cleanup or restoration of the Premises resulting from LESSEE's use of hazardous materials, including, without limitation, asbestos, fuel, batteries or any hazardous material as defined by applicable safety laws and regulations, except to the extent caused by LESSOR, its elected officials, officers, employees, agents or representatives; or (ii) LESSEE's compliance with applicable environmental laws related to LESSEE's specific use of the Premises.

d. LESSOR agrees to hold harmless and indemnify LESSEE and its officers, employees, agents, and representatives from, and to assume all duties, responsibilities, and liabilities at the sole cost and expense of LESSOR for, payment of penalties, sanctions, forfeitures, losses, costs, or damages, and for responding to any action, notice, claim, order, summons, citation, directive, litigation, investigation or proceeding to the extent arising out of or related to: (i) LESSOR's failure to comply with any environmental or industrial hygiene law, including without limitation any regulations, guidelines, standards or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or matters as may now or hereafter be in effect; or (ii) any environmental or industrial hygiene conditions that arise out of or are in any way related to the condition of the Property or activities conducted by LESSOR thereon, except to the extent that the environmental or industrial hygiene conditions are caused by LESSEE's specific use of the Premises.

e. The indemnifications of this Paragraph 9 specifically include reasonable costs and expenses (including reasonable attorneys' fees and court costs) incurred in connection with any investigation of Property conditions or any clean-up, remediation, removal or restoration work required by any governmental authority. The provisions of this Subparagraph 9(e) will survive the expiration or termination of this Agreement.

f. In the event that LESSEE becomes aware of any hazardous materials on the Property, or any environmental or industrial hygiene condition or other similar matter relating to the Premises or Property that, in LESSEE's sole determination, renders the condition of the Premises unsuitable for LESSEE's use, LESSEE will have the right, in addition to any other rights it may have at law or in equity, to terminate this Agreement upon written notice to LESSOR. However, if said hazardous materials, or environmental or industrial hygiene condition or matter relating to the Property is caused by LESSEE, LESSEE's termination of this Agreement will subject LESSEE to the liquidated damages provisions in Paragraph 12 of this Agreement in addition to any other action by LESSOR due to said hazardous materials, environmental or industrial hygiene condition or other similar matter.

g. LESSEE represents and warrants that its use of the Premises will not generate and LESSEE will not store or dispose of on the Premises nor transport to or over the Premises in violation of any laws and regulations, any hazardous materials, unless LESSEE specifically informs LESSOR thereof in writing twenty-four (24) hours prior to such storage, disposal or transport or otherwise as soon as LESSEE becomes aware of the existence of hazardous materials on the Premises. The obligations of this Subparagraph 9(g) shall survive the expiration or other termination of this Agreement.

h. Nothing contained in this Agreement shall be construed or interpreted as LESSOR's consent to be sued, nor as a waiver of sovereign immunity beyond the waiver provided in Section 768.28, Florida Statutes, and any other applicable Florida law as amended from time to time.

10. INSURANCE.

a. LESSEE will maintain at its own cost:

- i. Commercial General Liability insurance with limits not less than \$1,000,000 for bodily injury (including death) and property damage each occurrence;
- ii. Commercial Auto Liability insurance on all owned, non-owned and hired automobiles with a minimum combined single limit of not less than one million (\$1,000,000) per accident; and
- iii. Workers' Compensation insurance providing the statutory benefits and not less than one million (\$1,000,000 each accident/disease/policy limit) of Employer's Liability coverage.

LESSEE will include the LESSOR as an additional insured on the Commercial General Liability and Auto Liability policies.

b. LESSOR will maintain at its own cost commercial general liability insurance with limits not less than \$1,000,000 for injury to or death of one or more persons in any one occurrence and \$500,000 for damage or destruction to property in any one occurrence. LESSOR will include the LESSEE as an additional insured.

c. In addition, LESSOR shall obtain and keep in force during the Term a policy or policies insuring against loss or damage to the Tower with a commercially reasonable valuation, as the same shall exist from time to time without a coinsurance feature. LESSOR's policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and earthquake unless required by a lender or included in the base premium), including coverage for any additional costs resulting from debris removal and reasonable amounts of coverage for the enforcement of any ordinance or law regulating the reconstruction or replacement of any undamaged sections of the Tower required to be demolished or removed by reason of the enforcement of any building, zoning, safety or land use laws as the result of a covered loss, but not including plate glass insurance.

11. LIMITATION OF LIABILITY. Except for indemnification pursuant to Paragraph 9 herein, neither Party shall be liable to the other, or any of their respective agents, representatives, employees for any lost revenue, lost profits, loss of technology, rights or services, incidental, punitive, indirect, special or consequential damages, loss of data, or interruption or loss of use of service, even if advised of the possibility of such damages, whether under theory of contract, tort (including negligence), strict liability or otherwise. Furthermore, any delay or failure in the performance by either Party shall be excused if and to the extent caused by the occurrence of a Force Majeure, which, for the purposes of this Agreement, shall

mean a cause or event that is not reasonably foreseeable or otherwise caused by or under the control of the Party claiming Force Majeure, including acts of God, floods, hurricanes, or other natural disasters, explosions, riots, insurrections, wars, sabotage, terrorism, vandalism, accident, injunctions, labor strikes or other reasons of like nature. Nothing in this Agreement shall be deemed a waiver of any limitation of liability or defenses under applicable law, nor shall any provision of this Agreement constitute an admission of liability for any claim, demand or action.

12. TERMINATION. Except as otherwise provided herein, this Agreement may be terminated upon sixty (60) days written notice to the other party, in accordance with Paragraph 25, as follows:

a. by either Party upon a default of any covenant or term of this Agreement, which default is not cured within the time limits and notice requirements provided in Paragraph 29 of this Agreement (without, however, limiting any other rights of the Parties pursuant to any other provision hereof);

b. by LESSEE for cause if it is unable to obtain or maintain any license, permit or other Governmental Approvals necessary for the construction and/or operation of LESSEE's communications facility and business;

c. by LESSEE if the Premises is or becomes unacceptable, in LESSEE's sole discretion, due to technological reasons, including, without limitation, shadowing or interference with LESSEE's communications facility, design or engineering specifications, or the communications system to which LESSEE's communications facility belongs;

d. by the LESSEE at any time prior to commencement of construction by LESSEE;

e. by the LESSOR, upon one hundred eighty (180) days prior written notice to LESSEE if LESSOR decides to redevelop the Premises in a manner inconsistent with LESSEE's intended use of the Premises and/or discontinue use of the Tower for all purposes. In such event, LESSEE will have the right to use a temporary transmission site or cell-on-wheels ("COW") on the Property at a location sufficient to meet LESSEE's engineering and coverage needs, in LESSEE's sole discretion. LESSEE shall continue to make rental payments to LESSOR during the period that LESSEE is operating the COW on the Property in the same manner set forth in this Agreement. LESSEE's placement of the COW shall be subject to (i) LESSOR's written consent, which shall not be unreasonably withheld, conditioned or delayed; and (ii) any necessary government approvals in accordance with LESSOR's zoning and land use codes and other applicable codes, ordinances, and regulations. LESSEE agrees to diligently and in good faith pursue an alternate location for its communications facility as expeditiously as possible in order to minimize the period of time that LESSEE will require use of the COW on the Property; and

f. by the LESSOR, if LESSOR determines that the Tower is structurally unsound based on factors including, but not limited to, age of the Tower and damage or destruction of all or part of the Tower.

The Parties recognize the expense and difficulties involved in proving, in a legal or other proceeding, the actual loss suffered by LESSOR if LESSEE terminates this Agreement other than of right as provided in this Agreement. Accordingly, if the LESSEE terminates this Agreement early for any reason not set forth in Subparagraphs 12(a) through 12(d) above, LESSEE shall pay to LESSOR as liquidated damages for early termination (but not as penalty) an amount equal to six (6) months' rent at the then-current rent rate. On the other hand, if LESSEE terminates this Agreement early for any of the reasons set forth in Subparagraphs 12(a) through 12(d) above, no early termination fee is required.

13. ACCESS TO TOWER. LESSOR agrees the LESSEE shall have free access to the Tower at all times for the purpose of installing and maintaining LESSEE's equipment. LESSOR shall furnish LESSEE with necessary means of access for the purpose of ingress and egress to this site and Tower. It is agreed, however, that only authorized engineers, employees or properly authorized contractors of LESSEE or persons under their direct supervision will be permitted to enter said Premises.

14. TOWER COMPLIANCE. LESSOR covenants that it will keep the Tower in good repair as required by all Laws (as defined in Paragraph 35 below). The LESSOR shall also comply with all rules and regulations enforced by the Federal Communications Commission ("FCC") with regard to the lighting, marking and painting of towers. If the LESSOR fails to make such repairs including maintenance the LESSEE may make the repairs and the costs thereof shall be payable to the LESSEE by the LESSOR on demand together with interest thereon from the date of payment at the greater of (i) ten percent (10%) per annum, or (ii) the highest rate permitted by applicable Laws. If the LESSOR does not make payment to the LESSEE within ten (10) days after such demand, the LESSEE shall have the right to deduct the costs of the repairs from the succeeding rental amounts normally due from the LESSEE to the LESSOR.

No materials may be used in the installation of the antennas or transmission lines that will cause corrosion or rust or deterioration of the Tower structure or its appurtenances.

All antenna(s) on the Tower must be identified by a marking fastened securely to its bracket on the Tower and all transmission lines are to be tagged at the conduit opening where it enters any user's equipment space.

Not later than fifteen (15) days following the execution of this Agreement, LESSOR shall supply to LESSEE copies of all structural analysis reports that have done with respect to the Tower and throughout the Term, LESSOR shall supply to LESSEE copies of all structural analysis reports that are done with respect to the Tower promptly after the completion of the same.

15. INTERFERENCE. LESSEE agrees to install equipment of the type and frequency which will not cause harmful interference which is measurable in accordance with then-existing industry standards to any equipment of LESSOR or other lessees of the Property which existed on the Property prior to the date this Agreement is executed by the Parties. In the event any after-installed LESSEE's equipment causes such interference, and after LESSOR has notified LESSEE in writing of such interference, LESSEE will take all commercially reasonable steps necessary to correct and eliminate the interference, including but not limited to, at

LESSEE's option, powering down such equipment and later powering up such equipment for intermittent testing. In no event will LESSOR be entitled to terminate this Agreement or relocate the equipment as long as LESSEE is making a good faith effort to remedy the interference issue. LESSOR agrees that LESSOR and/or any other tenants of the Property who currently have or in the future take possession of the Property will be permitted to install only such equipment that is of the type and frequency which will not cause harmful interference which is measurable in accordance with then-existing industry standards to the then-existing equipment of LESSEE. The Parties acknowledge that there will not be an adequate remedy at law for noncompliance with the provisions of this Paragraph and therefore, either Party shall have the right to equitable remedies, such as, without limitation, injunctive relief and specific performance.

16. REMOVAL AT END OF TERM. LESSEE shall, upon expiration of the Term, or within ninety (90) days after any earlier termination of the Agreement, remove its building(s), antenna(s), equipment, conduits, fixtures and all personal property and restore the Premises to its original condition, reasonable wear and tear and casualty damage excepted. LESSOR agrees and acknowledges that all of the equipment, conduits, fixtures and personal property of LESSEE shall remain the personal property of LESSEE and LESSEE shall have the right to remove the same at any time during the Term, whether or not said items are considered fixtures and attachments to real property under the Laws (as defined in Paragraph 35 below). If such time for removal causes LESSEE to remain on the Premises after termination of this Agreement, LESSEE shall pay rent at a rate of one hundred fifty percent (150%) of the then-existing rate (prorated for any partial lease year) until such time as the removal of the building, antenna structure, fixtures and all personal property are completed.

17. HOLDOVER. LESSEE has no right to retain possession of the Premises or any part thereof beyond the expiration of that removal period set forth in Paragraph 16 herein, unless the Parties are negotiating a new lease or lease extension in good faith. In the event that the Parties are not in the process of negotiating a new lease or lease extension in good faith, and LESSEE holds over in violation of Paragraph 16 and this Paragraph 17, then the rent then in effect payable from and after the time of the expiration or earlier removal period set forth in Paragraph 16 shall be equal to the rent in effect immediately preceding such expiration or earlier termination.

18. INTENTIONALLY OMITTED.

19. RIGHTS UPON SALE. Should LESSOR, at any time during the Term decide (i) to sell or transfer all or any part of the Property or the Tower thereon to a purchaser other than LESSEE, or (ii) to grant to a third party by easement or other legal instrument an interest in and to that portion of the Tower and or Property occupied by LESSEE, or a larger portion thereof, for the purpose of operating and maintaining communications facilities or the management thereof, such sale or grant of an easement or interest therein shall be under and subject to this Agreement and any such purchaser or transferee shall recognize LESSEE's rights hereunder under the terms of this Agreement. To the extent that LESSOR grants to a third party by easement or other legal instrument an interest in and to that portion of the Tower and/or Property occupied by LESSEE for the purpose of operating and maintaining communications facilities or the management thereof and in conjunction therewith, assigns this Agreement to said third party, LESSOR shall

not be released from its obligations to LESSEE under this Agreement, and LESSEE shall have the right to look to LESSOR and the third party for the full performance of this Agreement.

20. QUIET ENJOYMENT. LESSOR covenants that LESSEE, on paying the rent and performing the covenants herein, shall peaceably and quietly have, hold and enjoy the Premises.

21. TITLE. LESSOR represents and warrants to LESSEE as of the execution date of this Agreement, and covenants during the Term that LESSOR is seized of good and sufficient title and interest to the Property and has full authority to enter into and execute this Agreement. LESSOR further covenants during the Term that there are no liens, judgments or impediments of title on the Property, or affecting LESSOR's title to the same and that there are no covenants, easements or restrictions which prevent or adversely affect the use or occupancy of the Premises by LESSEE as set forth above.

22. INTEGRATION. It is agreed and understood that this Agreement contains all agreements, promises and understandings between LESSOR and LESSEE and that no verbal or oral agreements, promises or understandings shall be binding upon either LESSOR or LESSEE in any dispute, controversy or proceeding at law, and any addition, variation or modification to this Agreement shall be void and ineffective unless made in writing signed by the Parties or in a written acknowledgment in the case provided in Paragraph 3. In the event any provision of the Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either Party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such Party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, in law or in equity.

23. GOVERNING LAW. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the Laws of the State in which the Property is located.

24. ASSIGNMENT. This Agreement may be sold, assigned or transferred by the LESSEE without any approval or consent of the LESSOR to the LESSEE's principal, affiliates, subsidiaries of its principal or to any entity which acquires all or substantially all of LESSEE's assets in the market defined by the FCC in which the Property is located by reason of a merger, acquisition or other business reorganization. As to other parties, this Agreement may not be sold, assigned or transferred by the LESSEE without the prior written consent of the LESSOR, which such consent will not be unreasonably withheld, delayed or conditioned. No change of stock ownership, partnership interest or control of LESSEE or transfer upon partnership or corporate dissolution of LESSEE shall constitute an assignment hereunder. This Agreement may be sold, assigned or transferred by the LESSOR without any approval or consent of the LESSEE to the City of Riviera Beach, Florida.

25. NOTICES. All notices hereunder must be in writing and shall be deemed validly given if sent by certified mail, return receipt requested or by commercial courier, provided the courier's regular business is delivery service and provided further that it guarantees delivery to the addressee by the end of the next business day following the courier's receipt from the sender,

addressed as follows (or any other address that the Party to be notified may have designated to the sender by like notice):

LESSOR: City of Riviera Beach  
600 West Blue Heron Boulevard  
Riviera Beach, Florida 33404

LESSEE: T-Mobile USA, Inc.  
12920 SE 38<sup>th</sup> Street  
Bellevue, WA 98006

Attn: Lease Compliance / Site #6WP2023A

Notice shall be effective upon actual receipt or refusal as shown on the receipt obtained pursuant to the foregoing.

26. SUCCESSORS. This Agreement shall extend to and bind the heirs, personal representative, successors and assigns of the Parties hereto.

27. SUBORDINATION AND NON-DISTURBANCE. At LESSOR's option, this Agreement shall be subordinate to any future master lease, ground lease, mortgage, deed of trust or other security interest (a "Mortgage") by LESSOR which from time to time may encumber all or part of the Property, Tower or Right of Way; provided, however, as a condition precedent to LESSEE being required to subordinate its interest in this Agreement to any future Mortgage covering the Tower or Property, LESSOR shall obtain for LESSEE's benefit a non-disturbance and attornment agreement for LESSEE's benefit in the form reasonably satisfactory to LESSEE, and containing the terms described below (the "Non-Disturbance Agreement"), and shall recognize LESSEE's right to remain in occupancy of and have access to the Premises as long as LESSEE is not in default of this Agreement beyond applicable notice and cure periods. The Non-Disturbance Agreement shall include the encumbering party's ("Lender's") agreement that, if Lender or its successor-in-interest or any purchaser of Lender's or its successor's interest (a "Purchaser") acquires an ownership interest in the Tower or Property, Lender or such successor-in-interest or Purchaser will (1) honor all of the terms of the Agreement, (2) fulfill LESSOR's obligations under the Agreement, and (3) promptly cure all of the then-existing LESSOR defaults under the Agreement. Such Non-Disturbance Agreement must be binding on all of Lender's participants in the subject loan (if any) and on all successors and assigns of Lender and/or its participants and on all Purchasers. In return for such Non-Disturbance Agreement, LESSEE will execute an agreement for Lender's benefit in which LESSEE (1) confirms that the Agreement is subordinate to the Mortgage or other real property interest in favor of Lender, (2) agrees to attorn to Lender if Lender becomes the owner of the Tower or Property and (3) agrees to accept a cure by Lender of any of LESSOR's defaults, provided such cure is completed within the deadline applicable to LESSOR. In the event LESSOR defaults in the payment and/or other performance of any Mortgage or other real property interest encumbering the Property, LESSEE, may, at its sole option and without obligation, cure or correct LESSOR's default and upon doing so, LESSEE shall be subrogated to any and all rights,

titles, liens and equities of the holders of such Mortgage or other real property interest and LESSEE shall be entitled to deduct and setoff against all rents that may otherwise become due under this Agreement the sums paid by LESSEE to cure or correct such defaults.

28. RECORDING. LESSOR agrees to execute a Memorandum of Lease memorializing this Agreement which LESSEE may record with the appropriate recording officer. The date set forth in the Memorandum of Lease is for recording purposes only and bears no reference to commencement of either the Term or rent payments.

29. DEFAULT.

a. In the event there is a breach by LESSEE with respect to any of the provisions of this Agreement or its obligations under it, including the payment of rent, LESSOR shall give LESSEE written notice of such breach. After receipt of such written notice, LESSEE shall have fifteen (15) days in which to cure any monetary breach and thirty (30) days in which to cure any non-monetary breach, provided LESSEE shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSEE commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSOR may not maintain any action or effect any remedies for default against LESSEE unless and until LESSEE has failed to cure the breach within the time periods provided in this Paragraph.

b. In the event there is a breach by LESSOR with respect to any of the provisions of this Agreement or its obligations under it, LESSEE shall give LESSOR written notice of such breach. After receipt of such written notice, LESSOR shall have thirty (30) days in which to cure any such breach, provided LESSOR shall have such extended period as may be required beyond the thirty (30) days if the nature of the cure is such that it reasonably requires more than thirty (30) days and LESSOR commences the cure within the thirty (30) day period and thereafter continuously and diligently pursues the cure to completion. LESSEE may not maintain any action or effect any remedies for default against LESSOR unless and until LESSOR has failed to cure the breach within the time periods provided in this Paragraph. Notwithstanding the foregoing to the contrary, it shall be a default under this Agreement if LESSOR fails, within ten (10) days after receipt of written notice of such breach, to perform an obligation required to be performed by LESSOR if the failure to perform such an obligation interferes with LESSEE's ability to conduct its business on the Property; provided, however, that if the nature of LESSOR's obligation is such that more than ten (10) days after such notice is reasonably required for its performance, then it shall not be a default under this Agreement if performance is commenced within such ten (10) day period and thereafter diligently pursued to completion.

30. REMEDIES. Upon a default, the non-defaulting Party may at its option (but without obligation to do so), perform the defaulting Party's duty or obligation on the defaulting Party's behalf, including but not limited to the obtaining of reasonably required insurance policies. The costs and expenses of any such performance by the non-defaulting Party shall be due and payable by the defaulting Party within thirty (30) days of receipt of an invoice therefor. In the event of a default by either Party with respect to a material provision of this Agreement, without limiting the non-defaulting Party in the exercise of any right or remedy which the non-

defaulting Party may have by reason of such default, the non-defaulting Party may terminate the Agreement and/or pursue any remedy now or hereafter available to the non-defaulting Party under the Laws or judicial decisions of the state in which the Premises are located; provided, however, LESSOR shall use reasonable efforts to mitigate its damages in connection with a default by LESSEE.

31. ENVIRONMENTAL.

a. LESSOR represents and warrants that the Property is free of hazardous substances as of the date of full execution of this Agreement, and, to the best of LESSOR's knowledge, the Property has never been subject to any contamination or hazardous conditions resulting in any environmental investigation, inquiry or remediation.

b. LESSOR will be responsible for all obligations of compliance with any and all environmental and industrial hygiene laws, including any regulations, guidelines, standards, or policies of any governmental authorities regulating or imposing standards of liability or standards of conduct with regard to any environmental or industrial hygiene conditions or concerns as may now or at any time hereafter be in effect, that are or were in any way related to activity now conducted in, on, or in any way related to the Tower or Property, unless such conditions or concerns are caused by the specific activities of LESSEE in the Premises.

32. CASUALTY. In the event of damage by fire or other casualty to the Tower or Premises that cannot reasonably be expected to be repaired within forty-five (45) days following same or, if the Property is damaged by fire or other casualty so that such damage may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, then LESSEE may, at any time following such fire or other casualty, provided LESSOR has not completed the restoration required to permit LESSEE to resume its operation at the Premises, terminate this Agreement upon fifteen (15) days prior written notice to LESSOR. Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment, as of such termination date, with respect to payments due to the other under this Agreement. Notwithstanding the foregoing, the rent shall abate during the period of repair following such fire or other casualty in proportion to the degree to which LESSEE's use of the Premises is impaired.

33. CONDEMNATION. In the event of any condemnation of all or any portion of the Property, this Agreement shall terminate as to the part so taken as of the date the condemning authority takes title or possession, whichever occurs first. If as a result of a partial condemnation of the Premises or Tower, LESSEE, in LESSEE's sole discretion, is unable to use the Premises for the purposes intended hereunder, or if such condemnation may reasonably be expected to disrupt LESSEE's operations at the Premises for more than forty-five (45) days, LESSEE may, at LESSEE's option, to be exercised in writing within fifteen (15) days after LESSOR shall have given LESSEE written notice of such taking (or in the absence of such notice, within fifteen (15) days after the condemning authority shall have taken possession) terminate this Agreement as of the date the condemning authority takes such possession. LESSEE may on its own behalf make a claim in any condemnation proceeding involving the Premises for losses related to the

equipment, conduits, fixtures, its relocation costs and its damages and losses (but not for the loss of its leasehold interest). Any such notice of termination shall cause this Agreement to expire with the same force and effect as though the date set forth in such notice were the date originally set as the expiration date of this Agreement and the Parties shall make an appropriate adjustment as of such termination date with respect to payments due to the other under this Agreement. If LESSEE does not terminate this Agreement in accordance with the foregoing, this Agreement shall remain in full force and effect as to the portion of the Premises remaining, except that the rent shall be reduced in the same proportion as the rentable area of the Premises taken bears to the total rentable area of the Premises. In the event that this Agreement is not terminated by reason of such condemnation, LESSOR shall promptly repair any damage to the Premises caused by such condemning authority.

34. SUBMISSION OF AGREEMENT / PARTIAL INVALIDITY/AUTHORITY.

The submission of this Agreement for examination does not constitute an offer to lease the Premises and this Agreement becomes effective only upon the full execution of this Agreement by the Parties. If any provision herein is invalid, it shall be considered deleted from this Agreement and shall not invalidate the remaining provisions of this Agreement. Each of the Parties hereto warrants to the other that the person or persons executing this Agreement on behalf of such Party has the full right, power and authority to enter into and execute this Agreement on such Party's behalf and that no consent from any other person or entity is necessary as a condition precedent to the legal effect of this Agreement.

35. APPLICABLE LAWS. During the Term, LESSOR shall maintain the Property and all structural elements of the Premises in compliance with all applicable laws, rules, regulations, ordinances, directives, covenants, easements, zoning and land use regulations, and restrictions of record, permits, building codes, and the requirements of any applicable fire insurance underwriter or rating bureau, now in effect or which may hereafter come into effect (including, without limitation, the Americans with Disabilities Act and laws regulating hazardous substances) (collectively "Laws"). LESSEE shall, in respect to the condition of the Premises and at LESSEE's sole cost and expense, comply with (a) all Laws relating solely to LESSEE's specific and unique nature of use of the Premises (other than general office use); and (b) all building codes requiring modifications to the Premises due to the improvements being made by LESSEE in the Premises.

36. SURVIVAL. The provisions of the Agreement relating to indemnification from one Party to the other Party shall survive any termination or expiration of this Agreement. Additionally, any provisions of this Agreement which require performance subsequent to the termination or expiration of this Agreement shall also survive such termination or expiration.

37. CAPTIONS. The captions contained in this Agreement are inserted for convenience only and are not intended to be part of the Agreement. They shall not affect or be utilized in the construction or interpretation of the Agreement.

38. RADON GAS DISCLOSURE. RADON IS A NATURALLY OCCURRING RADIOACTIVE GAS THAT, WHEN IT HAS ACCUMULATED IN A BUILDING IN SUFFICIENT QUANTITIES, MAY PRESENT HEALTH RISKS TO PERSONS WHO ARE EXPOSED TO IT OVER TIME. LEVELS OF RADON THAT EXCEED FEDERAL AND

STATE GUIDELINES HAVE BEEN FOUND IN BUILDINGS IN FLORIDA. ADDITIONAL INFORMATION REGARDING RADON AND RADON TESTING MAY BE OBTAINED FROM YOUR COUNTY HEALTH DEPARTMENT.

<Signature Page to Follow>

IN WITNESS WHEREOF, the Parties hereto have set their hands and affixed their respective seals the day and year written below.

WITNESSES:

LESSOR:

City of Riviera Beach, Florida, a Florida municipal corporation

Debrah Hall  
Name: Debrah Hall

Therika R. Thomas  
Name: Therika R. Thomas

By: Thomas Masters  
Name: Thomas Masters  
Title: Mayor  
Date: March 18, 2016

ATTEST

By: Claudene L. Anthony, CMC  
Claudene L. Anthony, CMC  
City Clerk

Approved as to Form and Legal Sufficiency

By: Pamala H. Ryan  
Pamala H. Ryan, B.C.S.  
City Attorney

Date: 3/16/16

**WITNESSES:**

          Diana Hall            
Name:           Diana Hall          

          Monique Kampa            
Name:           monique Kampa          

**LESSEE:**

T-Mobile South LLC, a Delaware limited liability company

By:           Bentley C Alexander          

Name: Bentley C. Alexander

Title: Vice President, Engineering

Date:           12-29-15

**Exhibit "A"**  
**(Page 1 of 2)**  
**Legal Description**

**LESSOR's Property:**

Tract "D", Plat No. 1 Park Manor, according to the Plat thereof as recorded in Plat Book 26, Page 72, Public Records of Palm Beach County, Florida. LESS and EXCEPTING that property now described as all of the Plat of Suncoast Community High School as recorded in Plat Book 67, Page 52, Public Records of Palm Beach County, Florida.

**Exhibit "A"**  
**(Page 2 of 2)**  
**Site Plan**

**See Attached Lease Exhibit Dated 10/10/14 by Kimley Horn (3 pages)**



**Exhibit "B"**  
**Equipment List**

4'-6" x 13' for equipment + 2' x 5' for electrical rack

Fifteen (15) antennas

Two (2) Hybrid lines

Three (3) Large COVPs

Fifteen (15) RRUs

**Exhibit "C"**  
**Survey**

**To be attached in the future if LESSEE procures a survey**

RESOLUTION NO. 46-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, TO ACCEPT AMENDMENT 1 TO THE VICTIMS OF CRIME ACT (VOCA) GRANT NO. V179-14266 FOR THE VICTIM ADVOCATE PROGRAM AWARDING FUNDS IN THE AMOUNT NOT TO EXCEED \$53,974. FOR OCTOBER 1, 2015, THROUGH SEPTEMBER 30, 2016; RATIFYING THE SIGNATURE OF THE MAYOR TO EXECUTE AMENDMENT 1 TO CONTINUE WITH CRISIS RESPONSE SERVICES FOCUSING IN AREAS OF HOMICIDE, DOMESTIC VIOLENCE, CHILD DEATHS, AND ELDERLY VICTIMIZATION; AUTHORIZING THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO SET UP THE BUDGET IN FUND 125; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the Florida Office of the Attorney General has established a Victims of Crime Act (VOCA) Grant Program; and

**WHEREAS**, the City of Riviera Beach, in Amendment 1 of Grant No. V179-14266, has been awarded funds in the amount not to exceed \$53,974. that requires a twenty percent (20%) match of \$10,794. which will be provided through in-kind match services from the City; and

**WHEREAS**, the term of Amendment 1 of Grant No. V179-14266 is from October 1, 2015, through September 30, 2016; and

**WHEREAS**, the Florida Office of the Attorney General required that Amendment 1 of Grant No. V179-14266 be signed by the Mayor and returned within fifteen (15) days or grant would be void; and

**WHEREAS**, the Mayor signed Amendment 1 on September 24, 2015, and it was sent via Federal Express to the Florida Office of the Attorney General on September 25, 2015, in order to ensure the continuance of grant funding; and

**WHEREAS**, these funds will be used for continuing the Department's crisis response services, crisis intervention, and assisting investigators; and

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA, THAT:**

**SECTION 1:** That the City Council ratifies the Mayor signature to order to ensure the continuance of grant funds and acceptance of Amendment 1 to VOCA Grant V179-14266 on behalf of the City.

**SECTION 2:** The Director of Finance and Administrative Services is authorized to set up the budget.

**SECTION 3:** This resolution shall take effect immediately upon its passage and approval by the City Council.

**PASSED AND ADOPTED this 16<sup>TH</sup> day of MARCH, 2016.**

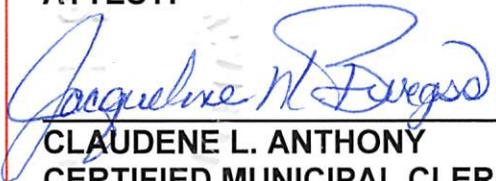
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APPROVED:

  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

  
\_\_\_\_\_  
DAWN S. PARDO  
CHAIRPERSON

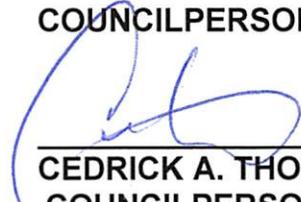
ATTEST:

  
\_\_\_\_\_  
FOR  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

  
\_\_\_\_\_  
TERENCE D. DAVIS  
CHAIR PRO TEM

  
\_\_\_\_\_  
BRUCE A. GUYTON  
COUNCILPERSON

  
\_\_\_\_\_  
KaSHAMBA L. MILLER-ANDERSON  
COUNCILPERSON

  
\_\_\_\_\_  
CEDRICK A. THOMAS  
COUNCILPERSON

MOTIONED BY: B. GUYTON

SECONDED BY: C. THOMAS

B. GUYTON AYE

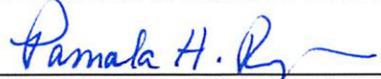
K. MILLER-ANDERSON AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS OUT

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
PAMALA HANNA RYAN, B.C.S., CITY ATTORNEY

DATE: 3/16/16

RESOLUTION NO. 47-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE PURCHASE AND INSTALLATION OF TWO (2) SQUARE MILES OF SHOTSPOTTER FOR A TWO-YEAR PERIOD FOR A TOTAL OF \$280,000.00; AUTHORIZING THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO MAKE PAYMENT; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, The Riviera Beach City Council passed Resolution No. 27-16 authorizing the execution of an Interlocal Agreement with the Port of Palm Beach for reimbursement of funds for activities under the FY2014 Port Security Grant Program; and

**WHEREAS**, ShotSpotter Flex helps Law Enforcement Agencies by directing Police to the precise location of illegal gunfire incidents; and

**WHEREAS**, ShotSpotter is being expanded to support maritime transportation infrastructure security activities. The installation of ShotSpotter in and around the Port of Palm Beach will strengthen the critical infrastructure against risks associated with potential terrorist attacks.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA, THAT:**

**SECTION 1:** The Riviera Beach Police Department is authorized to proceed with the purchase and installation of two (2) square miles of as approved by City of Riviera Beach Resolution No. 27-16.

**RESOLUTION NO.** 47-16  
**Page 2 of 3**

**SECTION 2:** The Director of Finance and Administrative Services is authorized to make payment to ShotSpotter as follows:

ACCOUNT NUMBER	ACCOUNT DESCRIPTION	AMOUNT
001-0817-521-0-4601	Repairs & Maintenance	\$ 45,000.00
150-0817-521-2-6404	Law Enforcement Trust Fund	\$ 25,000.00
124-0817-521-1-6404	Port Security Grant	\$210,000.00

**SECTION 3:** This resolution shall take effect upon its passage and approval by the City Council.

**PASSED AND ADOPTED** this 16<sup>TH</sup> day of MARCH, 2016.

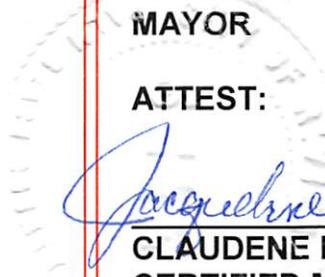
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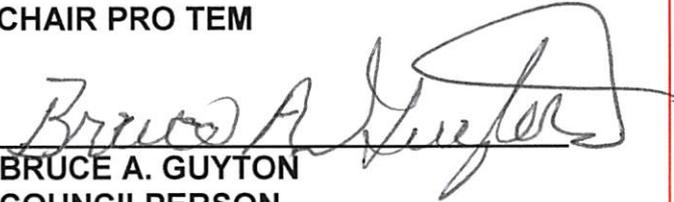
  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

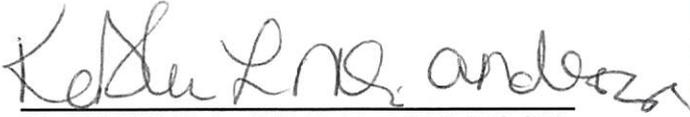
  
\_\_\_\_\_  
DAWN S. PARDO  
CHAIRPERSON

ATTEST:

  
  
\_\_\_\_\_  
FOR  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

  
\_\_\_\_\_  
TERENCE D. DAVIS  
CHAIR PRO TEM

  
\_\_\_\_\_  
BRUCE A. GUYTON  
COUNCILPERSON

  
\_\_\_\_\_  
KaSHAMBA L. MILLER-ANDERSON  
COUNCILPERSON

  
\_\_\_\_\_  
CEDRICK A. THOMAS  
COUNCILPERSON

MOTIONED BY: T. DAVIS

SECONDED BY: C. THOMAS

B. GUYTON TARDY

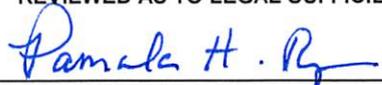
K. MILLER-ANDERSON AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
PAMALA H. RYAN, B.C.S., CITY ATTORNEY

DATE: 3/16/16

RESOLUTION NO. 48-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH SEVEN KINGS MANAGEMENT, INC., TO PROVIDE 3<sup>RD</sup> PARTY MARINA MANAGEMENT SERVICES TO THE CITY OF RIVIERA BEACH FOR THE OPERATION OF THE MARINA; AUTHORIZING THE DIRECTOR OF FINANCE AND ADMINISTRATIVE SERVICES TO MAKE APPROPRIATE PAYMENT TO SEVEN KINGS MANAGEMENT INCLUDING AN ANNUAL MANAGEMENT FEE, EQUAL TO THE GREATER OF \$54,000 OR 5% OF GROSS REVENUES, FROM ACCOUNT # 422-0000-575-0-6405 AND FOR OPERATING EXPENSES AS OUTLINED IN THE AGREEMENT FROM THE APPROPRIATE BUDGETED ACCOUNT; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS** the City Council determined that it would be in the best interest of the City to engage a marina management firm having special and broad experience in operating, staffing, and managing marinas in South Florida which could provide those services to the City at the City's newly renovated marina dock slips, future ship store, and related operations; and

**WHEREAS**, in accordance with provisions of the City's procurement code (Chapter 16.5), staff solicited Request for Proposals for Marina Management Services for the City of Riviera Beach Marina in RFP No.490-14; and

**WHEREAS**, the evaluation committee evaluated six firms, namely: Seven Kings Management, Inc., Marina Management Consolidated; Aqua Marina Properties, LLC, IGY Marina Management Services, Marina International, and Siegel-Gallagher Management Services; and

**WHEREAS**, the number one ranked firm, Seven Kings Management, Inc., and the number two ranked firm, Marina Management Consolidated, were interviewed by the City Council at the July 13, 2015 Special Council Meeting and a motion was unanimously approved to have staff negotiate a third party marina management agreement with Seven Kings Management, Inc.; and

**WHEREAS**, at the direction of City Council, staff consulted with an outside attorney who has negotiated and drafted marina agreements in the past; and

**WHEREAS**, City representatives met on numerous occasions with representatives of Seven Kings, and have negotiated an agreement that is in the best interests of the parties.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:**

**SECTION 1.** That the Mayor and City Clerk are authorized to execute a three year agreement with Seven Kings Management, Inc., which includes an option to extend the agreement for two additional one year terms, said agreement is attached hereto.

**SECTION 2.** That the Director of Finance and Administrative Services is authorized to make appropriate payment to Seven Kings Management, Inc., equal to an annual management fee equal to the greater of \$54,000 or 5% of Gross Revenues, from account no. 422-0000-575-0-6405, and is further authorized to make payments for other operating expenses as outlined in the agreement from the appropriate budgeted account.

**SECTION 3.** That this resolution shall become effective upon its passage and approval by City Council.

**PASSED and APPROVED** this 16<sup>TH</sup> day of MARCH, 2016.

APPROVED:

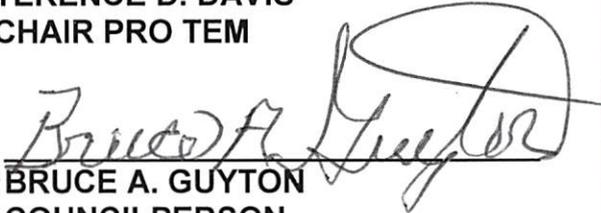
  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

  
\_\_\_\_\_  
DAWN S. PARDO  
CHAIRPERSON

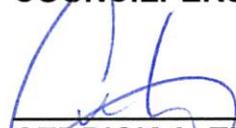
ATTEST:

  
\_\_\_\_\_  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

  
\_\_\_\_\_  
TERENCE D. DAVIS  
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CEDRICK A. THOMAS  
COUNCILPERSON

MOTIONED BY: B. GUYTON

SECONDED BY: C. THOMAS

B. GUYTON AYE

K. MILLER-ANDERSON AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
\_\_\_\_\_  
PAMALA H. RYAN, B.C.S., CITY ATTORNEY

DATE: 3/16/16

**Marina Management Services Agreement**

**between**

**Seven Kings Management, Inc.**

**and**

**The City of Riviera Beach, Florida**

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- Appendix "B" – The Riviera Beach Municipal Marina
- Appendix "C" – Mortgages, debt instruments, leases, subleases, association documents, grants and other encumbrances
- Appendix "D" – Form – Monthly Operating Statement
- Appendix "E" – Delinquent Accounts
- Appendix "F" - Uniform
- Appendix "G" – The City's 2015-16 Pro Forma Marina Budget
- Appendix "H" – The City's Budget Policies and Other Policies

**MARINA MANAGEMENT SERVICES AGREEMENT**

**THIS MARINA MANAGEMENT SERVICES AGREEMENT** ("Agreement") dated MARCH 16, \_\_\_\_\_, 2016 ("Effective Date") is between Seven Kings Management, Inc., a Florida corporation, ("Seven Kings"), 630 Maplewood Drive, Suite 100, Jupiter, Florida, 33458, located in Palm Beach County, and the City of Riviera Beach, Florida, a municipal corporation existing under the laws of the State of Florida, ("City"), 600 West Blue Heron Blvd., Riviera Beach, Florida 33404, (City and Seven Kings may hereinafter be individually referred to as a "Party" or collectively as the "Parties").

**RECITALS**

- A. City owns a marina located at 200 East 13<sup>th</sup> Street, Riviera Beach, Florida 33404, located in the Riviera Beach Marine District, as generally described in Appendix "A", the Marina District Conceptual Plan and related project summary, and more specifically described in Appendix "B" ("the Marina").
- B. City issued a Request for Proposal (RFP 490-14) to engage a third party management company to manage the operation of the Marina.
- C. City, at a public meeting and consistent with the rules and regulations of Florida Statutes, the City of Riviera Beach Code of Ordinances, and RFP 490-14, selected Seven Kings Management, Inc., to act as the third party management company.
- D. The purpose of this Agreement is to allow Seven Kings to manage the Marina in accordance with the terms and conditions of this Agreement.
- E. Seven Kings is in the business of managing marinas and currently manages similar marinas.
- F. City's intent in retaining Seven Kings is to have a vital, financially successful and self-supporting marina in accordance with expressed plans, instructions and policies of the City.
- G. The Parties understand, acknowledge and agree that not all of the improvements and amenities contemplated and shown in the Marina District Conceptual Plan have been constructed by City, however agree that such improvements and amenities are vital to the success of the Marina and Seven Kings' participation, the success of the Marina and the fulfillment of the expectations of the Parties under this Agreement and other applicable documents relating to the management and operation of the Marina, and, as such, City and the CRA, and such other applicable agencies, shall diligently pursue the completion of all such improvements.
- H. The Parties further understand, acknowledge and agree that the cooperation and coordination between City, the CRA and Seven Kings is imperative to the success

*Management Agreement – City of Riviera Beach Marina*

  
Initials

of the Marina and upland improvements managed by the CRA and as such it is the Parties' intentions, together with the CRA, to work together throughout the term of this Agreement for the betterment of both the Marina and the upland improvements shown in the Marina District Conceptual Plan and, as necessary and appropriate, periodically enter into memoranda of understanding in furtherance thereof.

- I. City finds that this Agreement serves both a public purpose and a municipal purpose.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants and agreements herein contained, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

#### **ARTICLE I. Appointment of Manager.**

##### **1.01 Manager.**

City hereby approves the terms and conditions set forth herein and hereby appoints Seven Kings as its exclusive manager and operator of, and who shall have exclusive control over, the Marina, upon the terms and conditions set forth herein, and Seven Kings accepts such appointment. This Agreement is not one of general agency by Seven Kings for City, but one with Seven Kings engaged independently in the business of managing properties on its own behalf, as an independent contractor and in that respect having only limited agency as specifically set forth in this Agreement.

#### **ARTICLE II. General Management and Operations.**

##### **2.01 General Management Services.**

Subject to the provisions of this Agreement, Seven Kings will manage the Marina on behalf of City in a faithful and efficient manner consistent with the standards of operation established and set forth in this Agreement. To the extent not expressly set forth in this Agreement, in reliance on Seven Kings' experience and knowledge Seven Kings shall have the right to operate and manage the Marina, as Seven Kings deems appropriate. In furtherance thereof, Seven Kings shall to the extent of available funds from the Marina:

- (a) Do everything reasonable within its power to manage the Marina in accordance with the terms and conditions of any mortgage, debt instrument, leases, subleases, water leases, association documents, grants, or other encumbrances, applicable to, or affecting the operation of, the Marina. Said mortgages, debt instruments, leases, subleases, association documents, grants and other encumbrances are set forth on Appendix "C" attached hereto and made a part hereof and copies of which will be provided to Seven Kings prior to the Effective Date or, if encumbering the Marina after the Effective Date, within ten (10) days of the execution of such document by City;

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(b) Implement and oversee administrative, accounting, budgeting, marketing, employee staffing and training, tenant and lease management, and operational policies and practices relating to or affecting Marina operations, as may be further described in this Article II and within the "Scope" of this engagement described in Article III;

(c) To be paid out of the Operating Account, as defined in Section 2.04(a), and to the extent not already performed by City, the Community Redevelopment Agency ("CRA") or an association managing all or a portion of the property, arrange for the Marina to be furnished with water, sewer, electric, gas, telephone, data/internet, cable, vermin extermination, trash removal, equipment maintenance, security, and such other services as are necessary for the proper operation and maintenance of the Marina as contemplated by this Agreement. Seven Kings shall use best efforts to include provisions in all service contracts providing that such contracts (i) be assignable to a successor manager of the Marina, (ii) include in any agreement for service with a term in excess of one year a provision for cancellation thereof by City upon not more than thirty (30) days' written notice and (iii) require that all contractors provide evidence of insurance sufficient to meet the City's minimum requirements; and

(d) At all times during the term of this Agreement, maintain in place on the Marina liability and property insurance as more particularly described below, to be paid out of the Operating Account. Notwithstanding anything to the contrary in this Agreement, Seven Kings may, in Seven Kings' reasonable discretion, negotiate, obtain and maintain such insurance as part of a larger policy obtained by Seven Kings covering Seven Kings' other interests with such costs being proportioned to City, as applicable. Seven Kings shall promptly investigate and prepare a full written report as soon as possible for losses above \$10,000.00, with a copy provided to the City Manager, in connection with all accidents, claims or damages relating to the ownership, operation and maintenance of the Marina, any damage or destruction to the Marina and the estimated costs of repair thereof. Seven Kings will have no right to settle, compromise, or otherwise dispose of any claim, demand or liability above \$10,000.00, whether or not covered by insurance, without the prior written consent of City except as may be otherwise required by the insurer.

City shall promptly execute such documents, as Seven Kings, in its reasonable judgment, deems necessary or advisable for Seven Kings to carry out its management of the Marina. Such authority shall include authority to direct the matters described in Articles II and III, which are not in limitation of the foregoing.

## **2.02 Operating Plan and Budget.**

(a) In order to assist City in its financial planning, Seven Kings shall prepare and deliver to City a preliminary operating plan and budget ("Operating Plan and Budget") by March 1 prior to each fiscal year setting forth in reasonable detail an estimate of the income and expense of the Marina for the next ensuing operating year, which may include, but not necessarily be limited to, marketing activities and all Capital Improvements (as defined below) required by Section 2.03(c). As used in this Agreement, the term "operating year" shall mean the City's budget year during the term of this Agreement, or a portion thereof if applicable to the first or

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last operating year. The Operating Plan and Budget shall, subject to the provisions of this Agreement, be submitted to City for approval in accordance with Section 4.06. During the operating year, Seven Kings shall use its best efforts to inform City of any major increases or decreases in costs, expenses and income that were not reflected in the Operating Plan and Budget.

(b) In addition to such other information as may be requested or otherwise set forth in this Agreement, Seven Kings employees assisting the Marina, whether located at the Marina, Seven Kings' corporate offices or elsewhere, may be grouped together or separately provided in the budget and may be increased or decreased as appropriate after the first year of the term of this Agreement, all in Seven Kings' discretion.

### **2.03 Maintenance, Repairs and Capital Improvements.**

(a) Seven Kings shall cause the Marina to be maintained and repaired out of the Operating Account.

(b) In furtherance of Section 2.03(a) Seven Kings shall:

- (i) Give attention to preventive maintenance. Seven Kings shall use its reasonable discretion to utilize the services of regular maintenance employees, dock hands, shared maintenance specialists and, as deemed appropriate by Seven Kings, third-party vendors to perform such maintenance at the Marina;
- (ii) Systematically and promptly review and investigate all service requests from the City Manager, or designee, and tenants, as applicable; take such action thereon as may be justified in Seven Kings's reasonable discretion and keep records of the same. Emergency requests will be received and serviced as appropriate. Complaints of a material nature will be reported to City after investigation.

(c) Seven Kings will arrange for all necessary Capital Improvements to be made to the Marina (as used in this Agreement, the term "Capital Improvements" shall mean those items which for accounting purposes may not be expensed but must be capitalized according to generally accepted accounting principles in effect on the date hereof); provided, however, that:

- (i) Except as provided below and herein, all Capital Improvements where (A) any single expenditure is in excess of Ten Thousand Dollars (\$10,000.00), and up to Twenty-Five Thousand Dollars (\$25,000.00), must have the prior approval of the City Manager, or designee, and (B) any single expenditure in excess of Twenty-Five Thousand Dollars (\$25,000.00) must have prior approval of the City Council (which approval in both such instances shall be deemed to have been received if the Capital Improvement is included in the current approved Operating Plan and Budget);
- (ii) All permits, licenses, and authorizations required to be procured in connection with any Capital Improvement shall be procured, or caused to be procured, by Seven Kings, at City's expense;
- (iii) Any Capital Improvements shall be made promptly in a good and workmanlike manner and in compliance with all applicable laws and regulations; and
- (iv) The cost of any Capital Improvements shall be paid promptly, or caused to be paid, by Seven Kings out of the Capital Improvements budget so that the Marina shall, if and to the extent City so desires, at all times be free from any lien, encumbrance or other charge for labor, services, or materials supplied or claimed to have been supplied to the Marina and used or expended for such Capital Improvements.

(d) Notwithstanding any of the foregoing provisions, no prior notification to City will be required, regardless of the amount of the expenditure, in connection with the maintenance and repair of the Marina for emergency repairs involving immediate danger to the health, safety or welfare of persons or property, or as required to avoid suspension of any necessary service to the Marina, in Seven Kings' reasonable discretion. For all such emergency expenses, Seven Kings will notify City of such emergency expenses as promptly as possible however Seven Kings may immediately proceed with such maintenance and repair work as deemed appropriate by Seven Kings to address the emergency condition.

(e) Seven Kings shall not borrow any money or execute any promissory note, bill of exchange or other obligation, mortgage or encumbrance in the name and on behalf of City to pledge the credit of City without City's prior consent except for purchases made in the ordinary course of business in the management of the Marina within the scope of this Agreement.

**2.04 Rentals. Collections and Bank Accounts.**

During the term of this Agreement, Seven Kings will endeavor to:

- (a) Collect, when due, all rents, membership dues, charges, fees, sales and other

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applicable taxes and other amounts receivable on the City's account in connection with the management and operation of the Marina. Such receipts will be deposited in a bank account separate from all other accounts and funds, in a bank account chosen by Seven Kings, which shall be a qualified public depository. This account will be carried in Seven Kings' name, as determined appropriate by Seven Kings, and be designated as an operating account ("Operating Account"). Signatory authority on the Operating Account will be given to Seven Kings only. Viewing Access to the Operating Account will be given to City. All of the Marina operating expenses, as well as the Management Fees and other expenses to be paid or reimbursed to Seven Kings in accordance with the terms and provisions of this Agreement, shall be paid out of the Operating Account by Seven Kings.

(b) Collect deposits, and disburse security deposits and advance rents, as applicable, in accordance with the terms of each lease and applicable state law. City shall provide to Seven Kings, in writing, a certified list of all security deposits and advanced rents held by City, including the applicable customer's name and applicable information on or prior to the Effective Date, and all security deposits and advanced rents held by the City shall be turned over to Seven Kings and placed in the Operating Account at least five (5) days prior to the Commencement Date. City represents and warrants to Seven Kings (i) that such amounts and information shall be accurate (1) as of the Effective Date and (2) when such amounts and information are turned over to Seven Kings and (ii) that no other security deposit or advanced rents are due and owing any party other than those disclosed and turned over to Seven Kings as set forth herein. Security deposits and advance rents may be deposited and comingled by Seven Kings. Seven Kings will disburse such deposits within the normal course of business, subject to verification that all amounts due City have been either paid or recovered therein, or may retain the same pursuant to the terms of each lease if any amounts due from a tenant remain outstanding and apply the same against such tenant's account.

## **2.05 Authority to Disburse Funds.**

(a) From the monies in the Operating Account, Seven Kings will be authorized to make the following disbursements promptly, in the order set forth below, when payable:

- (i) Reimbursement to Seven Kings for compensation and benefits payable to employees utilized in the management and operation of the Marina and for taxes and assessments payable to local, state, and federal governments in connection with the employment of such personnel.
- (ii) All sums due and payable to third parties, including but not limited to governmental agencies, vendors and other service providers, relating to the operation, use and maintenance of the Marina.
- (iii) A single aggregate payment required to be made monthly by City to a lender, if any.
- (iv) All sums due and payable as expenses of the Marina authorized to be

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incurred by Seven Kings under the terms of this Agreement, including Reimbursable Expenses (as defined below) and other fees and compensation payable to Seven Kings.

(v) Payments to City as directed by City.

(b) In the event that the balance in the Operating Account becomes at any time insufficient to pay disbursements when due and payable, Seven Kings shall immediately inform City of the amount of the deficiency. City shall thereafter remit to Seven Kings, within no more than three (3) business days following such written notice to the Finance Department and City's Contract Administrator, sufficient funds to cover the deficiency. In no event shall Seven Kings be required to use its own funds to pay such deficiencies. Notwithstanding, in the event that Seven Kings elects to provide bridge financing to fund any such deficiencies not paid by City within three (3) business days after written notice as provided above, in its sole and absolute discretion, such funds will earn interest at the rate equal to the then current New York Prime Rate plus five (5) percentage points and such bridge financing together with any accrued interest shall be due from City to Seven Kings upon demand.

## **2.06 Accounting, Books, Records, and Financial Statements.**

(a) Seven Kings shall establish and maintain a comprehensive system of books of account and other records, established and maintained on the U.S. Federal Income Tax Basis, relating to or reflecting the results of the operation and management of the Marina in accordance with generally accepted accounting principles applied on a consistent basis. All such books of account and other records shall be made available to City at all reasonable times for examination, audit, and inspection and copying. Upon termination of this Agreement for any reason in accordance with the terms hereof, all of such books of account and records, both in electronic data files and printed copies, each at City's expense, shall be turned over forthwith to City so as to ensure the orderly continuance of the operation and management of the Marina.

(b) During each operating year, Seven Kings shall cause to be prepared and delivered to City on or before the twenty-fifth (25<sup>th</sup>) day of the month a reasonably detailed monthly operating statement which reflects the results of operations of the Marina for the prior month. All such statements shall be in a format substantially similar to the form attached hereto and made a part hereof as Appendix "D".

## **2.07 Governmental Compliance.**

Seven Kings shall comply with all directions, rules and procedures required by the City as outlined in this Agreement and all present and future laws, ordinances, orders, directives, codes, rules and regulations of the federal, state and local governmental agencies which may be applicable to the Marina. Seven Kings shall procure and maintain all required permits, licenses and approvals, on behalf of the City, for the operation and performance under this Agreement. All permit, license, approval or regulatory fees or costs shall be paid out of the Operating Account.

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**2.08 Authority of Seven Kings.**

Seven Kings hereby agrees to provide the City with Marina Management Services as requested as specifically outlined in RFP No. 490-14, this Agreement and all subsequent official documents mutually agreed to by the Parties to the extent affecting the Marina, that form the contract documents for this Agreement, subject to budget and City policy restrictions and procedures stated or referenced herein. Seven Kings shall have the authority to fully and completely supervise and direct the operations of the Marina and matters associated or related to the operation of the Marina, including, but not necessarily limited to, boat slip rentals, fuel sales, convenience store sales, maintenance and repairs, marina- and marine-related service agreements, supervision of all leases of space at the Marina and such other activities not contrary to the terms of this Agreement relating to the management and operation of the Marina as Seven Kings deems appropriate in its reasonable discretion.

**2.09 Reporting Requirements.**

Seven Kings must submit a monthly written report to the City Manager including but not limited to:

- (1) Occupancy (both numbers and dollars), historical comparison;
- (2) Fuel sales (both numbers and dollars), historical comparison;
- (3) Marketing and promotions;
- (4) Routine and non-routine expenses;
- (5) Capital improvements status report;
- (6) Insurance claims;
- (7) Litigation; and
- (8) Safety and environmental incidents.

**2.010 Audit; Public Records; Inspector General Review.**

Seven Kings shall retain all records relating to this Agreement, including those which justify all charges, expenses, and costs incurred in estimating and performing the work under this Agreement for a period of at least three (3) years after final payment is made. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. To that end, Seven Kings agrees to comply with the provisions of section 119.0701, Florida Statutes, by agreeing to:

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(a) Keep and maintain all public records that ordinarily and necessarily would be required by the City to keep and maintain in order to perform the services under this Contract.

(b) Provide the public with access to said public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

(d) Meet all requirements for retaining said public records and transfer, to the City all said public records in possession of Seven Kings upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public record disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

In addition, City shall have access to such books, records, and documents as required in this Agreement for the purpose of inspection or audit during normal business hours, at Seven Kings' primary place of business.

Seven Kings understands that the Inspector General of Palm Beach County, Florida, has the authority to investigate and audit matters relating to the negotiation and performance of this Agreement and in furtherance thereof may demand and obtain records and testimony from Seven Kings and its contractors and subcontractors. Seven Kings understands and agrees that in addition to all other remedies and consequences provided by law, its failure or the failure of its contractors or subcontractors to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement and justification for termination. Seven Kings shall be entitled to reimbursement for all time and expense incurred by Seven Kings from any such investigation or audit performed by the Inspector General of Palm Beach County, other than routine inquiries of less than four hours' time and \$250.00 in expense.

**2.011 Annual Financial Review.**

An independent review of the Marina financial records is required. Seven Kings shall cooperate with the party authorized by the City for same. Seven Kings shall be entitled to reimbursement for all time and expense incurred by Seven Kings relating to such review, other than routine inquiries of less than four hours' time and \$250.00 in expense.

**2.012 Marketing and Customer Satisfaction.**

Seven Kings shall proactively and creatively market the boating opportunities at the Marina. Seven Kings is to prepare and implement a marketing plan for the Marina within six month of the Effective Date of this Agreement. Seven Kings shall develop a website as well as printed material that describes the services available at the Marina. Organizing and promoting events in an effort to increase revenues is the responsibility of Seven Kings.

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Seven Kings shall work jointly with City and City's marketing consultant, as needed, to develop and implement marketing strategies that promote the Marina. Seven Kings may use the City's seal for marketing purposes, with City's approval.

Seven Kings will maintain a current database of customer contact information, including email addresses. Seven Kings will develop and issue customer satisfaction surveys to gauge Marina performance and to assist in improving marina operations. The contents of customer satisfaction surveys are subject to City review and approval prior to issuance. The customer satisfaction survey results will be provided to City. The customer contact information shall be provided to City upon request, and shall be property of City, however may be used by Seven Kings during the term of this Agreement.

### **ARTICLE III. Scope of the Agreement.**

#### **3.01 Scope.**

Seven Kings shall assume overall responsibility and cost, as set forth in this Agreement, for the day-to-day operation of the Marina and any related equipment and concessions, to the satisfaction of City, including, but not limited to, the following:

- (a) Operate, supervise, manage, and maintain the Marina on a daily basis.
- (b) Hire, train and supervise marina staff. These individuals will be employees of Seven Kings.
- (c) Implement a dress code and provide on-site personnel with uniforms and name tags to be worn at all times while on duty.
- (d) Maintain experienced staff and management for marina operations.
- (e) Solicit, negotiate, prepare, administer and manage licenses, occupancy agreements, marketing agreements and service contracts (including, without limitation, engineering, telephone, security, and exterminator services), staffing and personnel needs, and other services, which are reasonably necessary for the Marina.
- (f) Collect and manage all payments for services and related deposits, including pending delinquent rent payments on the Effective Date of this Agreement. All such delinquent rent payments, as of the Effective Date, are set forth on Appendix "E" attached hereto and made a part hereof and City shall certify the accuracy, and update as applicable, such information on the Commencement Date. Seven Kings shall have the authority to negotiate such agreements which Seven Kings deems necessary or advisable for the furnishing of utilities, services, concessions and supplies, for the maintenance, repair and operation of the Marina and such other agreements which may benefit the Marina or be incidental to the matters for which Seven Kings

is responsible hereunder, to be paid out of the Operating Account. Seven Kings shall provide its collection policies and procedures and how they would be applied to the Marina.

(g) Administer slip assignments.

(h) Administer evictions, vessel auctions and remove abandoned vessels, all to the extent authorized and permitted under applicable governing law. In furtherance thereof, and in addition to all other responsibilities and authorizations of Seven Kings in this Article and Agreement, within the normal course of business operations, Seven Kings may terminate tenancies, sign and serve such notices as are required or deemed appropriate by Seven Kings; settle, compromise and release past due balances; turn over any past due balances to third party collection agencies; institute and prosecute routine business actions, or retain in-house or outside counsel on behalf of City in coordination with City to institute and prosecute actions, to oust tenants and recover possession of the leased premises, sue for and recover rent and, when expedient, settle, compromise, and release such actions or suits; pursue the nonjudicial sale of vessels pursuant to Chapter 328, Florida Statutes, as may be amended from time to time; or undertake such other action as Seven Kings may deem appropriate and in the best interest of the Marina and operations, all such actions being in Seven Kings' sole discretion. Any unrecovered costs of such actions shall be a normal component of the operation of the Marina.

(i) Account for and report on Marina financial operations.

(j) Prepare and implement annual health and safety and marina maintenance plans.

(k) Prepare and implement a Marina hurricane plan.

(l) Administer a customer service program for the Marina.

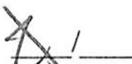
(m) Prepare and implement advertising, promotional activities, and marketing plans.

In this regard, Seven Kings shall establish the policies and procedures which it deems necessary or advisable for directing the marketing activities of personnel engaged by or on behalf of City relating to the Marina, subject to authorized budget appropriations and restrictions. Seven Kings shall advertise in such media and to the extent Seven Kings deems necessary and appropriate. Seven Kings may consult, contract with, and use outside marketing companies as Seven Kings' may deem appropriate. All advertising of the Marina, including signs, may be carried under the name of the Marina approved by City.

(n) Design, maintain and update the Marina's web-page to incorporate the use of a variety of popular social media links. All information shall be property of City.

(o) Seven Kings shall provide one boat slip, as needed, free of charge, for use by City for a police boat at all times during the term of this Agreement.

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(p) Operate a full-service marina in a manner to maximize occupancy of slips and net revenues for the Marina.

(q) Provide a wide array of services and improve the level and variety of services available for the benefit and enjoyment of the Marina occupants and the boating community.

(r) Protect City's capital investment in the Marina through the exercise of high standards of management, operation, and maintenance.

(s) Act as the sole and exclusive managing agent of City to manage, operate and maintain the Marina facilities.

(t) Establish and adjust fees, prices, rates and rate schedules for use of the Marina facilities and all licenses, agreements or contracts and any other commitments for the Marina's facilities. Changes in slip fees shall be provided to the City Manager.

(u) Use diligent efforts to cause all users of the Marina to adhere to posted marina rules; strictly enforce such rules; and, comply with such rules.

(v) Schedule, coordinate, facilitate, attend and serve as City representative for all meetings of the Riviera Beach Waterfront Advisory Board.

(w) Work in cooperation with the Marina's upland management entity or company, the CRA and site vendors, to insure the Marina's smooth operations.

(x) Work with the City Finance Department, as required, to develop and manage financial operations and financial reporting.

(y) Implement the Marina's approved budget, which shall include such expenses reasonably necessary for Seven Kings to carry out the Scope of services as set forth in this Article and elsewhere in this Agreement.

### **3.02 Personnel.**

Seven Kings agrees to employ, in some capacity but not necessarily at the same job or pay range, the City's employees who are, as of the Effective Date, working at the Marina and requesting to remain on staff for a ninety (90) day trial period commencing on the Commencement Date ("City Marina Employees"). As of the Commencement Date, the City Marina Employees will be employees of Seven Kings and no longer employees of City. A list of the City Marina Employees and their current job descriptions shall be provided to Seven Kings, in writing, on or before the Effective Date and City represents and warrants that such information is accurate, complete and no other employees are intended or shall be covered under this Section. Except for the trial period of the City Marina Employees, Seven Kings shall select, hire, discharge and supervise all labor and employees which it deems necessary or advisable for the operation and maintenance of the Marina. Seven Kings may hire the types and number of Marina

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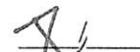
personnel as Seven Kings, in its reasonable discretion, deems appropriate for operation and management of the Marina subject to the provisions of this Agreement. Seven Kings shall have the authority for the supervision of all employees, for the determination of employee compensation, including any incentives, bonuses and benefits, and for the establishment of policies and procedures (including but not limited to a drug testing policy) relating to employment. Seven Kings shall conduct criminal background checks of all personnel prior to hiring them to work at the Marina. Seven Kings shall pay for all costs of on-site employees out of the Operating Account, as provided by the Marina budget. To the extent possible, subject to an applicant's qualifications and Seven Kings' reasonable discretion, Seven Kings shall attempt to hire individuals residing within the City of Riviera Beach city limits, however Seven Kings' failure or inability to hire such individuals shall not affect the terms of this Agreement or be deemed a breach of this Agreement.

Throughout the terms of this Agreement, Seven Kings shall employ a qualified full-time, on-site manager ("Marina Manager") having experience in the management of a marina of this type who shall be available during normal business hours and be delegated sufficient authority to ensure competent performance and fulfillment of the responsibility of the management agreement and to accept serviceable notices provided herein. The on-site Marina Manager shall be part of the Marina personnel, and the Marina budget shall include the costs of the on-site Marina Manager. The cost of Seven Kings personnel who supervise, or otherwise participate in the management, administration and operation of the Marina, but also do work for Seven Kings and/or other marinas managed by Seven Kings, will be covered by the Marina budget. These persons include, but may not necessarily be limited to, Seven Kings personnel responsible for: (i) the direct supervision of on-site personnel; (ii) training of on-site and supervisory managers; (iii) the coordination and supervision of routine repairs and maintenance at the Marina; (iv) supervision of the procedures relating to eviction of delinquent tenants and sale of delinquent tenants' property; (v) overseeing inventory and supplies of the type used by the Marina; (vi) marketing; (vii) administering the payroll for on-site employees, including the administration, withholding and payment of applicable compensation coverage on behalf of and for the account of City; and (viii) accounting and other services relating to the operation and administration of the Marina. City understands and acknowledges that some or all of such persons may be simultaneously engaged by and/or for the account of City and by and/or for the account of the City of other marinas managed by Seven Kings, some of whom may (i) be affiliates of Seven Kings and (ii) compete with City. Seven Kings shall not be separately reimbursed for the time of its owners devoted to City's affairs or for the other overhead expenses of Seven Kings.

Seven Kings shall assign and maintain adequate staff and/or competent personnel that are fully equipped licensed as appropriate, available as needed, qualified and assigned exclusively to perform this Agreement. Staffing levels shall be maintained as determined by Seven Kings in its best professional judgment.

Seven Kings' employees in contact with the public shall perform their duties in an efficient and courteous manner. Seven Kings shall make best efforts to ensure all its personnel are courteous and cooperative and present a neat, clean and professional appearance at all times. Seven Kings shall include procedures to measure employee performance, customer satisfaction

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and level of performance of contract requirements.

### 3.03 Key Contacts.

The key contacts for the City shall be Randy Wood, the Contract Administrator, who will work in concert with the City Manager's Office. Mr. Wood may be contacted at (561) 845-4180, email address, rwood@rivierabch.com. The key contact for Seven Kings shall be Kenneth A. Blair, who may be contacted at (561) 625-9443, email address ken@skholdings.com. Seven Kings shall provide the City with the name, email address and telephone number of a management person who will be on call at all times for emergencies or other matters related to the operations under this Agreement.

### 3.04 Legal Actions.

Seven Kings shall cause to be instituted, on its own or through third-party counsel, which use of such third-party counsel shall be with the consent of City, on behalf and in the name of the City, any and all legal actions or proceedings other than routine business action described in Section 3.01(h) that Seven Kings deems necessary or advisable to collect charges, rent or other income due to City with respect to the Marina or to oust or dispossess tenants or other persons unlawfully in possession under any lease, license, concession agreement or otherwise, and to collect damages for breach thereof or default thereunder by such tenant, licensee, concessionaire or occupant. The costs of all such legal actions or proceedings shall be borne by City. Seven Kings shall also assist the City in the defense of any and all actions and proceedings brought by tenants, suppliers, vendors and similar persons relating to the Marina and City shall be responsible for satisfying and paying the costs of defending all such claims to the extent not covered by insurance. Seven Kings shall provide notice to City of any and all actions or proceedings instituted by, on behalf of, or against the City.

### 3.05 City Approval.

Seven Kings agrees it will obtain prior approval from the City on the following matters:

- (1) changes from the original approved plans, signage, and graphics;
- (2) fixtures or other permanent improvements Seven Kings plans to install requiring any building or marina modifications;
- (3) any use of the City's name other than as otherwise expressly permitted in this Agreement;
- (4) any permanent improvements to be constructed on the Marina property;
- (5) Any reduction in the hours of Marina personnel responsible for daily operation, which hours as of the Effective Date are 8am to 5pm, every day of the week, with the exception of the following Holidays: Thanksgiving (and closed ½ day on the day

before Thanksgiving), Christmas (and closed ½ day on Christmas Eve) and New Year's Day (and closed ½ day on New Year's Eve). The Marina docks will remain open to patrons during Holidays.

- (6) Material changes to the uniforms to be used by the employees as shown on Appendix "F", which uniforms shall be deemed approved as part of this Agreement;
- (7) Material changes to the decor of the Marina and all signs to be installed or displayed in or on the Marina property and any changes thereto at anytime during this Agreement. Seven Kings further understands that any permanent signage must specifically have approval from the City's Community Development Department.

#### **ARTICLE IV. Management Fees and Reimbursable Expenses.**

##### **4.01 Management Fee.**

(a) During the term of this Agreement, City shall pay Seven Kings an annual Management Fee for services provided by Seven Kings under this Agreement, equal to the greater of Fifty-four Thousand Dollars (\$54,000) or five percent (5%) of Gross Revenues (as defined below). The "Management Fee" shall be calculated, invoiced and paid monthly based on the greater of:

- (i) Four Thousand Five Hundred Dollars (\$4,500.00); or
- (ii) Five percent (5%) of all Gross Revenue for the Marina per month (the term "Gross Revenue" shall include but not necessarily limited to dockage rent, ship's store sales, fuel sales, vendor fees, parking fees, laundry fees, if and as such fees may be applicable to the Marina operations, and such other revenue generated at or from the operation of the Marina, but excluding security deposits and sales tax). Such payment will be calculated within a monthly report delineating the various components of revenue during the period. City understands that it shall never remit Management Fee of less than \$4,500.00 per month.

(b) There shall be a True-up of the Management Fee on an annual basis.

(c) In addition to the Management Fee, City shall reimburse Seven Kings for all Reimbursable Expenses (as defined in Section 4.03) contemplated or provided for in this Agreement. Within five (5) days of receipt of such monthly operating statement setting forth the Reimbursable Expenses paid to Seven Kings as set forth herein, City may notify Seven Kings, in writing, disputing any such expense reimbursed beyond the scope of Section 4.03 below and, thereafter, the Parties shall diligently, and in good faith, work to resolve such dispute and the repayment or reallocation of any such overpayment of any Reimbursable Expense described therein.

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(d) The amounts due under Subsection 4.01(a) shall be paid monthly by the City to Seven Kings within five (5) business days upon receipt of an invoice from Seven Kings for same.

#### 4.02 Additional Services and Locations.

The City reserves the right to request additional services relating to this Agreement from Seven Kings when approved by the Parties, in writing and in accordance with additional services as set forth in the RFP #490-14 (as defined below). Seven Kings agrees to provide such additional requirements as may become necessary and the City shall compensate Seven Kings for such additional services at Seven Kings' then current rates which will be provided to the City upon request.

#### 4.03 Reimbursable Expenses.

City shall reimburse Seven Kings out of the Operating Account for all costs and expenses incurred by Seven Kings for City's account relating to the management and operation of the Marina under the terms and provisions of this Agreement (collectively referred to as "Reimbursable Expenses") relating to:

(a) Auditing expenses, finance and accounting materials and services, tenant rent payment statements, collection activities and other accounting related services and expenses;

(b) Maintenance and repairs;

(c) Utilities and other similar services provided to the Marina, to the extent not paid for directly by City;

(d) Postage, federal express charges, vehicle expense or mileage reimbursement (at the rates established by the Internal Revenue Service from time to time), photocopies, phone expenses, travel, promotion, data processing, payroll expenses, applicable taxes, and other similar and reasonable expenses;

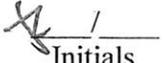
(e) Expenses relating to personnel utilized in the management and operation of the Marina from time to time, as described elsewhere in this Agreement;

(f) Data processing and information technology support and maintenance to the Marina, at a rate of \$1,950 per month;

(g) Data and information technology infrastructure improvements to the Marina, the transfer and establishment of services, the purchase (including upgrades) and installation of programming software and such other information technology network hardware equipment reasonably necessary to serve the Marina;

(h) Costs, charges and fees relating to any federal, state or local lease, permit, grant or

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similar document, including but in no way limited to Army Corps of Engineers' permit, State sovereignty submerged lands lease and water management district permit, if and as may be applicable; and

(i) Marketing expenses, including but in no way limited to, event, print, media and social marketing expenses, and any insurance or permitting expenses related thereto, in connection with the operation of the Marina.

After one year from the Effective Date of this Agreement, the Parties may agree on a flat monthly fee for Reimbursable Expenses.

**4.04 Place of Payment.**

All payments, fees and reimbursement of expenses payable to Seven Kings shall be deposited in a bank account designated by Seven Kings.

**4.05 Daily Deposits.**

Receipts shall be deposited (Seven Kings shall use it best efforts when reasonable to make deposits on a daily basis) into the Operating Account.

**4.06 Budget.**

The City's 2015-16 Pro Forma Marina Budget is attached hereto as Appendix "G". Seven Kings agrees, to the extent reasonable and feasible, to operate the Marina in accordance with the approved budget. Seven Kings shall annually, beginning with the fiscal year 2016-17, develop a proposed budget as more fully described and set forth in Section 2.02 of this Agreement, in conjunction with the City's budget preparation process, which shall be reviewed by the City Manager and City Council.

**4.07 Shared Expenses.**

The Parties acknowledge that certain economies may be achieved with respect to certain expenses to be incurred on behalf of City hereunder if materials, supplies, insurance or services are purchased by Seven Kings in quantity for use not only in connection with the Marina but in connection with other marinas managed by Seven Kings or its affiliates. Seven Kings shall have the right to purchase such materials, supplies, insurance or services in its own name and charge City a pro rata share of the cost; provided, however, that the pro rata cost of such purchase to City shall not result in expenses greater than would otherwise be incurred at competitive prices and on terms available in the area where the Marina is located or the service is rendered; and, provided further, Seven Kings shall make records available to City at Seven Kings' corporate headquarters office at all reasonable times after reasonable notice to Seven Kings so City may review any such expenses incurred. Likewise, the City shall make available its available materials, supplies, insurance or services to Seven Kings, upon request.

**ARTICLE V. Term and Terminations.**

**5.01 Term of Agreement.**

(a) The Parties shall be bound by the terms and conditions of this Agreement as of the Effective Date. The services to be provided by Seven Kings under this Agreement shall commence on May 23, 2016 ("Commencement Date") and shall continue until midnight, local time, on the third year anniversary of the Commencement Date.

(b) Between the Effective Date and Commencement Date, City and Seven Kings shall coordinate the transfer of all services, operational controls and such other items, information and documentation, as necessary, so that as of the Commencement Date Seven Kings can fully manage and operate the Marina as intended within this Agreement.

(c) This Agreement shall be automatically renewed for additional terms of one (1) year, up to a maximum of two (2) additional terms, on each anniversary date of the Commencement Date, unless either City or Seven Kings gives notice of termination of the Agreement. Notice of termination of the annual renewal of this Agreement shall be provided by September 30 of the year in which the then current term is to expire.

(d) So long as Seven Kings is not in default of this Agreement, the Parties agree that each will mutually cooperate during the last year of the final renewal term hereunder to negotiate in good faith to extend the Agreement beyond the original term, and renewals, contemplated herein unless either party notifies the other party of its intent not to participate in such negotiations prior to the commencement of the final year of the renewal term.

**5.02 Default by Seven Kings.**

If Seven Kings (a) abandons or vacates the Marina premises prior to the expiration of the term of the Agreement; (b) fails to make the payments set forth in this Agreement and the full payment is not made within fifteen (15) calendar days after written notice is given to Seven Kings; or (c) fails to perform in accordance with any of the other terms and conditions contained in this Agreement and such default is not cured within thirty (30) days after written notice is given to Seven Kings (or in the case of a default that cannot be cured within thirty (30) days then in such event if efforts to cure the default are not commenced within such thirty (30) day period), then, in any such event, City, at City's option and without further notice or demand to Seven Kings, may enter into possession of the Marina and all improvements thereon and remove all persons therefrom and may either take possession of all furniture, equipment and other personal property of Seven Kings found at the Marina or remove such property or any part of it and store it at Seven Kings' expense. City may then terminate this Agreement and may begin procedures to collect under the Performance Bond, as appropriate.

**5.03 Default by City.**

If City (a) fails to perform in accordance with any of the terms and conditions contained

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in this Agreement and such default is not cured within thirty (30) days after written notice is given to City; (b) fails to make any payment to Seven Kings within such time period set forth in this Agreement and the full payment is not made within fifteen (15) calendar days after written notice is given to City; or (c) takes such other action that, in Seven Kings' sole opinion, negatively impacts Seven Kings' ability to fulfill its obligations and expectations under this Agreement, and the City fails to cure the action or inaction to the satisfaction of Seven Kings within sixty (60) days, then, in any such event, Seven Kings, at Seven Kings' option, and without further notice or demand to City and in addition to all other rights as may be available to it, may terminate this Agreement.

**5.04 Natural Disaster.**

In the event that the Marina is destroyed or significantly damaged by a natural disaster or Act of God, either Party may terminate this Agreement upon providing thirty (30) days written notice as set forth herein.

**5.05 Limiting Legislative or Judicial Action.**

In the event that any municipal, county, state or federal body of competent jurisdiction passes any law, ordinance or regulation in any way restricting or prohibiting the use of the Marina for purposes of this Agreement, this Agreement may be terminated by Seven Kings and, upon such termination, neither Party shall have any further liability under this Agreement. In the event that any court or legislative body of competent jurisdiction issues an injunction substantially restricting or prohibiting the use of the Marina for the purposes of this Agreement, which injunction stays in force for more than thirty (30) calendar days, this Agreement may be terminated by Seven Kings and, upon such termination, neither Party shall have any further liability under this Agreement.

**5.06 Actions Upon Termination of Agreement.**

Within fifteen (15) calendar days of the termination of this Agreement by either Party, as permitted herein, Seven Kings shall forthwith remove all of its personal property as permitted elsewhere in this Agreement. Any personal property of Seven Kings not removed in accordance with this paragraph may be removed by the City for storage at the cost of Seven Kings or shall constitute a gratuitous transfer of title thereof to the City for whatever disposition is deemed to be in the best interests of the City. The City shall not be liable to Seven Kings for safekeeping for Seven Kings' personal property during or after termination of this Agreement.

**5.07 Bankruptcy.**

Upon filing for any bankruptcy or insolvency proceedings by or against Seven Kings, whether voluntary or involuntary, or upon the appointment of a receiver, trustee, or assignee for the benefit of creditors, Seven Kings must notify the City. Upon learning of the actions identified the City reserves the right, at its sole discretion, to either cancel or re-affirm the Agreement.

**ARTICLE VI. Assignments.**

**6.01 Assignment, Subcontracting, Corporation Acquisitions and/or Mergers.**

Seven Kings shall perform this Agreement. No assignment or subcontract shall be allowed without the prior written consent of the City in the event of a corporate acquisition and/or merger. Seven Kings shall provide a written notice to the City within thirty (30) business days of any assignment or subagreement. In the event of an assignment of the Agreement to a wholly owned subsidiary of Seven Kings, the City's consent shall be within its sole discretion.

**ARTICLE VII. Special Provisions.**

**7.01 Non-exclusive Agreement.**

Except as it relates to the management, operation and control of the Marina, and as otherwise set forth in this Agreement, the award of this Agreement shall impose no obligation on the City to utilize Seven Kings for all work of the type which may develop during the Agreement period.

**7.02 Performance Bond.**

Seven Kings shall provide a Performance Bond in a form acceptable to the City in the amount of two hundred and fifty thousand dollars (\$250,000) to be maintained by Seven Kings during the entire term of the Agreement.

**7.03 Liability Insurance.**

Seven Kings shall have in full force, during the life of the Agreement, Commercial General Liability and Commercial Automobile Liability Insurance covering damage resulting from the actions of Seven Kings, or anyone employed by the Seven Kings, under the terms of this Agreement as follows:

- i. Commercial General Liability:
  - Minimum Coverage is \$5,000,000 per occurrence.
  - Coverage shall include premises, operations, products, completed operations, independent contractors, contractual liability covering this Agreement, contracts and leases, broad form property damage coverage, personal injury and bodily injury.
  - If Umbrella or Excess liability coverage is used to satisfy the requirements of this Article, it shall not be more restrictive than the underlying insurance policy coverage.

City must be listed as a primary additional insured.

- ii. Commercial Automobile Liability:
  - Minimum Coverage is \$5,000,000 per occurrence.
  - Coverage shall include bodily injury and property damage arising out of ownership, maintenance or use of any auto, including owned, non-owned and hired automobiles and employee non-ownership use.

In addition to the above, Seven Kings shall provide workers' compensation coverage throughout the term of this Agreement, and the policy shall prohibit termination, expiration, cancellation, or substantial modification without at least thirty (30) days prior written notice to the City.

Seven Kings shall provide to the City certificates of coverage. The costs incurred by the City and Seven Kings for insurance coverage shall be paid or reimbursed by the City, from the Operating Account. The City shall pay for and maintain all necessary insurance included but not limited to property casualty insurance for the Marina, Marina Operators Legal Liability, automobile coverage, theft coverage, and environmental pollution coverage, listing Seven Kings as an additional named insured.

As a part of the marina budget planning process for each subsequent Fiscal Year (beginning in FY2015-16), all insurance coverage will be re-evaluated and specific coverage may be redistributed between the City and Seven Kings depending on what is most advantageous to the Parties. However, at all times the cost for insurance coverage for the Marina and the marina operations shall remain a part of the marina budget and will ultimately be paid or reimbursed by the City. If either Party chooses to carry additional insurance coverage that is not contemplated by the approved marina budget, then the cost of such coverage shall be the responsibility of the insured Party.

#### **7.04 Duties of City.**

City shall cooperate with Seven Kings in the performance of its duties under this Agreement and to that end, upon the request of Seven Kings, City agrees to provide reasonable office space and parking for Seven Kings employees on the premises of the Marina, to give Seven Kings access to all files, books and records of City relevant to the Marina, and to execute all documents and instruments as Seven Kings, in its reasonable judgment, deems necessary or advisable to enable it to carry out its management of the Marina.

#### **7.05 Public Emergencies, Emergency Response and Preparedness Plan.**

Seven Kings shall take appropriate measures to identify potential emergency situations and develop a plan of action for responding to the same. This requirement relates to potential medical, fire, and other emergency situations that threaten the health, safety and welfare of

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persons.

Seven Kings shall follow the Marina's hurricane plan developed pursuant to Section 3.01(k) above.

**7.06 Sales Tax.**

Seven Kings shall be liable for reporting and paying the prevailing State of Florida sales and use tax on the amounts collected and, as applicable, paid under the terms of this Agreement. City shall, prior to the Commencement Date, provide Seven Kings with City's sales tax certificate number for the Marina.

**7.07 City's Ownership of Improvements.**

Upon the expiration of this Agreement, for any reason, all existing and any future installed fixtures, equipment, improvements and appurtenances attached to or built into the Marina in such a manner as to become part of the freehold whether or not by the expense of Seven Kings, shall become and remain a part of and be surrendered with the Marina property. Any furniture, furnishings, equipment or other articles of moveable personal property owned by Seven Kings and located on the Marina property shall be and remain the property of Seven Kings and may be removed by it at any time during the term of this Agreement, or upon its expiration or termination, so long as Seven Kings is not in default of any obligations under this Agreement and the same has not become part of the freehold and so long as such do not materially affect Seven Kings' ability to use such premises and conduct its business as provided herein.

**7.08 Safety and Security.**

Seven Kings shall take appropriate measures to identify potential emergency situations and develop a plan of action for responding to the same. This requirement relates to potential medical, fire and other emergency situations that threaten the health, safety and welfare of persons, as well as Marina property. All employees are required to be tested annually to demonstrate their proficiency in handling such situations. Seven Kings is to provide a written safety and security plan, including a security detail, if necessary, for the Marina for the review and approval of the City.

**7.09 Inspection.**

The Marina is to be open to inspection by City representatives during operating hours and at other times upon reasonable notice.

**7.010 Customer Service and Operation Standards.**

Seven Kings will use its best efforts to operate the Marina in an exceptional, orderly, safe, clean, sanitary, and visually attractive condition, so as to provide highest quality marina and services to Marina customers and to maximize the earning of the property and its valuable capital

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investments.

**7.011 Environmentally Responsible Operation.**

Seven Kings shall take positive action to minimize negative effects on the natural environment. This shall include having a written procedures manual for responding to environmental incidents (spills, leaks, clean-ups and disposal).

**7.012 Exterior Signage.**

Changes to exterior signage must meet applicable codes, ordinances, and applicable CRA district guidelines, and must be approved by the City prior to installation.

**7.013 Special Event Cooperation.**

Seven Kings shall cooperate and coordinate with City sponsored activities and special events, in Seven Kings reasonable discretion in order to maintain the operational standards above, and City shall notify Seven Kings of any such activities and special events with sufficient notice for Seven Kings to assist in the coordination of same.

**7.014 Provide Policy/Procedure Recommendations.**

Seven Kings may identify policies and procedures which could be improved and may notify City regarding suggestions for improvement.

**7.015 Lien.**

The City shall have a lien upon all personal property of Seven Kings within the Marina in order to secure the payment to the City of any unpaid money accruing to the City under the terms of this Agreement.

**7.016 Compliance with City's Internal Control Processes.**

Seven Kings agrees to comply with the City's budget policies and other policies which are attached hereto as Appendix "H".

**7.017 Indemnity.**

**(a) Seven Kings's General Indemnity.**

The parties recognize that Seven Kings is an independent contractor. Seven Kings agrees to assume liability for and indemnify, hold harmless, and defend the City, its city council, mayor, officers, employees, agents, and attorneys of, from, and against all liability and expense, including reasonable attorney's fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for

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personal injury, property damage, equitable relief, or loss of use, arising directly or indirectly out of or in connection with any negligent and/or deliberate act or omission of Seven Kings, its officers, employees, agents, and representatives. Seven Kings' liability hereunder shall include all attorney's fees and costs incurred by the City in the enforcement of this indemnification provision. This includes claims made by the employees of Seven Kings against the City and Seven Kings hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. The obligations contained in this provision shall survive termination of this Agreement and shall not be limited by the amount of any insurance required to be obtained or maintained under this Agreement. Nothing contained in the foregoing indemnification shall be construed to be a waiver of any immunity or limitation of liability the City may have under the doctrine of sovereign immunity or Section 768.28, Florida Statutes.

**(b) Seven Kings's Environmental Indemnity.**

Seven Kings is responsible only for the payment of that portion of any cleanup cost for the premises necessary for compliance with hazardous materials laws that arise as a result of Seven Kings' intentional or grossly negligent discharge of hazardous materials on the Marina during the term of this Agreement. The City is responsible for all other cleanup costs and for insuring that any other responsible party participates in the clean up to the extent of its responsibility for relief. This Section survives the expiration or earlier termination of this Agreement.

**7.018 Representations and Warranty.**

Seven Kings represents and warrants that it is fully qualified to manage and perform all obligations assumed by Seven Kings hereunder.

**7.019 Documents Comprising Contract.**

The contract shall include this Agreement including its Appendices as well as the following documents, which are incorporated herein by reference:

(a) The City of Riviera Beach Request for Proposal for Marina Management Services "RFP" ("RFP #409-14"), its Exhibits and Attachments issued on February 2, 2014, and its Addenda No. 1 dated February 26, 2015, No. 2 dated March 6, 2015 and No. 3 dated March 20, 2015.

(b) Seven Kings' proposal, including its certificate of insurance as required by the RFP and other required documents.

If there is a conflict between the terms of this Agreement and above-referenced documents then the conflict shall be resolved as follows: the terms of this Agreement shall supersede over other documents, and the terms of the remaining documents shall be given preference in their above-listed order.

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**7.020 Other Marinas.**

City acknowledges that Seven Kings is in the business of managing marinas both for its own account and for others. Specifically, Seven Kings currently manages the following marinas (being commonly referred to as):

- (a) Loggerhead Marina – Daytona Beach;
- (b) Loggerhead Marina – Vero Beach;
- (c) Loggerhead Marina – Stuart;
- (d) Loggerhead Marina – Jupiter;
- (e) Loggerhead Marina – Palm Beach Gardens;
- (f) Loggerhead Marina – Riviera Beach;
- (g) Loggerhead Marina – Lantana;
- (h) Loggerhead Marina – South Lantana;
- (i) Loggerhead Marina – Aventura;
- (j) Loggerhead Marina – Hollywood;
- (k) Loggerhead Marina – South Miami;
- (l) Loggerhead Marina – St. Petersburg;
- (m) Waterways Marina Condominium Association; and
- (n) Ocean Club at Port Canaveral.

It is hereby expressly agreed that Seven Kings and its affiliates or related entities may continue to engage in such activities and may own and/or manage marinas other than those presently managed by it so long as the marinas are not in direct or indirect competition with City. Seven Kings agrees not to manage or lease any other wet slip marina within three (3) miles of the Marina, without the express written consent of the City (which consent is hereby deemed to have been given for such properties currently owned, managed or leased by Seven Kings and/or its affiliates or related entities).

**7.021 Independent Contractor Status and Compliance with the Immigration Reform and Control Act of 1986.**

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Seven Kings is and shall remain an independent contractor and is neither agent, employee, partner nor joint venture of the City. Seven Kings acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 located at 8 USC Section 1324 et seq. and regulations relating thereto as either may be amended from time to time. Failure to comply with the above provisions shall be considered a material breach and shall be grounds for immediate termination of the Agreement at the discretion of the City.

## **ARTICLE VIII. Miscellaneous Provisions**

### **8.01 Entirety of Agreement.**

Parties hereto agree that this Agreement sets forth the entire agreement between the parties and there are no promises or understandings other than those stated herein. None of the provisions, terms or conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except as may be specifically authorized herein or by written instrument executed by the parties hereto.

### **8.02 Headings.**

Headings of various paragraphs and sections of this Agreement and its table of contents are for convenience and use of reference only and shall not be construed to define, limit, augment or describe the scope, context or intent of this Agreement or any part or parts of this Agreement.

### **8.03 Severability.**

The terms and conditions of this Agreement shall be deemed to be severable; consequently, if any clause, term or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions and notwithstanding such determination, this Agreement shall continue in a full force and effect unless the particular clause, term or condition held to be illegal or void renders the balance of the Agreement to be impossible of performance.

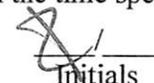
### **8.04 No Waiver of Right to Enforce.**

The waiver by a Party of any breach of any term covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or any subsequent breach of the same or any other term, covenant or condition herein contained. No covenant, term, or condition shall be deemed to have been waived by a Party, unless such waiver be in writing by such Party nor shall there be any accord and satisfaction unless expressed in writing and signed by both the City and Seven Kings.

### **8.05 Performance.**

The Parties expressly agree that time is of the essence and the performance of this Agreement and the failure by either Party to complete the performance within the time specified or

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within a reasonable time if no time is specified herein, shall relieve the other Party of any obligation to accept such performance.

**8.06 Notices.**

Any notice required or permitted herein is to be given in writing and shall be personally delivered or mailed, first class postage prepaid or delivered by an overnight delivery service to the respective addresses of the parties set forth below their signatures on the signature page hereof, or to such other address as any party may give to the other in writing. Any notice required by this Agreement will be deemed to have been given and received when personally served or one (1) day after delivery to an overnight delivery service or five (5) days after deposit in the first class mail.

To the City: City of Riviera Beach  
Attn: Ruth C. Jones, City Manager  
600 West Blue Heron Blvd.  
Riviera Beach, Florida 33404

cc: Pamala H. Ryan, Esq., City Attorney  
600 West Blue Heron Blvd.  
Riviera Beach, Florida 33404

To Seven Kings: Seven Kings Management, Inc.  
Attn: Raymond E. Graziotto, President  
630 Maplewood Drive, Suite 100  
Jupiter, FL, 33458

cc: Tyson J. Waters, Esq., Corporal Counsel  
Seven Kings Management, Inc.  
630 Maplewood Drive, Suite 100  
Jupiter, FL 33458

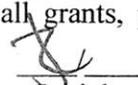
**8.07 Remedies.**

Each Party shall have full remedies available under existing laws, including, but not limited to, the Uniform Commercial Code, mediation, alternative dispute resolution and all state and federal courts of any jurisdiction.

**8.08 Compliance with Agreements.**

Seven Kings agrees to abide by all agreements currently in force with tenants of Marina, as well as all obligations with county, state and federal agencies regarding grants and other expenditures, as further described in this Agreement. Seven Kings shall operate the Marina in a manner which remains in compliance with the Marina operating permit. City represents and warrants that as of the Effective Date the Marina is in compliance with all grants, permits,

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licenses and approvals applicable to, or otherwise affecting, the Marina and the operation of same.

**8.09 Third Party Rights.**

The City and Seven Kings do not intend nor shall this Agreement be construed to grant any rights, privileges or interest to any third party.

**8.010 Attorneys' Fees.**

If it shall become necessary for either Party hereto to engage attorneys to institute legal action for the purpose of enforcing its rights hereunder or for the purpose of defending legal action brought by the other Party hereto, the prevailing party shall be entitled to recover its reasonable costs, expenses and attorneys' fees incurred by it in such litigation (including appeals).

**8.011 Restrictions.**

Notwithstanding anything to the contrary set forth in this Agreement, Seven Kings shall not be required to do, or cause to be done, anything for the account of City (i) which may make Seven Kings liable to third parties; or (ii) which may not be commenced, undertaken or completed because of insufficient funds of City.

**8.012 Force Majeure.**

Neither the City nor Seven Kings is required to perform any term or covenant of this Agreement so long as performance is delayed or prevented by *force majeure*, which includes acts of God, strikes, lockouts, material or labor restrictions by any governmental authority, civil riot, floods, and any other cause not reasonably within the City's or Seven Kings's control and that the City or Seven Kings cannot, by exercising due diligence, prevent or overcome in whole or in part.

**8.013 Compliance with State and Federal Statutes.**

Seven Kings will ensure that the marina is in compliance with all federal and local laws and regulations regarding the operation and management of the property City represents and warrants that as of the Effective Date the Marina is in compliance with all federal, state or local law, regulations, ordinance or requirement applicable to the Marina and the operation of same.

**8.014 Nondiscrimination.**

Seven Kings does hereby for itself, its personal representatives, successors in interest and assigns as part of the consideration and agreement consideration hereof, covenant and agree that:

(a) No person on the grounds of race, color, religion, national origin, sexual orientation, age, residency within or without the City or handicap shall be excluded from

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participating in or be denied the benefits of or be otherwise subjected to discrimination in the use of the Marina except for bona fide cause allowed by law.

(b) In the construction of any improvements on over such land or in the furnishing of services thereon, no person on the grounds of race, color, religion, national origin, sexual orientation, age, residency within or without the City or handicap shall be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination, except for bona fide causes allowed by law.

(c) That Seven Kings shall use the premises in compliance with all other requirements imposed by or pursuant to Title 45, Code of Federal Regulations, Article 80, non-discrimination under programs receiving federal assistance through the City of health, education and welfare-effectuation of Title VI of the Civil Rights Act of 1964 and as such regulations may be amended that in the event a breach of any of the above non-discrimination covenants, the City shall have the right to terminate the Agreement and this Agreement shall be null and void. Seven Kings shall not discriminate against City employees or applicant for employment in the performance of the contract with respect to hiring tenure terms, conditions or privileges of employment because of age, sex, or physical handicap (except where based on a bona fide occupational qualification); or because of marital status, color, religion, national original or ancestry.

#### **8.015 Approvals.**

Except as otherwise provided, whenever approvals are required herein by either party, such approval shall not be unreasonably withheld. No representative of Seven Kings is authorized to make any representations, warranties or agreements other than as expressly set forth herein. Any consent required by this Agreement to be given by City to Seven Kings shall be given in writing. Except as expressly provided otherwise in this Agreement, the City Manager, or its designee, shall have the authority to act for and on behalf of the City.

#### **8.016 Rights Reserved to the City.**

All rights not specifically granted to Seven Kings by this Agreement are reserved to the City.

#### **8.017 Condemnation Award.**

The City will receive the entire award from any condemnation, and Seven Kings will have no claim to that award or for the value of any unexpired term of this Agreement.

#### **8.018 Use of Trademarks, Service Marks and Related Items**

In providing its services under this Agreement, City acknowledges and agrees that Seven Kings may, in its discretion, use the name, trademark and service mark "LOGGERHEAD" and/or such other trademarks, service marks, logos, commercial symbols, insignia and designs as Seven

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Kings shall deem appropriate (collectively, the "Trademarks") and certain operations manuals and software (including operations, emergency procedures, personnel, risk management and accounting software and manuals), formats (including financial reporting and budgeting formats) and forms (including bookkeeping, accounting and lease forms) and software (collectively, the "Proprietary Material"). Seven Kings hereby grants City the limited, nonexclusive, nontransferable right to have Seven Kings, for the benefit of City, use the Trademarks and Proprietary Material in connection with the management and operation of the Marina all subject to Seven Kings's complete control; except by and through Seven Kings in the limited capacity set forth herein, at no time shall City have the authority or authorization to use the Trademarks or Proprietary Material. It is understood and agreed that Seven Kings shall have the right to use and license others to use the Trademarks and Proprietary Material elsewhere for any purposes whatsoever, including without limitation in the management and operation of other marinas. Immediately upon the expiration or termination of this Agreement, City shall (a) return to Seven Kings all materials bearing any of the Trademarks and all Proprietary Material without retaining any copies thereof, and (b) cease all use of the Trademarks and Proprietary Material by all means required, including without limitation changing all telephone listings using any of the Trademarks, removing all signs bearing any of the Trademarks, and using its best efforts to have existing tenants at the Marina sign new leases to replace their existing Seven Kings lease forms. Nothing contained in this Agreement shall give City any right, title or interest in or to any of the Trademarks or Proprietary Material, except the mere privilege and license during the term of this Agreement to have Seven Kings, for the benefit of City, use the Trademarks and Proprietary Material in connection with the management and operation of the Marina. City acknowledges and agrees that the Trademarks and Proprietary Material are the exclusive property of Seven Kings and that City now asserts and will hereafter assert no claim to any goodwill, reputation or ownership of any of the Trademarks or Proprietary Material. City shall not do or permit any act or thing to be done in derogation of any of Seven Kings' rights in any of the Trademarks or Proprietary Material, either during the term of this Agreement or thereafter. City shall not, during or after the term of this Agreement, in any way dispute or impugn the validity of the Trademarks or Proprietary Material, the rights of Seven Kings therein, or the rights of Seven Kings or other licensees of Seven Kings to use the same, both during the term of this Agreement and thereafter. The provisions of this Section shall survive the expiration or termination of this Agreement.

**8.019 Infringement of Patent, Trademarks or Copyrights.**

Each Party agrees to indemnify the other Party and hold it harmless from and against all claims, liability, loss, damages or expense including attorney fees, arising from or by reason of any actual or claimed trademark patent or copyright infringement or litigation based thereon with respect to the unauthorized use of any trademark, service mark, logo, commercial symbol, insignia, design, patent or copyright, and such obligations shall survive the term of this Agreement.

**8.020 Counterparts.**

This Agreement may be executed in several counterparts, each of which shall be an original, but all of which shall constitute but one and the same instrument.

*Management Agreement – City of Riviera Beach Marina*

  
Initials

**8.021 Joint Draft.**

This Agreement shall be deemed to have been jointly drafted by the Parties and no ambiguity or claimed ambiguity shall be resolved against any other party on the basis that either party drafted the language claimed to be ambiguous.

**8.022 Survival.**

All payments and indemnity obligations pursuant to this Agreement, and those which by their nature are to be performed after the termination hereof, shall survive the termination of this Agreement.

**8.023 References to Days.**

All references to a “day” or “days” in this Agreement shall refer to and mean calendar days unless expressly provided otherwise. A “business day” shall mean Monday through Friday, excluding legal holidays observed by City whereby City is not open for business.

**8.024 Property Rights.**

The ownership of the Marina, including, but not limited to real estate, technical and office equipment and Marina, furniture, displays, fixtures, vehicles, moorings, docks, launch ramps and other property constituting the Marina shall remain with the City. Ownership rights in such property shall not accrue to Seven Kings, unless purchased by Seven Kings not using Marina funds or specifically provided for otherwise in this Agreement. The ownership of consumable assets (such as office supplies and cleaning materials) purchased with the operating revenues or City funds shall remain with the City, but such assets may be utilized and consumed by Seven Kings in the performance of this Agreement. The ownership of data processing programs and software owned and purchased by the City shall remain with the City, and the ownership of data processing programs and software owned or purchased by Seven Kings shall remain with Seven Kings.

Seven Kings shall not take or use, for its own purposes, proprietary information such as customer lists or similar materials prepared or developed by the City or Seven Kings for use in connection with engagement, unless otherwise available to the general public or written consent is granted by the City. Ownership of equipment, furnishings, materials, fixtures and other personal property purchased by Seven Kings with operating revenue or City funds for use at the Marina shall vest in the City automatically and immediately upon purchase or acquisition. The assets of the City as described herein shall not be pledged, liened, encumbered or otherwise alienated or assigned other than in the ordinary course of business without prior approval of the City.

  
Initials

**8.025 Negative Covenants.**

Except as otherwise provided herein, Seven Kings shall not do any of the following:

- (i) engage in any abuse or improper action with respect to the permit application or fee remittance process or violate or permit the violation of any provision of law;
- (ii) manage, operate or maintain the Marina in any manner or for any purpose other than as set forth herein;
- (iii) engage or omit any act which would, to an ordinary prudent person in the position of Seven Kings, be reasonably foreseeable to cause or result in damage to the Marina;
- (iv) abandon the Marina during the Term of this Agreement;
- (v) knowingly use or occupy or knowingly permit the Marina or any part thereof to be used or occupied for any unlawful, disreputable or any ultra-hazardous use or operate or conduct the business of the Marina in any manner known to constitute a nuisance of any kind; and
- (vi) materially violate any Applicable Law included but not limited to the ADA in connection with performing its obligations under this Agreement.

City shall not interfere with Seven Kings' right and benefits hereunder, including but in no way limited to, the management and operation of the Marina, so long as Seven Kings is in compliance with the terms of this Agreement.

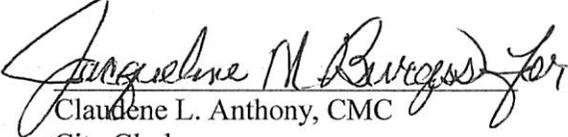
*(Remainder of page intentionally left blank; signature page follows)*

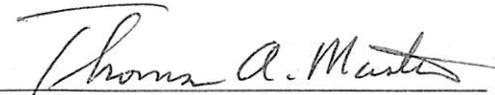
THE PARTIES have executed this Agreement as of the day and year first above written.

ATTEST

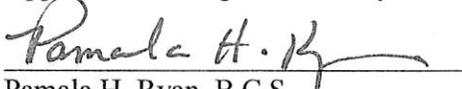
CITY OF RIVIERA BEACH

(SEAL)

  
Claudene L. Anthony, CMC  
City Clerk

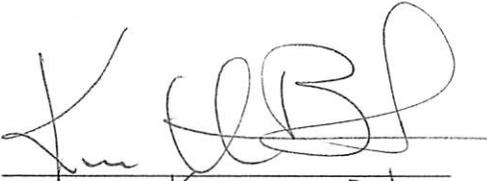
  
By: Thomas A. Masters  
Its: Mayor

Approved as to legal sufficiency:

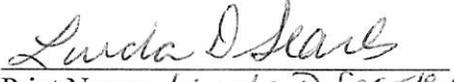
  
Pamala H. Ryan, B.C.S.  
City Attorney

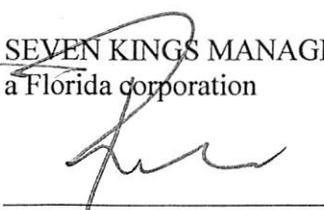
Date: 3/16/16

Corporate Seal

  
Print Name: KENNETH BLAIR

SEVEN KINGS MANAGEMENT, INC.,  
a Florida corporation

  
Print Name: Linda D Seaver

  
By: Raymond E. Graziotto  
Its: President

## Marine District Conceptual Plan and Related Project Summary

The City of Riviera Beach is a vibrant, hard-working City with a rich maritime history and cultural heritage. It is the home to a number of marinas including the Riviera Beach Municipal Marina, the Port of Palm Beach, several major corporate headquarters, and a rapidly developing population (approximately 34,000 people).

The City has a location and a marine industry that many would envy. Its Marina is situated on the Intracoastal Waterway next to a deepwater port, the Port of Palm Beach, just west of Peanut Island. To the east of Peanut Island is the Palm Beach Inlet, also known as the Lake Worth Inlet, an artificial cut through a barrier island connecting the northern part of the Lake Worth Lagoon in Palm Beach County, Florida with the Atlantic Ocean. The Inlet provides easy access to some of the country's prime dive sites and sport's fishing. It is also an exit/entry point for vessels entering and exiting the country. The City's eastern land area, Singer Island, features luxury homes and condominiums, and beautiful public beaches. World-class shopping is also located nearby.

The Marine District is located east of Broadway between 25<sup>th</sup> Street and 11<sup>th</sup> Street and the Intracoastal Waterway. Existing major business interests include Rybovich Yachts, Viking Yachts, New Port Cove, and Lockheed Martin, North of 17<sup>th</sup> Street; along with Jim Barry Light Harbor Park, a Palm Beach County boat ramp.

The southern portion of the Marine District between 17<sup>th</sup> and 11<sup>th</sup> streets includes Viking Yachts, Bicentennial Park, the Riviera Beach Municipal Marina, Newcomb Hall, Cracker Boy Boat Works, Spanish Courts, the Port of Palm Beach, and many smaller marine related activities. Additionally, the area has many vacant parcels of property ripe for development.

### Marina District Project Summary

After years of planning and preparation, the City of Riviera Beach, through the efforts of the Riviera Beach Community Redevelopment Agency (CRA) has embarked on an ambitious redevelopment project of its Marina District that will offer new economic development, leisure and cultural opportunities in a unique setting.

The Marina Development is a Public/Private Partnership with the City of Riviera Beach, the City of Riviera Beach Community Redevelopment Agency (CRA) and Viking Developers serving as the Master Developer. Viking is an affiliate entity of Viking Yachts. The project will ultimately encompass 26 acres, be built over 10 years and require an investment of approximately \$375 million dollars to complete. In the fall of 2014, Viking will present its development plan for Restaurant Row and other elements. The vote of the City's electors on March 11, 2014 decidedly approved the construction of private property on City-owned land. The vision for Marina development is to create a fabulous marina based mixed-use, retail, restaurant, entertainment, and recreation destination. Already a hub for boating, diving, fishing and water based recreation, the upland project will reinforce the redesign, expansion, and replacement of the public Marina as a world class facility.

Redevelopment of the Riviera Beach Marina District will be built around two broad and differentiated zones:

1. The Waterfront Village will lead the redevelopment as a vibrant destination for a diversity of food, dining, entertainment, retail and recreation experiences and as a hub for community gathering and cultural expression.
2. The Broadway Corridor will be a mixed-use (retail, commercial, and residential) workplace environment; and, home to both large and small businesses with a regional recruitment focus on private sector and institutional anchors.

Water-oriented recreational users will activate the development by day, while by night residents and visitors will be attracted to the sights and sounds of dockside dining, entertainment, and social interactions. The Phase One Site Plan project has been designed to closely follow the plan's economic revitalization blueprint created by the Master Development Plan. Key parts of the Phase One Site Plan are the building of a new \$10 million dollar Event Center and a \$4 million dollar revitalization of the adjacent Bicentennial Park and beach area. The Phase One Site Plan will create a destination to attract future private development, providing desired economic development.

The drawing on the next page is the conceptual plan for the Marine District development area. Following the Marine District plan is the conceptual design and drawing of the Phase One plan for the upland Marina District development. The Marine District plan development area goes from the Marina seawall west to Broadway.

The following schedule shows the Phase One Milestones for the upland project.

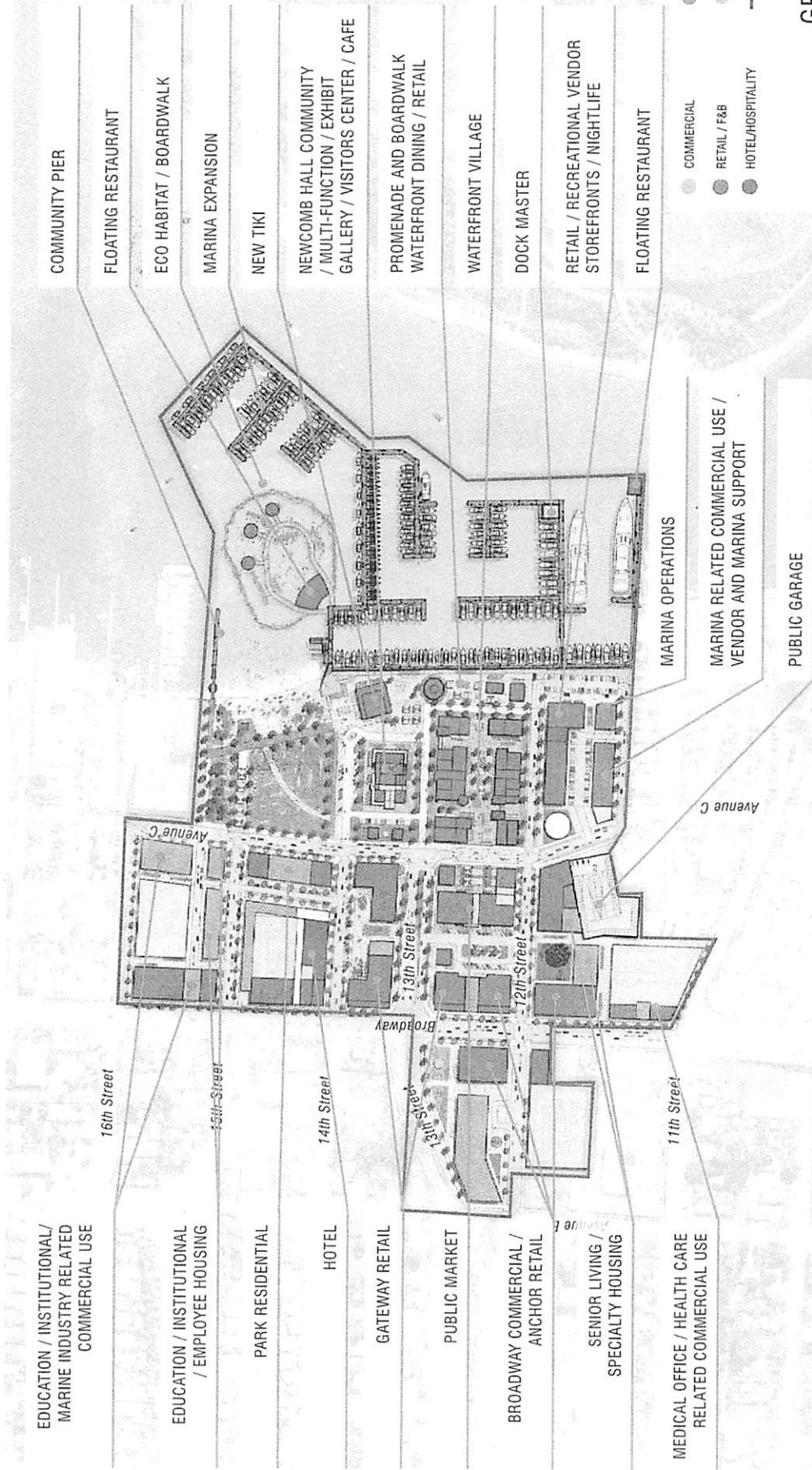
<b>Date *</b>	<b>Milestone</b>
1 <sup>st</sup> Quarter 2015	Construction starts on new Event Center Building
1 <sup>st</sup> Quarter 2015	Bicentennial Park and beach renovation starts
1 <sup>st</sup> Quarter 2015	Demolition of old Newcomb Hall and relocation of Marina Operations
September 2015	Completion of Event Center Building
Fall 2015	Phase One Complete with Grand Opening of new Marina District South

\* Note: The above dates may be adjusted due to revisions in the construction schedule.

Phase Two of the plan will involve the development of the Boardwalk and Marina Promenade, which will include restaurants, recreation businesses, as well as a Public Market and other facilities. Phase One capital improvements have already begun.

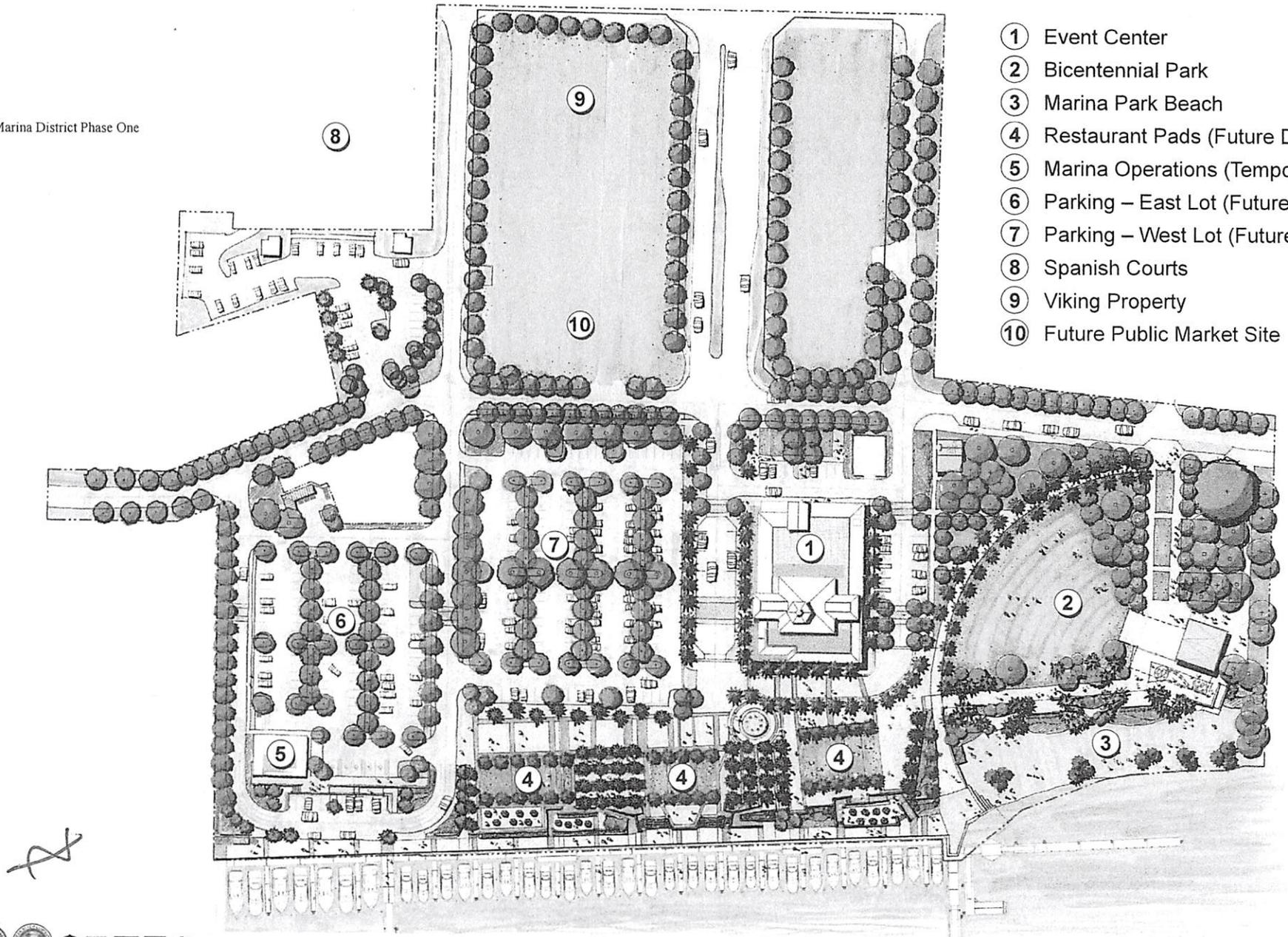
The Marine District Conceptual Plan and the Marina District Phase One Plan follow.

# The Marine District Conceptual Plan



GROUND FLOOR





- ① Event Center
- ② Bicentennial Park
- ③ Marina Park Beach
- ④ Restaurant Pads (Future Development)
- ⑤ Marina Operations (Temporary)
- ⑥ Parking – East Lot (Future Marine Shops)
- ⑦ Parking – West Lot (Future Market Shops)
- ⑧ Spanish Courts
- ⑨ Viking Property
- ⑩ Future Public Market Site

## The Riviera Beach Municipal Marina

The Riviera Beach Municipal Marina is located on the east side of the marina upland development. It is bounded on the north by Bicentennial Park; on the east by the Intracoastal Waterway and Peanut Island; on the south by a boat yard and the Port of Palm Beach; and, on the west by the Community Redevelopment Agency's Phase One upland development. The entrance is east of Broadway at the end of East 13<sup>th</sup> Street. The Marina is owned and operated by the City of Riviera Beach.

### *Marina Services*

The new Marina currently provides the following primary marine related services.

- Fuel dock (gasoline and diesel fuel) with high speed dispensers.
- Sewerage pump-out stations at all slips.
- Electrical service (30, 50, and 100 amp), telephone, and cable TV service.
- Ship Store - retail goods, snack foods, limited fishing and boating supplies, beer, and like items.
- Public restrooms.
- Marina tenant showers, laundry, and bathroom facilities.
- Dinghy dockage.
- Continuous maintenance of docks and piers.
- Security through personnel and high resolution cameras.

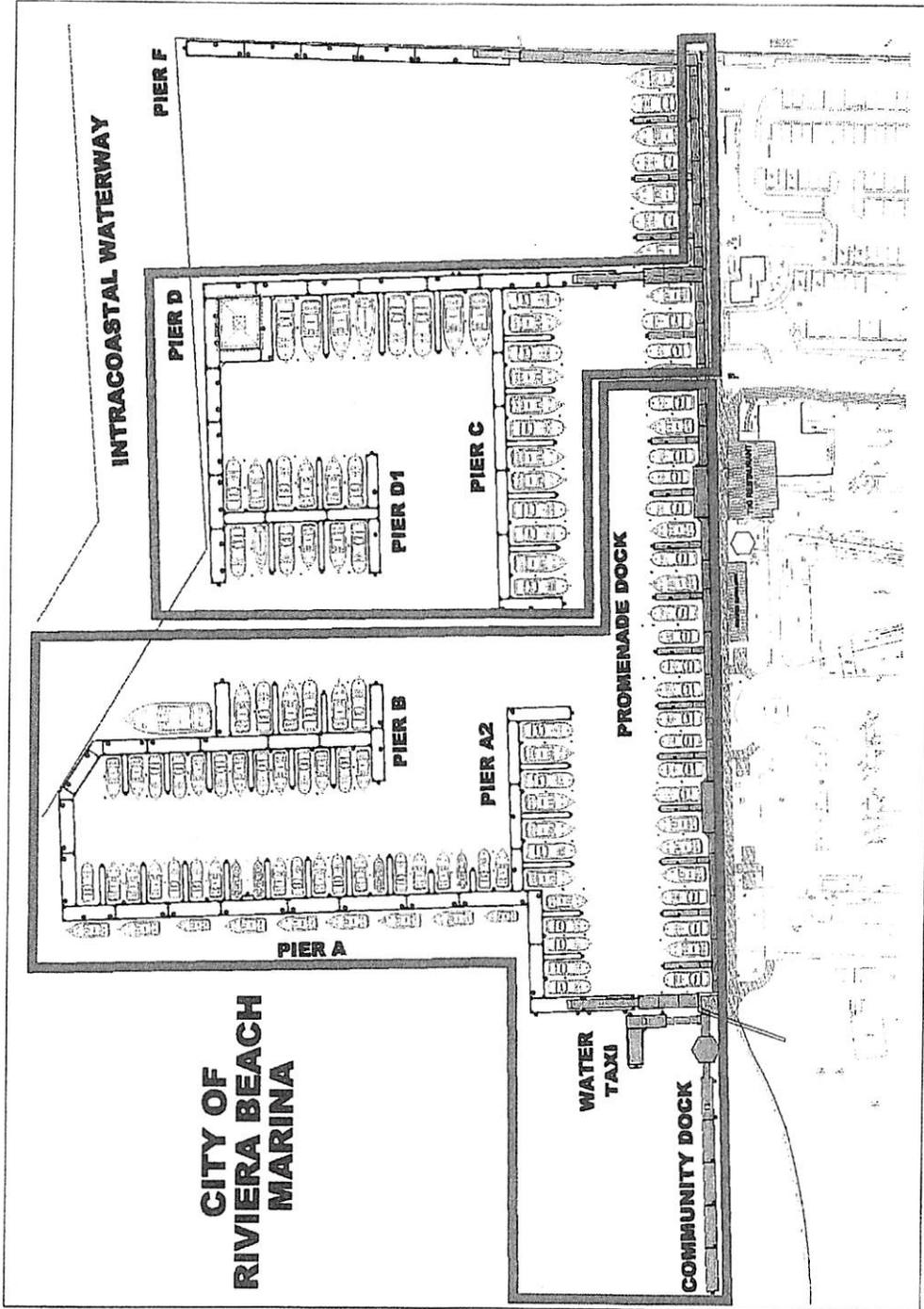
### *Marina Renovation and Reconstruction*

The Marina was reconstructed in 1982. The original facility was comprised of fixed height concrete docks, concrete bulkheads, slips and marginal dockage, a dry stack building and outside boat storage structures, and a fueling facility. Over the years, the originally constructed structures displayed significant signs of age plus hurricane damage and structural deficiencies.

The City Council voted to discontinue the "enclosed" dry stack operation in November 2009. Based on assessments from an engineer and a marina consultant, maintaining the dry storage facility was a liability to the City, due to the deteriorated condition of the structure and the extent of the repairs and renovations required to make the dry storage facility competitive in the current market. The dry storage facility was also found to cost much more to operate than it was able to recoup from user fees.

In 2010, the City hired a marina consultant and marine engineer who designed, permitted and expanded a new marina for larger boats and a design that, through the use of concrete floating docks, is built to withstand a Category 3 hurricane. The newly completed Phase I and II-A portion of the Marina will accommodate 111 boats with slips up to 60 feet in length and marginal dockage of approximately 2,000 linear feet with vessels from 26 feet up to 150 feet in length. Construction activities for Phase II-B, which will consist of dredging for deeper vessels at the eastern and southern portions of the Marina, and an additional 26 slips and 680 feet of marginal dockage for vessels from 60-70 feet in length. This Phase II-B is in the design and permitting stage.

# Marina Reconstruction Phases I and II-A



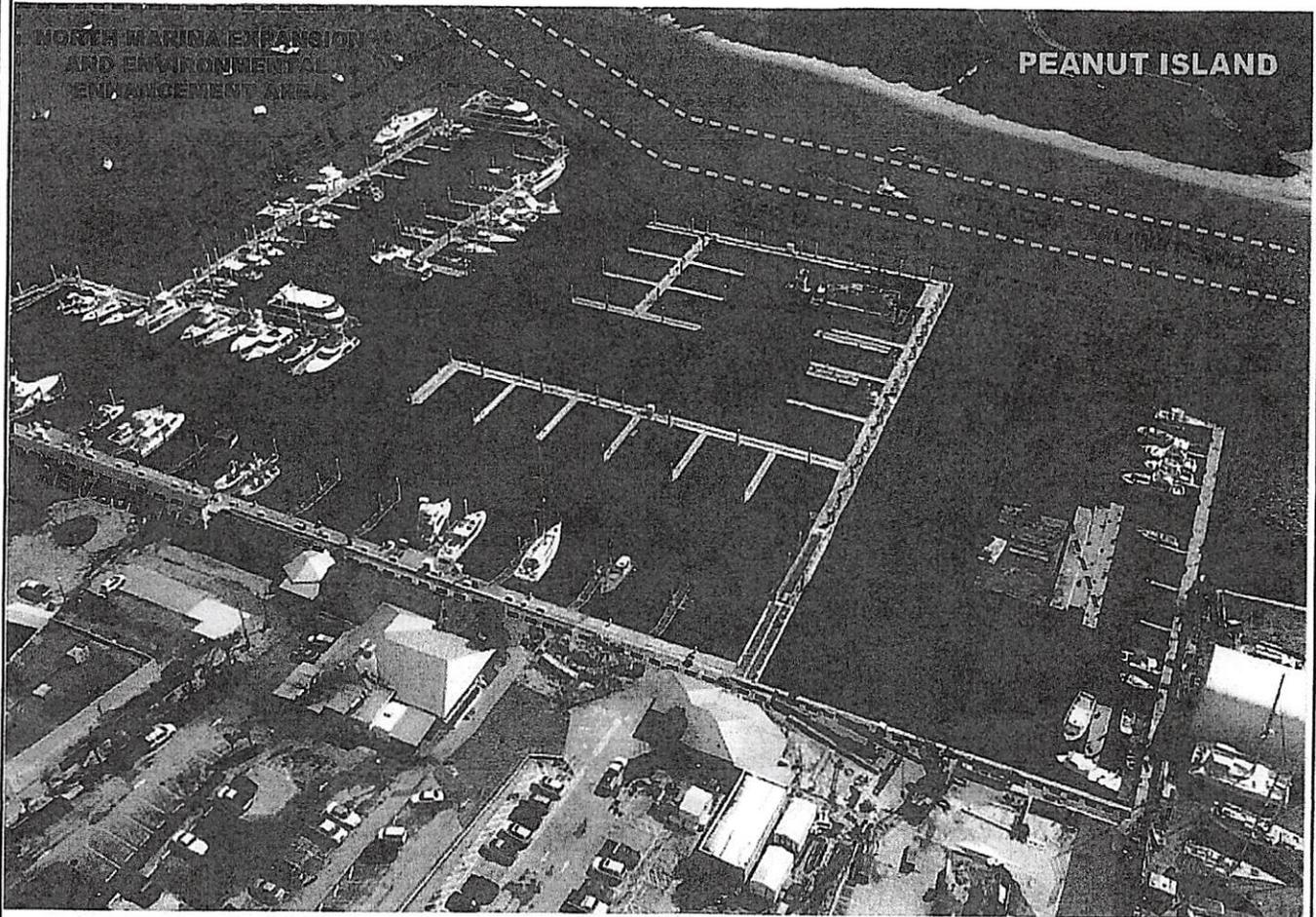
Project Phases I and II-A

The schedule below shows the allocation of slips and marginal dockage (specified in linear feet) for boats and vessels of varying lengths.

Slip Size	Phase I	Phase II-A	Phase II-B	Total
40'	39	0	0	39
50'	38	12	0	50
55'	0	12	0	12
60'	2	8	0	10
60' - 70'	0	0	26	26
<b>Total Slips</b>	<b>79</b>	<b>32</b>	<b>26</b>	<b>137</b>
<b>Linear Feet of Marginal Dockage</b>	<b>965</b>	<b>1,035</b>	<b>680</b>	<b>2,680</b>

Phase I of the Municipal Marina reconstruction project (Project Phase I) was completed at a cost of approximately \$11,150,000. The cost of Phase II-A is estimated at approximately \$5,928,014. Despite the total cost for Phases I and II-A (approximately \$17,000,000), the City has not incurred any debt to perform the reconstruction completed at the Marina. Palm Beach County, State, and Federal grants, with the exception of work performed by the Utility Special District in the amount of \$850,880, have made up the total "sources" of funds for Phase I and Phase II-A of the Project.

A design drawing and an ariel picture of the Marina showing the proposed Phase II-B follow. The graphics also show the completed Phase I and Phase II-A Project elements.



**FIND PARTICIPATION TO DATE:**

- BULKHEAD REPLACEMENT**
- PROMENADE DOCK**
- PIERS A, A1, B, C, D AND D1**
- WATER TAXI DOCK**
- COMMUNITY DOCK**
- ENGINEERING AND PERMITTING - PHASE I**



**CITY OF RIVIERA BEACH  
MARINA IMPROVEMENTS**

**NEW & EXISTING  
CONDITIONS**

PALM BEACH COUNTY, FLORIDA

Revisions:

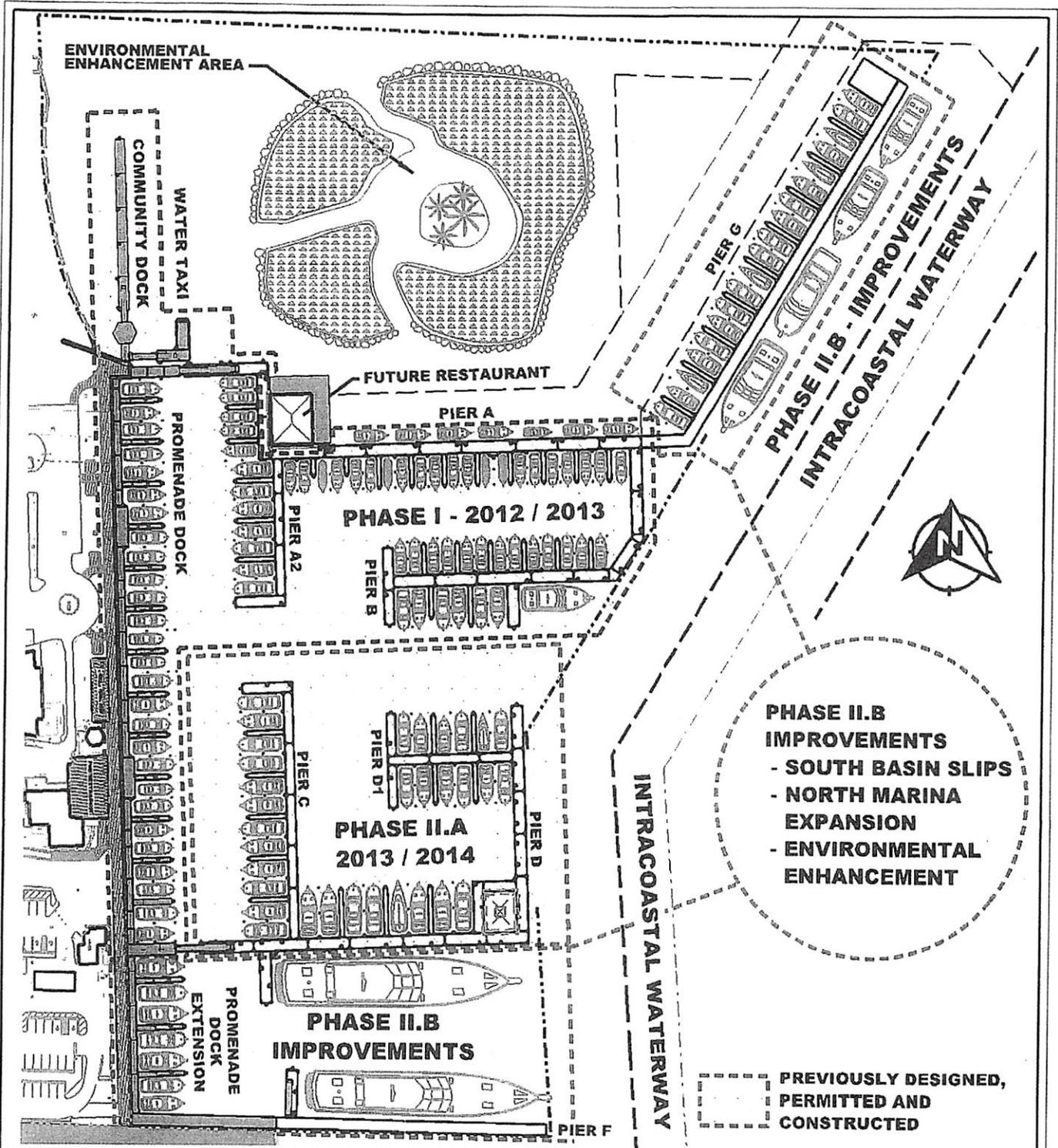



SEA DIVERSIFIED, INC.  
Surveying and Engineering Applications

21 NW 2nd STREET  
Dolray Beach, Florida 33444

Date:	MARCH 2014
Drawn by:	W.T.S.
Checked by:	W.T.S.
Scale:	N.T.S.

Sheet:	<b>6</b>
CADD ID:	



**CITY OF RIVIERA BEACH  
MARINA IMPROVEMENTS**

**PHASE II.B - PLAN  
FOR DESIGN / PERMITTING**

PALM BEACH COUNTY, FLORIDA

Revisions:


SEA DIVERSIFIED, INC.  
Surveying and Engineering Applicators

21 NW 2nd STREET  
Delray Beach, Florida 33444

**SEA**  
DIVERSIFIED

Date:	MARCH 2014	Sheet:	<b>7</b>
Drawn by:	W.T.S.		
Checked by:	W.T.S.		
Scale:	1" = 160'	CADD ID	

A

**Riviera Beach Municipal Marina**  
**Summary of Grant Requirements/Restrictions**  
**and Sources of Project Funding**

Appendix C

The City of Riviera Beach was successful at obtaining approximately \$17,154,000 in grants and other funding to rebuild its Municipal Marina. The reconstruction Project started in 2010 and was substantially completed in 2014. With the completion of Phase I of the Project in December 2012 and the completion of Phase II-A reconstruction in July 2014, the Marina has a floating dock system consisting of wet-slip dockage for approximately 111 boats and marginal dockage of approximately 2,000 linear feet. Phase I and Phase II-A wet slips are designed to accommodate boats from 40 - 60 feet. Construction activities for Phase II-B, which will consist of the deep-water southern portion of the Marina, are in the permitting phase.

The funding sources for the Project (to-date) came from the following entities. A schedule of funding by granting organization is included at the end of this addendum.

- Florida Inland Navigation District - Waterways Assistance Program (FIND)
- U.S. Fish and Wildlife Service - Sport Fish Restoration Program through the Florida Fish and Wildlife Conservation Commission - Florida Boating Improvement Program (FBIP)
- U.S. Fish and Wildlife Service-Sport Fish Restoration Program through Florida Fish and Wildlife Conservation Commission - Boating Infrastructure Grant Program (BIG P)
- Palm Beach County, Florida
- Palm Beach Metropolitan Planning Organization (MPO)
- City of Riviera Beach
- City of Riviera Beach Utility Special District
- City of Riviera Beach Community Redevelopment Agency Grant

Some of the above entities have placed requirements/restriction on the City as a condition for receiving their financial support for the Project. Those requirements/restrictions are summarized below.

1. The Marina must be operated as a public marina for use by the general public for a period of 10, 20, 25, or 30 years, depending on the respective granting agency. The City must record evidence of the dedication in the Public Records of Palm Beach County. Any change in such dedication requires the prior approval of the respective granting agency.
2. If the City transfers ownership of the Marina to a party not now part of the agency's agreement with the City, other than another governmental entity that agrees to assume the City's obligations under the agreement, the City shall reimburse the grantor agency the money it provided for the Project.
3. The City is allowed to enter into a management or operating agreements with a marina management company for operation of the Marina.



4. The City is responsible for all of the ongoing operating costs and expenses of maintaining and operating the Marina facility and related improvements. The City shall operate, maintain, and manage the Project for the life of the Project improvements and will pay all expenses required for such purposes.
5. The City warrants that the Marina will serve as waterfront access to and be open to and benefit the public; that dockage and slip leases/rentals are available on a first-come, first-served basis; and, the Marina cannot discriminate in its pricing.
6. The City warrants that, with respect to use of the Marina, the City will not discriminate on the basis of race, color, sex, national origin, age, disability, religion, ancestry, marital status, sexual orientation, or residency.
7. Upon Project completion, the Marina shall remain the property of the City.
8. The City warrants that it has the financial ability to operate and maintain the Marina.
9. The City shall maintain the Marina in accordance with industry standards.
10. All transient dock fees will be used for operation and maintenance of the Marina facilities.
11. If the City operates the Marina under a third-party agreement, the agreement must be in writing and include provision that revenues from user fees must be used to offset operation and maintenance costs; and, a stipulation prohibiting use of the Marina that conflict with intended purposes.
12. The City agrees to comply with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (as amended), the 1990 American Disabilities Act.
13. The City must retain title to all improvements upon final payment by the respective granting agency.
14. If the City converts all or any part of the Marina to a use not approved by the granting agency, the City shall replace the area, facilities, resource or site at its own expense with a project acceptable to the granting agency of comparable scope and quality. In the event the Marina is converted to use for other purposes during this period and not replaced with a like project acceptable to the granting agency, the City agrees to return all funds tendered for the original project.
15. The City will maintain and operate the Marina, related improvements, and all means of access and egress in conformity with all Federal, State, and local laws, rules, and regulations.
16. Adequate parking shall be available.
17. Facilities constructed must have a useful life of at least twenty (20) years and must be operated and maintained for their intended purpose during the period.



<b>Marina Construction Project</b>					
<b>Project Funding (to date) by Phase</b>					
as of 12/31/2014					
	<b>Project No./ Contract No.</b>	<b>Phase I</b>	<b>Phase II-A</b>	<b>Phase II-B</b>	<b>Total Project Funding (to-date)</b>
Palm Beach County Water Access Grant		\$ 5,000,000.00	\$ -	\$ -	\$ 5,000,000.00
MPO Water Taxi Grant		196,910.00	-	-	196,910.00
FIND I - Engineering	PB-RB-09-141	475,000.00	-	-	475,000.00
FIND II - Construction	PB-RB-10-150	850,000.00	-	-	850,000.00
FIND III - Construction	PB-RB-11-158	1,500,000.00	-	-	1,500,000.00
FIND IV - Construction	PB-RB-12-166	-	1,000,000.00	-	1,000,000.00
FIND V - Construction	PB-RB-13-177	-	750,000.00	-	750,000.00
FIND VI - Engineering/Permitting	PB-RB-14-184	-	-	75,000.00	75,000.00
BIG P I	10270	1,780,823.00	-	-	1,780,823.00
BIG P II	13135	-	850,000.00	-	850,000.00
FBIP I	10224	495,734.00	-	-	495,734.00
FBIP II	10224	-	399,000.00	-	399,000.00
FBIP III	10224	-	399,000.00	-	399,000.00
CRA I (City of Riviera Beach)		-	1,530,014.00	-	1,530,014.00
CRA II		-	1,000,000.00	-	1,000,000.00
City of Riviera Beach		1,598.95	-	-	1,598.95
Riviera Beach Utility Special District		850,880.00	-	-	850,880.00
Other		-	-	-	-
<b>Total</b>		<b>\$ 11,150,945.95</b>	<b>\$ 5,928,014.00</b>	<b>\$ 75,000.00</b>	<b>\$ 17,153,959.95</b>

X

City of Riviera Beach Marina    page    1  
 Monthly Operating Statement

	Mtd Actual	Mtd Budget	Ytd Actual	Ytd Budget	Variance
--	------------	------------	------------	------------	----------

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REVENUE:

- Gasoline Sales
- Gasoline Discounts
- Diesel Sales
- Diesel Discounts

NET FUEL SALES  
 Less Cost of Sales

GROSS PROFIT FROM FUEL & GAS

DOCKAGE REVENUE

- Wet-Slip Revenue
- Non Annual Rate Premium
- Rent Above Market
- Under Length Boats - Wet
- Vacancy Loss - Wet
- Transient Rental

NET DOCKAGE REVENUE

- Late Fees
- Uncollectible Accounts
- Lease Termination Penalties
- Pump Out
- Miscellaneous Revenue
- Ship's Store Sales
- Less Cost of Sales
- Laundry
- Discounts Earned

TOTAL MISCELLANEOUS REVENUE

TOTAL REVENUE

LABOR COSTS  
 Fueling Labor



Appendix "D"  
 Form - Monthly Operating Statement

City of Riviera Beach Marina page 2  
Monthly Operating Statement

Mtd Actual                      Mtd Budget                      Ytd Actual                      Ytd Budget                      Variance

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TOTAL LABOR COSTS

REPAIRS & MAINTENANCE

    Laundry Equipment R & R  
    Fuel Tank Maintenance  
    Vehicle Fuel & Mileage  
    Fire Protection Service

TOTAL FACILITY MAINTENANCE

OTHER COSTS

    Advertising  
    Customer Servicing

TOTAL OTHER COSTS

GENERAL & ADMINISTRATIVE

    Telephone  
    Internet  
    Office Supplies  
    Printing & Stationery  
    Business Meals  
    Postage & Courier  
    Data Processing  
    Bank Service Charges  
    Licenses & Permits  
    Credit Card Fees  
    Training  
    Real Estate & Personal Prop Tax  
    RE Tax Recovery  
    Depreciation  
    Prior Period Adjustments  
    Management Fees

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TOTAL GENERAL & ADMINISTRATIVE



City of Riviera Beach Marina page 3  
Monthly Operating Statement

Mtd Actual      Mtd Budget      Ytd Actual      Ytd Budget      Variance

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TOTAL OPERATING EXPENSES

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TOTAL INCOME (LOSS)

*Handwritten mark*

City of Riviera Beach Marina  
A/R Aging Summary

Appendix "E"

As of February 17, 2016

Appendix E - Delinquent Accounts	<u>Current</u>	<u>1 - 30</u>	<u>31 - 60</u>	<u>61 - 90</u>	<u>&gt; 90</u>
GREAT LAKES DREDGE & DOCK (1)	0.00	0.00	0.00	1,052.83	0.00
FLAGSHIP TOWING	-690.00	691.26	691.37	691.26	382.52
BLUE WATER POWERBOATS (WET)	0.00	1,220.72	1,220.72	0.00	0.00
GREAT LAKES DREDGE & DOCK	0.00	2,261.48	0.00	1,142.50	Appendix E - D
MAJESTIC PRINCESS (I)	0.00	1,819.48	1,801.38	0.00	4,889.82
MAJESTIC PRINCESS (II)	0.00	3,194.27	3,409.31	3,325.84	3,289.65
MARINE EDUCATION FOUNDATION (ANDY FLACK)	0.00	654.40	654.51	654.40	3,259.52
TOTAL	<u>-690.00</u>	<u>9,841.61</u>	<u>7,777.29</u>	<u>6,866.83</u>	<u>11,821.51</u>

City of Riviera Beach Marina  
**A/R Aging Summary**

Appendix "E" cont.

As of February 17, 2016

Appendix E - Delinquent Accounts	<u>TOTAL</u>
GREAT LAKES DREDGE & DOCK (1)	1,052.83
FLAGSHIP TOWING	1,766.41
BLUE WATER POWERBOATS (WET)	2,441.44
GREAT LAKES DREDGE & DOCK	3,403.98
MAJESTIC PRINCESS (I)	8,510.68
MAJESTIC PRINCESS (II)	13,219.07
MARINE EDUCATION FOUNDATION (ANDY FLACK)	5,222.83
<b>TOTAL</b>	<b><u><u>35,617.24</u></u></b>



Appendix "F"  
Uniform



X

Appendix "G" – The City's 2015-2016 Pro Forma Marina Budget

City of Riviera Beach Marina Proposed Budget (6 months April-Sept 2016)	Budget 2016 April 2016-Sept 2016	Riviera Beach April 2015-Sept 2015	
Gasoline Sales - 48%	96,000	1,190	
Gasoline Discounts	(2,045)	-	
Diesel Sales - 52%	104,000	-	
Diesel Discounts	(3,786)	-	
<b>NET FUEL SALES</b>	<b>194,170</b>	<b>1,190</b>	
<b>DOCKAGE REVENUE</b>			
Wet-Slip Revenue	480,000	273,548	
Transient Rental	90,000	-	
<b>NET DOCKAGE REVENUE</b>	<b>570,000</b>	<b>273,548</b>	
Utility Recovery Fees	33,000	19,260	
Late Fees	-	-	
Uncollectible Accounts	-	-	
Lease Termination Penalties	-	-	
Pump Out	-	-	
Miscellaneous Revenue	600	-	City has \$1,068,000 in Grants
Marina Parking Fees	-	-	
Retail/Ship's Store Sales	24,000	25,969	
Less Cost of Sales	(12,000)	(17,217)	
Laundry	1,800	815	
Interest Income	-	-	
<b>TOTAL MISCELLANEOUS REVENUE</b>	<b>47,400</b>	<b>28,827</b>	
<b>TOTAL REVENUE</b>	<b>811,570</b>	<b>303,565</b>	
<b>UTILITIES</b>			
Electric	42,000	43,092	
Water	18,000	25,668	
Sewer	3,600	-	
Recycling	1,110	-	
Rubbish & Trash Removal	6,000	8,743	
Cable Expense	4,500	-	
<b>TOTAL UTILITIES</b>	<b>75,210</b>	<b>77,502</b>	
<b>LABOR COSTS</b>			
<b>TOTAL LABOR COSTS</b>	<b>242,083</b>	<b>307,036</b>	
<b>REPAIRS &amp; MAINTENANCE</b>			
Cost of Fueling - Inventory	145,627	24,916	
Pest Control	480	-	
Contract Maintenance	4,593	3,188	
Cleaning Supplies	3,600	3,905	
Cleaning Service - Janitorial	4,800	5,600	
Maintenance/Repairs Docks-Marina	17,100	24,998	
Vehicle Repairs	2,100	10,546	
Vehicle Fuel & Mileage	900	1,200	
Fire Protection Service	600	6,825	
<b>TOTAL FACILITY MAINTENANCE</b>	<b>179,800</b>	<b>81,177</b>	

Appendix "G" – The City's 2015-2016 Pro Forma Marina Budget

City of Riviera Beach Marina Proposed Budget (6 months April-Sept 2016)	Budget 2016 April 2016-Sept 2016	Riviera Beach April 2015-Sept 2015	
<b>OTHER COSTS</b>			
Uniforms Expense	2,100	1,657	
Advertising	9,000	-	
Customer Servicing	5,700	-	
Marketing/Promotions	22,500	7,476	
Security	-	14,272	
<b>TOTAL OTHER COSTS</b>	<b>39,300</b>	<b>23,405</b>	
<b>GENERAL &amp; ADMINISTRATIVE</b>			
Telephone	5,100	13,034	
Internet	3,900	-	
Office Supplies	300	1,655	
Safety Supplies	150	-	
Printing & Stationery	600	-	
Business Meals	300	-	
Postage & Courier	900	-	
Data Processing	11,160	-	
Bank Service Charges	210	-	
Outside Accounting - Audit	4,000	-	
Payrolling Fees	3,026	-	
Licenses & Permits	2,400	-	
Travel Expense	150	-	
Employee Relations	1,500	-	
Coffee Service	600	-	
Newsletters	600	-	
Recruiting/Advertising	450	-	
Credit Card Fees	19,868	9,331	
Dues and Subscriptions	300	275	
Civic Contributions	-	-	
Employee Screening Expense	240	-	
Architectural & Engineering	-	-	
Insurance Costs	56,525	53,625	
Uninsured Loss	-	-	
<b>TOTAL GENERAL &amp; ADMINISTRATIVE</b>	<b>112,279</b>	<b>77,920</b>	
Management Fees (Loggerhead)	40,578	-	
<b>TOTAL OPERATING EXPENSES (Controllable)</b>	<b>689,252</b>	<b>567,040</b>	
<b>NET INCOME FROM OPERATIONS (before R/R fund)</b>	<b>122,318</b>	<b>(263,475)</b>	
Transfer to Repair/Replacement Fund (5%)	40,578	15,178	not in City's #s
<b>NET INCOME FROM OPERATIONS</b>	<b>81,740</b>	<b>(278,653)</b>	
Professional Services/Admin Fee (City of RB)	174,000	164,658	
CRA Rent, CAM & parking Fees (unknown at this time)	-	-	
<b>NET INCOME FROM OPERATIONS (after CRA rent, CA</b>	<b>(92,260)</b>	<b>(443,311)</b>	

## Appendix H

Florida Statute 166.241 Fiscal years, budgets, and budget amendments.—

- (1) Each municipality shall establish a fiscal year beginning October 1 of each year and ending September 30 of the following year.
- (2) The governing body of each municipality shall adopt a budget each fiscal year. The budget must be adopted by ordinance or resolution unless otherwise specified in the respective municipality's charter. The amount available from taxation and other sources, including balances brought forward from prior fiscal years, must equal the total appropriations for expenditures and reserves. At a minimum, the adopted budget must show for each fund, as required by law and sound financial practices, budgeted revenues and expenditures by organizational unit which are at least at the level of detail required for the annual financial report under s. 218.32(1). The adopted budget must regulate expenditures of the municipality, and an officer of a municipal government may not expend or contract for expenditures in any fiscal year except pursuant to the adopted budget.
- (3) The tentative budget must be posted on the municipality's official website at least 2 days before the budget hearing, held pursuant to s. 200.065 or other law, to consider such budget. The final adopted budget must be posted on the municipality's official website within 30 days after adoption. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the tentative budget and final budget to the manager or administrator of such county or counties who shall post the budgets on the county's website.
- (4) The governing body of each municipality at any time within a fiscal year or within 60 days following the end of the fiscal year may amend a budget for that year as follows:
  - (a) Appropriations for expenditures within a fund may be decreased or increased by motion recorded in the minutes if the total appropriations of the fund is not changed.
  - (b) The governing body may establish procedures by which the designated budget officer may authorize budget amendments if the total appropriations of the fund is not changed.
  - (c) If a budget amendment is required for a purpose not specifically authorized in paragraph (a) or paragraph (b), the budget amendment must be adopted in the same manner as the original budget unless otherwise specified in the municipality's charter.
- (5) If the governing body of a municipality amends the budget pursuant to paragraph (4)(c), the adopted amendment must be posted on the official website of the municipality within 5 days after adoption. If the municipality does not operate an official website, the municipality must, within a reasonable period of time as established by the county or counties in which the municipality is located, transmit the adopted amendment to the manager or administrator of such county or counties who shall post the adopted amendment on the county's website.

History.—s. 1, ch. 73-129; s. 4, ch. 83-106; s. 6, ch. 96-324; s. 14, ch. 2004-305; s. 11, ch. 2011-144.



**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA; ADOPTING THE RECOMMENDED CHANGES BY INVESTMENT MANAGER, PUBLIC TRUST ADVISOR, LLC TO THE INVESTMENT POLICY TO SET FORTH THE INVESTMENT OBJECTIVES AND PARAMETERS FOR THE MANAGEMENT OF PUBLIC FUNDS OF THE CITY OF RIVIERA BEACH, FLORIDA WHICH IS DESIGNED TO ENSURE THE PRUDENT MANAGEMENT OF PUBLIC FUNDS, THE AVAILABILITY OF OPERATING AND CAPITAL FUNDS WHEN NEEDED AND AN INVESTMENT RETURN COMPETITIVE WITH COMPARABLE FUNDS AND FINANCIAL MARKET INDICES; AND PROVIDING AN EFFECTIVE DATE.**

**WHERE AS**, it is essential for the City of Riviera Beach, Florida (the City) to ensure the prudent management of public funds, the availability of operating and capital funds when needed and an investment return competitive with comparable funds and financial market indices and,

**WHEREAS**, the purpose of Investment Policy (the Policy) is to set forth the investment objectives and parameters for the management of public funds of the City and,

**WHERE AS**, the Policy was adopted by Council on October 2, 2013, and

**WHEREAS**, Public Trust Advisors, Investment Manager has recommended changes to the Policy to include a table of permitted investments with the associated allocation limits by security type, a Triple A rated ("AAA") Asset Backed Security as an additional sector within the corporate sector as an opportunity to further diversify the investment portfolio, and a slight increase within the existing permitted investment to allow more flexibility for investment options, and

**WHEREAS**, the recommended changes to the Policy would allow a more dynamic managed investment strategy to expand the asset allocation from a single class and implement a laddered maturity structure for higher income opportunity, and

**WHEREAS**, in accordance with Section 218.415, Florida Statutes, this Policy applies to the investment of cash and investment balances of, General Fund, Special Revenue Funds, Debt Service Funds, Capital Projects Funds, Enterprise Funds, Internal Service Funds and Trust and Agency Funds and;

RESOLUTION NO. 49-16  
PAGE 2

**WHEREAS**, the preeminent objective of the Policy is the safety, liquidity, and yield of the funds of the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, THAT:**

**SECTION 1.** The City Council approves the adoption of the recommended updates to the Investment Policy.

**SECTION 2.** That this Resolution shall take in effect upon its passage and approval by the City Council.

**PASSED AND APPROVED THIS 16 th DAY OF MARCH, 2015**

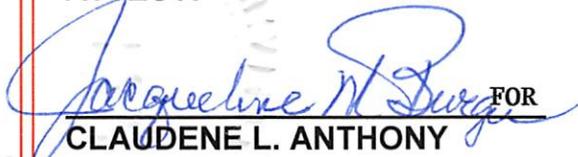
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APPROVED:

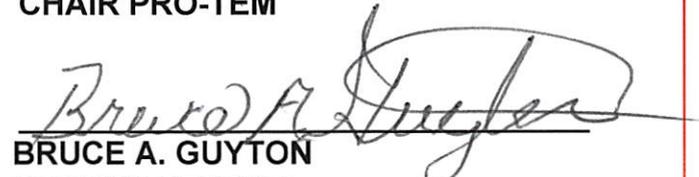
  
THOMAS A. MASTERS

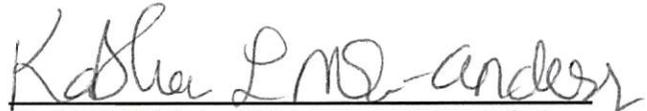
  
DAWN S. PARDO  
CHAIRPERSON

ATTEST:

  
FOR  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

  
TERENCE D. DAVIS  
CHAIR PRO-TEM

  
BRUCE A. GUYTON  
COUNCILPERSON

  
KaSHAMBA L. MILLER-ANDERSON  
COUNCILPERSON

  
CEDRICK A. THOMAS  
COUNCILPERSON

MOTIONED BY: B. GUYTON

SECONDED BY: C. THOMAS

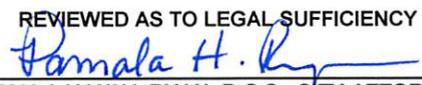
B. GUYTON AYE

K. MILLER-ANDERSON AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY  
  
PAMALA HANNA RYAN, B.C.S., CITY ATTORNEY

DATE: 3/16/16

RESOLUTION NO. 51-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE FIRST AMENDMENT TO THE MARINA UPLANDS LEASE BETWEEN THE CITY OF RIVIERA BEACH AND THE RIVIERA BEACH COMMUNITY REDEVELOPMENT); AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City of Riviera Beach ("City") and the Community Redevelopment Agency ("Agency") entered into the Marina Uplands Ground Lease, dated July 29, 2014; and

**WHEREAS**, the City and the Agency, desire to amend the Original Lease Agreement, as provided herein, to address the duties and responsibilities for the payment of certain CAM expenses relating to the operation of the Marina Uplands; and

**WHEREAS**, the purpose of the First Amendment is to amend the Original Ground Lease to provide that the City shall be responsible for the payment to the Agency of all Operating Costs, as that term is defined therein, for Bicentennial Park and all Common Areas of the Marina Property which are not collected from subleases of the CRA for the Marina Uplands.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:**

**SECTION 1.** The City hereby approves the First Amendment of the Ground Lease Agreement between the City and the Agency attached as Exhibit "A" and authorizes the Mayor and City Clerk to execute the First Amendment.

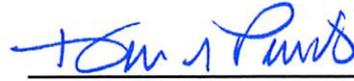
**SECTION 2.** The resolution shall be effective immediately upon its approval.

PASSED and APPROVED this 16<sup>TH</sup> day of MARCH, 2016.

APPROVED:



THOMAS A. MASTERS  
MAYOR



DAWN S. PARDO  
CHAIRPERSON

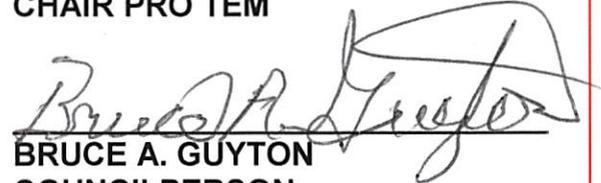
ATTEST:

 FOR

CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK



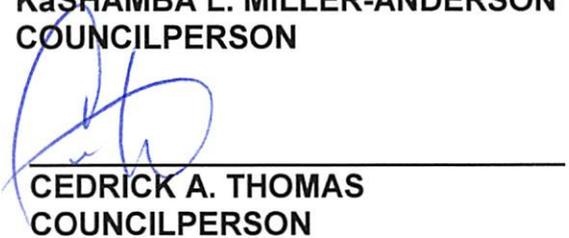
TERENCE D. DAVIS  
CHAIR PRO TEM



BRUCE A. GUYTON  
COUNCILPERSON



KASHAMBA L. MILLER-ANDERSON  
COUNCILPERSON



CEDRICK A. THOMAS  
COUNCILPERSON

MOTIONED BY: B. GUYTON

SECONDED BY: C. THOMAS

B. GUYTON AYE

K. MILLER-ANDERSON AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
PAMALA HANNA RYAN, B.C.S., CITY ATTORNEY

DATE: 3/16/16

RESOLUTION NO. 52-16

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AN INTERLOCAL AGREEMENT BETWEEN THE CITY OF RIVIERA BEACH AND THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY FOR THE REIMBURSEMENT OF \$500,000 FOR CERTAIN FUNDS EXPENDED BY THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY FOR IMPROVEMENTS TO THE MARINA UPLANDS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City and Agency entered into a Marina Uplands Ground Lease as of July 2, 2014, allowing the Agency to lease certain property defined therein at the City's Marina (hereinafter "City Marina Upland Property"); and

**WHEREAS**, the redevelopment of the City Marina Upland Property as provided in the Redevelopment Plan serves a public purpose and is in the best interests of all of the parties hereto and the respective residents and citizens thereof; and

**WHEREAS**, as part of the budget process, the City, the Agency and the Utility District agreed to work cooperatively with each other to provide for financing, construction and operation and maintenance of any Public Improvements made to the City Marina Upland Property; and

**WHEREAS**, the CRA has requested that the City provide certain financial reimbursements due to the Agency's investment of Public Improvements at the City Marina Upland Property, which improvements will inure to the benefit of the Utility District and City; and

**WHEREAS**, the City has agreed to provide such financial reimbursements over a period of time from ad valorem taxes; and

**WHEREAS**, the City finds that it is in the best interest of the City, the CRA and the citizens of Riviera Beach to make the financial reimbursement to the CRA for its investments in public improvements to aid the Agency in ongoing and future development of the Marina Upland Property; and

**WHEREAS**, the City and the CRA agree to enter into the attached Interlocal Agreement to memorialize such agreement.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA AS FOLLOWS:**

**RESOLUTION NO.** 52-16

**Page 2 of 3**

**SECTION 1.** The Public Improvements Interlocal Agreement is hereby approved, and the Mayor and City Clerk are authorized to execute the Interlocal Agreement on behalf of the City.

**SECTION 2.** That this resolution shall become effective upon its passage and approval by City Council.

**PASSED and APPROVED** this 16<sup>TH</sup> day of MARCH, 2016.

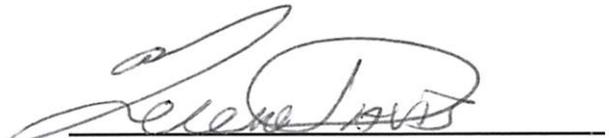
APPROVED:

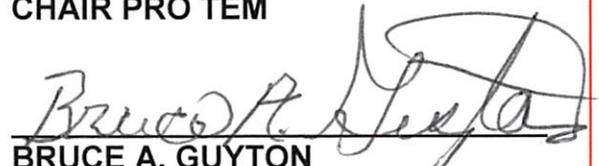
  
THOMAS A. MASTERS  
MAYOR

  
DAWN S. PARDO  
CHAIRPERSON

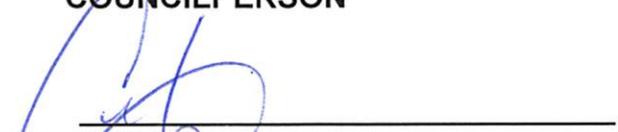
ATTEST:

 FOR  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

  
TERENCE D. DAVIS  
CHAIR PRO TEM

  
BRUCE A. GUYTON  
COUNCILPERSON

  
KaSHAMBA L. MILLER-ANDERSON  
COUNCILPERSON

  
CEDRICK A. THOMAS  
COUNCILPERSON

MOTIONED BY: C. THOMAS

SECONDED BY: B. GUYTON

B. GUYTON AYE

K. MILLER-ANDERSON AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

  
PAMALA HANNA RYAN, B.C.S., CITY ATTORNEY

Date: 3/16/16

RESOLUTION NO. 53-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE SECOND AMENDMENT TO THE MARINA UPLANDS FUNDING INTERLOCAL AGREEMENT BETWEEN THE CITY OF RIVIERA BEACH , THE RIVIERA BEACH UTILITY SPECIAL DISTRICT AND THE RIVIERA BEACH COMMUNITY REDEVELOPMENT AGENCY TO PROVIDE FOR ADDITIONAL COMMON AREA MAINTENANCE PAYMENTS AND ALLOCATION OF ADDITIONAL FUNDING FROM \$138,582 TO \$609,864; FOR RECONSTRUCTION OF AVENUE C WITHIN THE MARINA DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the City, the Agency and the District entered into the Marina Uplands Funding Interlocal Agreement, dated October 1, 2014 (the Interlocal Agreement"); and

**WHEREAS**, the City approved the First Amendment to the Interlocal Agreement, on November 18, 2015 (the "First Amendment"); and

**WHEREAS**, the City, the District and the Agency desire to amend the Interlocal Agreement as provided herein, related to the payment of the Public Improvements for the reconstruction of Avenue "C" within the Marina District.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, FLORIDA THAT:**

**SECTION 1.** The City hereby approves the Second Amendment to the Interlocal Funding Agreement between the City, the District and the Agency by including additional common area maintenance payments from the city and increasing the amount paid by the City for infrastructure improvements and construction from \$138,582 to \$609,864 set forth in Exhibit "A".

**SECTION 2.** The Mayor and City Clerk are authorized to execute the Amendment.

**SECTION 3.** The resolution shall be effective immediately upon its approval.

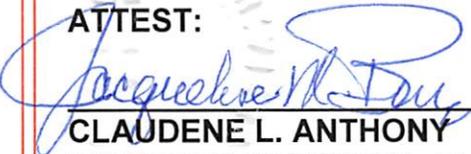
PASSED and APPROVED this 16<sup>TH</sup> day of MARCH, 2016.

APPROVED:

  
\_\_\_\_\_  
THOMAS A. MASTERS  
MAYOR

  
\_\_\_\_\_  
DAWN S. PARDO  
CHAIRPERSON

ATTEST:

  
\_\_\_\_\_  
FOR  
CLAUDENE L. ANTHONY  
CERTIFIED MUNICIPAL CLERK  
CITY CLERK

  
\_\_\_\_\_  
TERENCE D. DAVIS  
CHAIR PRO TEM

  
\_\_\_\_\_  
BRUCE A. GUYTON  
COUNCILPERSON

  
\_\_\_\_\_  
KaSHAMBA L. MILLER-ANDERSON  
COUNCILPERSON

  
\_\_\_\_\_  
CEDRICK A. THOMAS  
COUNCILPERSON

MOTIONED BY: C. THOMAS

SECONDED BY: B. GUYTON

B. GUYTON AYE

K. MILLER-ANDERSON AYE

C. THOMAS AYE

D. PARDO AYE

T. DAVIS AYE

REVIEWED AS TO LEGAL SUFFICIENCY

\_\_\_\_\_  
PAMALA HANNA RYAN, B.C.S., CITY ATTORNEY

DATE: \_\_\_\_\_